

TO MEMBERS OF THE COUNCIL

Notice is hereby given that a meeting of the Council of the London Borough of Bromley is to be held in the Council Chamber at Bromley Civic Centre on Monday 14 December 2015 at 7.00 pm which meeting the Members of the Council are hereby summoned to attend.

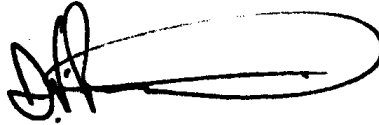
Prayers

A G E N D A

- 1 Apologies for absence
- 2 To confirm the Minutes of the meeting of the Council held on 19th October 2015 (Pages 3 - 40) and the special meeting held on 25th November 2015 (to follow)
- 3 Declarations of Interest
- 4 To consider any petitions received (Pages 41 - 44)
- 5 Questions from members of the public where notice has been given.
Questions must be received by 5pm on Tuesday 8th December 2015.
- 6 Oral questions from Members of the Council where notice has been given.
- 7 Written questions from Members of the Council where notice has been given
- 8 To consider any statements that may be made by the Leader of the Council, Portfolio Holders or Chairmen of Committees.
- 9 Budget Monitoring 2015/16 - Transfer from Central Contingency to the Growth Fund (Pages 45 - 56)
- 10 Council Tax Support/Reduction 2016/17 (Pages 57 - 92)
- 11 Beckenham Public Realm Improvements (Pages 93 - 108)
- 12 Treasury Management - Performance Q2 2015/16 & Mid-Year Review (Pages 109 - 128)
- 13 Our Healthier South East London (OHSEL) - Joint Health Scrutiny Committee (Pages 129 - 144)
- 14 Financial Regulations and Contract Procedure Rules (Pages 145 - 434)

- 15 To consider Motions of which notice has been given.
- 16 The Mayor's announcements and communications.

.....



Chief Executive

**BROMLEY CIVIC CENTRE
BROMLEY BR1 3UH
Friday 4th December 2015
Vol.52 No.5**

LONDON BOROUGH OF BROMLEY

MINUTES

of the proceedings of the Meeting of the
Council of the Borough
held at 7.00 pm on 19 October 2015

Present:

**The Worshipful the Mayor
Councillor Kim Botting**

**The Deputy Mayor
Councillor Alan Collins**

Councillors

Vanessa Allen
Graham Arthur
Douglas Auld
Teresa Ball
Kathy Bance MBE
Julian Benington
Ruth Bennett
Eric Bosshard
Katy Boughey
Kevin Brooks
Lydia Buttinger
Stephen Carr
David Cartwright
Mary Cooke
Peter Dean
Ian Dunn
Nicky Dykes
Judi Ellis

Robert Evans
Simon Fawthrop
Peter Fortune
Hannah Gray
Will Harmer
William Huntington-
Thresher
David Jefferys
Charles Joel
David Livett
Kate Lymer
Russell Mellor
Alexa Michael
Terence Nathan
Keith Onslow
Tony Owen
Angela Page
Sarah Phillips

Tom Philpott
Chris Pierce
Neil Reddin FCCA
Catherine Rideout
Charles Rideout QPM CVO
Michael Rutherford
Richard Scoates
Colin Smith
Diane Smith
Melanie Stevens
Tim Stevens J.P.
Michael Tickner
Pauline Tunnicliffe
Michael Turner
Stephen Wells
Angela Wilkins
Richard Williams

The meeting was opened with prayers

In the Chair
The Mayor
Councillor Kim Botting

112 Apologies for absence

Apologies for absence were received from Councillors Nicholas Bennett JP, Peter Fookes, Ellie Harmer, Samaris Huntington-Thresher, Peter Morgan and Ian Payne. Apologies for late arrival were received from Councillor Julian Benington.

113 Declarations of Interest

Councillor Angela Wilkins declared an interest in relation to the Statement of Licensing Policy (minute 122) as a personal alcohol license holder.

114 To confirm the Minutes of the meeting of the Council held on 29th June 2015

The minutes of the meeting held on 29th June 2015 were confirmed.

115 Petitions
Report CSD15119

A petition had been received from Ms Vicky Devaney headed "Save our Community Libraries" and asking the Council to continue to fund professionally staffed libraries at Burnt Ash, Mottingham, Shortlands, Southborough, Hayes and St Paul's Cray. The petition had more than 1,700 verified signatures on paper, plus over 1,200 signatures on an online petition.

Ms Devaney addressed the Council in support of her petition, beginning by stating that she now had over 3,000 signatures. She emphasised the importance of local libraries for children's literacy and the need for professional staff in each library. She considered that using volunteers as cheap labour was not sustainable, would not maintain standards and would not provide the level of expertise needed to help children or support on-line services. She questioned whether any money could be saved using this approach.

Members discussed the petition, noting in particular the local concerns in Mottingham and other areas affected. In the context of the reductions in government grant faced by the Council, it was right to look for savings, but the Council had managed to avoid closing libraries, investing in new libraries in Biggin Hill, Orpington and Penge, and was determined to keep these small libraries open. No decisions had been taken on community libraries, and the comments made would be taken into account.

A motion to take no further action was moved by Councillor Michael Rutherford, seconded by Cllr Stephen Carr and **CARRIED**.

116 Questions from members of the public where notice has been given.

Four questions for oral reply and one for written reply were received from members of the public. The questions and replies are set out in Appendix A to these minutes.

117 Oral questions from Members of the Council where notice has been given.

Ten questions had been received from Members of the Council for oral reply. These are set out in Appendix B to these minutes.

118 Written questions from Members of the Council

Seventeen questions for written reply had been received from Members of the Council. These are set out in Appendix C to these minutes.

119 To consider any statements that may be made by the Leader of the Council, Portfolio Holders or Chairmen of Committees.

No statements were made.

120 Treasury Management: Annual Report 2014/15 and Investment Strategy Review
Report CSD15122

A motion to note the Treasury Management Annual Report for 2014/15 and approve the actual prudential indicators in the report, and to approve an increase in the total investment limit for pooled investment vehicles from £25m to £40m, was moved by Councillor Graham Arthur, seconded by Councillor Stephen Carr and **CARRIED**.

121 Capital Programme - Housing Zone Bid
Report CSD15123

A motion to agree a recommendation from the Executive to approve the inclusion of the £5.7m Housing Zone Bid into the Capital Programme was moved by Councillor Graham Arthur, seconded by Councillor Stephen Carr and **CARRIED**.

122 Licensing Act 2003 - Statement of Licensing Policy for 2016 to 2021
Report CSD15120

A motion to note the response to public consultation and adopt the Statement of Licensing Policy under the Licensing Act 2003 to have effect from 7th January 2016, as recommended by General Purposes and Licensing Committee, was moved by Councillor Tim Stevens, seconded by Councillor Diane Smith and **CARRIED**.

123 Gambling Act 2005 Statement of Licensing Policy
Report CSD15121

A motion to note the response to public consultation and adopt the Statement of Gambling Policy under the Gambling Act 2005 to have effect from 31st January 2016, as recommended by General Purposes and Licensing

Committee, was moved by Councillor Tim Stevens, seconded by Councillor Diane Smith and **CARRIED**.

124 To consider Motions of which notice has been given.

The following motion was moved by Cllr Angela Wilkins and seconded by Cllr Ian Dunn –

Commissioning

“This Council has made a commitment to commissioning as many services as possible. Whilst this policy does not have unanimous support, there is cross-party recognition that the way the Council operates and the way Members work will have to change. The work of the Contracts and Constitutional Improvement Working Groups should contribute to this, but that change can start immediately.

Commissioning has four key phases: strategic planning, procurement, monitoring/evaluation and review. Meetings that take place inside the civic centre focus primarily on the first two of these phases. In order to ensure our residents receive the services they are paying for, it is time to address this imbalance and to focus more on contract monitoring/evaluation and contract review.

This Council therefore resolves:

1. To urge the Executive to provide all Members with easily accessible and concise information on service level agreements and KPIs for all contracts worth more than £50k per annum
2. To request the amendment of the Executive and Resources PDS Committee workplan to include a review and to report back on the adequacy of staffing provision for client-monitoring of these contracts
3. To urge the Executive to publish the agreed procedures and penalties should contractors not meet their contractual obligations
4. To instruct the Executive and Resources PDS Committee to request the Contracts Working Party to conduct a full review of a recently concluded major contract
5. To urge the Executive to make as much as possible of the information above available to the public
6. To request all of the above by 30 April 2016”

An amendment so that the wording was as follows was moved by Councillor Graham Arthur and seconded by Cllr Simon Fawthrop -

Commissioning

“This Council has made a commitment to commissioning as many services as possible. Whilst this policy does not have unanimous support there is cross-party recognition that the way the Council operates, and the way Members work, will have to change. The work of the Contracts and Constitutional Improvement Working Groups should contribute to this. Commissioning has four key phases: Strategic Planning, Procurement, Monitoring/Evaluation and Review. Meetings that take place inside the Civic Centre focus primarily on the first two of these phases. However, in order to ensure our residents receive the services they are paying for, they should focus more on contract monitoring/evaluation and contract review.

This Council therefore resolves:

7. To urge the Executive to provide all Members with easily accessible and concise information on Service Level Agreements and KPIs for all contracts worth more than £50k per annum.
8. To urge the Executive to make as much as possible of the information above available to the public.”

On being put to the vote this amendment was **CARRIED**.

The motion as amended was **CARRIED**.

125 The Mayor's announcements and communications.

The Mayor informed Members about her visits to Yiyang in China and to Bromley's twin town of Neuwied, and thanked Members who had attended her charity ball. She advised Members of the following forthcoming events –

- Remembrance Sunday - wreaths and readings would be ready for collection a week or so before the event.
- The Mayor's Sci-Fi Show was being held on Saturday 14 November. This was an all-day expo in the Great Hall, followed by a Big Band Concert in the evening from a 30 plus strong band performing classic Sci-Fi soundtracks.
- The Tamasha Restaurant in Widmore Road had agreed to host a charity dinner on Friday 11 December. Information for this event would be sent out in due course.

The Meeting ended at 9.20 pm

Mayor

This page is left intentionally blank

COUNCIL MEETING

19th OCTOBER 2015

(A) QUESTIONS FROM MEMBERS OF THE PUBLIC FOR ORAL REPLY

(1) From David Clapham to the Portfolio Holder for Renewal and Recreation

Have Councillors been made aware that FW have submitted a QC legal opinion stating that the concept of the 'lesser evil' used by both BHAL and the Council to promote extending the hours was 'misconceived' and that this may make the decision of 25th March unsound?

Reply (by the Leader of the Council):

Officers have exchanged correspondence with Richard Buxton (who we understand are your lawyers) advising them that the points made in their letter were not accurate. The report to the meeting on 25th March did not canvas the "lesser evil" option and neither does the report published on Friday and on this basis I cannot agree the proposition.

I would say in answering the question of whether Councillors are aware of the legal opinion, I cannot be sure that every Councillor knows about the points you want to make – but they are aware now.

Supplementary Question:

Mr Clapham pointed out that the legal opinion was separate from the letter.

Reply:

Cllr Carr stated that he had not seen the detail of the legal opinion from Flightpath Watch's lawyers, but he would be soon.

(2) From David Clapham to the Portfolio Holder for Renewal and Recreation

Have Councillors been made aware that the acoustic and aviation expert appointed by FW has confirmed that the noise measures recommended in the report by the Council's acoustic consultant are at best not stronger than measures already contained in the Lease?

Reply (by the Leader of the Council):

In considering the BHAL proposal to vary hours, the Council must seek to ensure that reasonable noise mitigation is in place and naturally the Council will be seeking, where possible, to strengthen current arrangements. The Council will be considering these matters at the Council meeting and Executive meeting in November. I have not seen any expert report that you may have commissioned, so I cannot comment on the validity of its conclusions.

I cannot be sure that all Councillors have been made aware, but I believe that most if not all have.

Supplementary Question:

To make the point that only eight of the eighteen recommendations from the expert in the report issued on Friday are acceptable, with the remainder “subject to”. This leaves a lot of work to be done – are the Council going to keep us informed of the detail sitting behind the remaining ten points.

Reply:

Hopefully you will agree that I have tried to be as transparent as I possibly can be. If there is information that we can share we will share it with all residents who have an interest.

(3) From David Clapham to the Portfolio Holder for Renewal and Recreation

Are Councillors aware that information provided under the FOIA has revealed potential irregularities in the way the consultation results were arrived at that we have needed to inform the Council’s senior solicitor that the matter is being investigated?

Reply (by the Leader of the Council):

Flightpath Watch has written to the Council’s Senior Solicitor but has given no detail of their findings following their “preliminary assessment” of the data they received. The Council will carefully examine any subsequent submitted detail, should this arise, commenting and explaining as appropriate. To avoid wider resident concern, as a guiding principle, the Council will always be as transparent as possible but for the avoidance of doubt, personal data is closely guarded and therefore is not disclosed in this or other FOI responses.

Supplementary Question:

I note and respect Councillor Carr’s statement. We are looking into non-personal data and will report to the Council once our investigation is complete.

(4) From Richard Gibbons to the Portfolio Holder for Care Services

65% of Bromley's population is either overweight or obese - the third highest prevalence of excess weight in London. Is it mere coincidence that Bromley is also ranked 3rd for car ownership and car use, and how are members collaborating to tackle growing obesity issues at a time of trimming the fat financially?

Sources

LBB Health & Wellbeing Board Obesity Action Plan 2015/16

GLA Health Impacts of Cars in London, September 2015

Reply:

Both the causes of and the possible solutions to obesity are many and varied. The Health and Wellbeing Board has set up a sub-group to address obesity in the borough as it is one of the Health & Wellbeing Strategy priorities. This sub-group is being chaired very well by Councillor Angela Page and I would recommend that he has a look at the work they have already done. The work of this sub-group includes a

Healthy Weight Forum which includes a wide range of stakeholders both internal and external to the council who have the potential to impact on this issue. The Healthy Weight Forum includes representatives from Transport Planning and from Planning as well as health services, leisure services, Housing Association and Public Health. The promotion of active transport is one key element of the Healthy Weight Pathway being developed through the Forum.

Supplementary Question:

The answer covers the health view on the matter but it does not address active travel which is well documented worldwide as one of the best ways of dealing with obesity. I would ask what measures are being taken to promote active travel in the borough.

Reply:

If cycling is one of the issues, I am sure that the Council is doing much to support cycling in the borough. I am sure that Cllr Smith and the Environment Department will furnish you with full details of what the Council is already doing to support cycling in the borough.

Additional Supplementary Question:

Councillor Simon Fawthrop asked whether any background work had been done on the levels of employment in this borough, one of the highest in London, and the hours worked by Members and residents, also the highest in London, and whether that could be one of the factors impacting on obesity. Also, would he agree with me that we should not be judgemental towards those who may be overweight?

Reply:

Certainly, people who work hard do not have an obesity problem in the main, and we are researching those issues, but I think cycling may reduce weight more than working.

(B) QUESTIONS FROM MEMBERS OF THE PUBLIC FOR WRITTEN REPLY

(1) From Hazel Waters to the Portfolio Holder for Renewal and Recreation

I would like to know on what financial basis Bromley Council are suggesting outsourcing the control of the library service to private enterprise. What are the projected cost/efficiency savings, and how are these to be achieved?

Reply:

A comprehensive report has been prepared for the Renewal and Recreation Policy Development and Scrutiny Committee on the 27th October 2015, following which the matter will be considered by a meeting of the Executive Committee on the 9th November 2015. Subject to the outcome of these meetings, it is proposed that a formal procurement process is commenced jointly with the London Borough of Bexley. It is intended that the results of this procurement process, including the detail of any savings and service delivery proposals will be reported back to members in the autumn of 2016.

This page is left intentionally blank

COUNCIL MEETING

19th OCTOBER 2015

QUESTIONS FOR ORAL REPLY FROM MEMBERS OF THE COUNCIL

1. From Cllr Russell Mellor to the Chairman of Development Control Committee

Can the Chairman advise me as to why the application in respect of No: 32 Church Avenue, No: 15/01541 was 'pulled' from the Planning Sub-Committee agenda when due for determination resulting in the proposal being referred to the Planning Inspectorate?

Reply:

This planning application was submitted to the agenda whilst still awaiting key consultee responses, which had unfortunately not been received by the date of the meeting. The application was therefore withdrawn from the agenda to allow these to be received and considered prior to determination of the application. Unfortunately this meant the application passed its target date and the applicant chose to appeal against non-determination.

Supplementary Question:

Councillor Mellor thanked Councillor Dean and stated that he hoped the application would be refused.

Reply:

Councillor Dean stated that he shared Councillor Mellor's views on the application.

2. From Cllr Michael Tickner to the Portfolio Holder for the Environment

I have been told by your traffic engineers that mini roundabouts may only be installed where a junction has 3 significant roads meeting. Is this correct?

Reply:

I would need to understand the content and context of the conversation Cllr Tickner alludes to, before answering the question as set with a yes or no response.

There are a number of examples across the Borough where mini-roundabouts have been installed at 4-arm junctions; what it is true to say, is that professionally trained Traffic Engineers consistently advise us all, that it is far safer to implement a mini-roundabout at a 3-arm, rather than at a 4-arm junction.

Mini-roundabouts are principally installed as a way of reducing the severity of collisions at a junction. Across both London and the UK as a whole, we are advised

that the frequency of collisions at 4-arm mini-roundabouts is higher than at those with 3-arms.

Therefore, when considering using a roundabout to reduce the number of collisions at an accident black-spot, it may be that a 4-arm mini-roundabout will not be able to achieve the safety improvements being sought.

Cllr Tickner may recall that in 2011 a study was conducted to consider the accident prevention value of adding mini-roundabouts at two junctions in Southend Road in his Ward – one at Brackley Road and one at Park Road/Foxgrove Road. The independent safety audits of the designs raised some significant concerns about the 4-arm proposal, which could not therefore be recommended by the engineers, whereas the 3-arm mini-roundabout at Brackley Road was recommended and has subsequently installed.

In summary, it is not that 4-arm mini-roundabouts cannot be considered, it is that they are not so likely to be able to reduce a collision problem at a 4-arm junction as a mini-roundabout is at a 3 arm junction, and could even make matters worse.

Supplementary Question:

Councillor Tickner asked how the recently installed 4-arm mini roundabout at the junction of Beckenham Road and Hayne Road, which was a major intersection on an A road, could be explained, and who was responsible for installing it – I realise it may be TfL.

Reply:

It is nothing to do with TfL. The simple reason is that it passed its safety audit whereas the one at Park Road/Foxgrove Road/Southend Road failed its safety audit. Engineers will not recommend schemes that fail safety audits.

3. From Cllr Angela Wilkins to the Portfolio Holder for Resources

The meeting of E&R PDS in July was extremely critical of the levels of service reported by Liberata on both the Revenue & Benefits and the Customer Service contracts.

Is the Portfolio Holder aware of DWP data on housing benefit administration which shows that in 2014/15, LB Bromley was ranked 380th out of 382 local authorities for the length of time taken to process new claims and 357th equal for processing changes to circumstance? If not, why not? If so, is he still of the view that Liberata's performance is improving and can he please give the figures for the first quarter of 2015/16 to support this assertion?

Reply:

Whilst the league table position cited in the question might not be totally correct given the omission of some Authority's performance figures as a result of missing/incomplete data or data of insufficient quality, Liberata have acknowledged that the service provided in 2014/15 was very disappointing, in these two areas, and I

agree, particularly given Liberata's strong performance in the years since assuming responsibility for the service (2002).

The poor performance of the Benefits Section in respect of claim processing was reported to Members of the E&R PDS in the meetings of the 4th February 2015 and 9th July 2015.

Following pursuance through the contractual escalation process, I together with senior managers of the Council, urgently summoned a series of meetings with Liberata's Chief Executive and his service managers. These meetings were held in Pendle, in Sheffield and here. At this meeting, we reiterated our displeasure at the service being provided and demanded that measures be taken to bring about significant improvements.

A recovery plan was agreed and put in place, based on Liberata employing extra resources at no additional cost to the Council. However, it was acknowledged that given the nature of benefit administration, it would not be possible to bring about an immediate reduction in the average number of days to process a claim. The final quarter of 2014/15 showed a significant improvement in the speed of processing; however, it is accepted, as in the case for all Authorities, the change of circumstances indicator was distorted by the annual uprating of claims.

I am pleased to advise that improvement has continued this financial year and the average processing times for the first 6 months are as follows:

| | |
|-------------------------|---------|
| New Claims | 19 days |
| Change of Circumstances | 10 days |

Supplementary Question:

It is fairly standard that the tables do not have all of the data, and the DWP is clear about that, but what I do pay attention to is the figures for neighbouring authorities. In Bexley the figure for new claims to be processed for 2013/14 was 21 days, in Lewisham it was 14 days and in Bromley it was 28 days. I recognise that there has been improvement from Liberata more recently. I would like to ask the Portfolio Holder whether this justifies an apology to those claimants in Bromley who had to wait anything up to twice as long as claimants in other boroughs.

Reply:

No, it is not acceptable, and that is why we took action. We are now at 19 days for new claims and change of circumstances 10 days, so we are now improved against the comparators you used. But if you ask me if I am satisfied at the performance during that period of last year for those two particular areas the answer is no and that is why we did something about it.

4. From Cllr Ian Dunn to the Portfolio Holder for Resources

Can the portfolio holder provide the number of Collection Orders obtained for bailiffs to pursue Council Tax and Business Rates arrears in 2014/15, the value of each type of debt and the percentages recovered?

Reply:

In the financial year 2014/15, Council Tax 11,348 Liability Orders to the value of £7,842,000 were passed to enforcement agents. In respect of Business Rates, 445 Liability Orders to the value of £2,196,000 were referred to enforcement agents. It is not possible to advise as to the amount recovered by enforcement agents in respect of the orders cited earlier. However, the sum received from enforcement agents in 2014/15 was as follows:

| | |
|----------------|------------|
| Council Tax | £2,325,000 |
| Business Rates | £992,000 |

These sums include debt recovered in respect of previous years.

In 2014/15 the percentage of moneys received from the enforcement agents when compared to the sum sent in the same period was 29.6% for Council Tax and 45.2% for Business Rates. I am aware that giving out numbers like this is quite difficult and I am aware that you asked a related question for written answer, but I am happy to try to deal with a supplementary question or to meet with you outside the Chamber.

Supplementary Question:

How does the Council ensure that the way that our contractor and their bailiffs are pursuing our debt is being done in the most cost effective way and they are not just sending out bailiffs on visits to residents and businesses and charging them for the privilege.

Reply:

There are written procedures on the way they operate – you may have seen them and if not I will share them with you. They can only really be guidance and there has to be case by case consideration. There are very clearly some people who are just not paying who can pay - they need to be pressured, appropriately, to meet their debts. There are cases where there is genuine hardship and those cases we will deal with with a degree of sensitivity and assist those people. What we do find with a lot of people who come forward with debts is that when you start digging under the surface there are a lot of other issues, like housing, that we can assist with, and we do take a sympathetic approach in those cases. Going back to the original point, where somebody deliberately avoids paying their dues to the Council it has to be accepted that it is totally unfair to place that burden on other taxpayers. I would be happy to meet with you and the people concerned to see if you can be satisfied by what they say to you.

5. From Cllr Kathy Bance to the Portfolio Holder for Education

Has LBB revised their admission guidelines in line with the Government Guidelines, to allow parents of Summer-born children to delay their schooling by one year and then allow them to start in reception and receive the seven years of primary schooling in line with other UK children?

Reply:

The government has recently released information on their proposal to change the right of parents of summer born children to delay their start in reception until the Autumn term after they are 5. However, this is not yet mandatory and is subject to a consultation period, following which a decision will be made by the government as to when this will take effect. Until then, parents of summer born children may request that their child is admitted the following year outside of his or her normal age range into Reception Year instead of Year 1. Again, however, there is no automatic right to this. The relevant admission authority will make a decision, having taken into account the circumstances of each case and whether or not it is considered to be in the best interests of the child concerned. This will include taking into account the parent's views; information about the medical history, about the child's academic, social and emotional development; and whether they may naturally have fallen into a lower age group if it were not for being born prematurely.

Supplementary Question:

Councillor Bance asked for clarification of whether the Council was saying "no" until the Government makes a final decision.

Reply:

At the moment our processes are published and are as they were at the Education PDS Committee meeting in February. We have had cases in the past where parents have requested it, and it is up to the relevant admissions authority, so there are decisions made on a case by case basis. But we are expecting there to be some governmental change and we are having conversations about that. What is really important, and it is recognised in the question, is the concept of parental choice. The parents know what is in the best interests for the children and they are the ones that make the decision. That premise of best interest axiomatically extends to other areas of parental interest, such as school choice, be that the successful free school academies or any potential discussions we will be having around grammar schools later. We are waiting for the information to come from government, we are looking at cases on a case by case basis but we absolutely agree with you that parents are in the best place to choose.

6. From Cllr Kevin Brooks to the Portfolio Holder for Public Protection and Safety

Following Bromley's recent reclassification as an emerging gangs borough we need to engage with our youths to break the cycle of gangs. Has LBB any plans to step up support for youth based activities in Penge and Cator where the gangs are predominantly based?

Reply:

Bromley Council is tackling gangs in the borough and youth engagement in many ways. Preventing young people from joining gangs in the first place is key. To this end I will be funding a programme to be introduced into Bromley Schools which is founded on the principles of prevention, protection and partnership and has already been delivered to 460 schools across London. Lessons will be delivered to pupils in school years 6 through to 10 on topics such as the myths and realities of being in a

gang, gang associated sexual violence and knife crime. If successful the aim is to have this programme funded by the Bromley Safer Neighbourhood Board. Schools that we have targeted and have signed up to the Gangs School Programme so far are all in the north west of the borough. They are Harris Beckenham, Harris Bromley, Alexandra Junior, Marian Vian, St John's, St Anthony's, Stewart Fleming, Harris Primary Crystal Palace and James Dixon. Despite cost pressures on the Council, diversionary activities have been maintained and are run by the Bromley Youth Support Programme at our four youth hubs, one of which is in Anerley. Additionally, a mobile detached provision is held on a Wednesday evening in the Queen Adelaide Estate and the Penge High Street area. The Anerley Youth Centre, which is open during the day and the evening, runs targeted projects on crime and disorder, and they have held sessions on issues such as weapons, gangs, crime and consequences, personal responsibility, peer pressure, anti-social behaviour and community cohesion. We also have an ever growing number of young people engaged in the Bromley Youth Mentoring Programme, which is coordinated by the Bromley EBP. There are currently ten mentees from south east post codes, some of whom have links to gang activity. Numbers of mentees in the mentoring programme grow every year. The best diversionary activity is to find employment in an honest job. In August, a free jobs fair was organised in Penge by Bromley Council, Jobcentre Plus, Bromley College, Safer Bromley Partnership and the Princes Trust. The aim of the day was to attract and engage with hard to reach young people in the Penge area aged 16 to 25. As part of our Operation Crystal Programme we have focused on the emerging gang issue by targeting gang members and young people causing anti social behaviour with joint visits by Bromley Council and Police Officers. During our recent summer operations in Penge, Council officers, with the newly formed Police Gangs Team, knocked on every known gang member's door in Penge in the very early hours of the morning and strongly encouraged them to attend the jobs fair, which at the same time highlighted to them that we know who they are, and that we are keeping an eye on them.

Supplementary Question:

Councillor Brooks welcomed the actions set out – it sounded like there was a lot of work going on. However, I have been in meetings where Police reports have shown that youth crime is one of the crimes that has risen in Penge in 2015 – do you agree that the Council's plans to sell Snowden Close and deprive Penge of the Hub, the only volunteer youth centre, are counter-productive as a cost-saving measure.

Reply:

I do not agree with your comments. These are early days in the re-classification of our borough as an emerging gangs borough and we will continue to look at all strategies and options in order to keep youth diversionary activities going in Penge in various different forms.

7. From Cllr Vanessa Allen to the Leader of the Council

The refugee crisis in Europe continues with no end in sight, resulting in major hardship for many people who have fled their homes due to war and other issues such as persecution, whether in Syria, Sudan, Afghanistan or elsewhere. Please would the Leader update us on progress with the register which was proposed for Bromley, contact details, whether it is available on line, for coordination of home

owners, charities and other bodies such as churches, who may be offering to provide accommodation or other assistance for refugees?

Reply:

The Council has issued a statement applauding the Government's leadership and commitment on this issue and we are committed to assisting when and wherever possible. Over the last few weeks we have received a very limited response from organisations and individuals who might be prepared to offer assistance. At this stage I cannot add more, but I am able to inform Council that the Chief Executive will be meeting in very early November to consider the Government's guidance on this issue and how we might move forward. It is also extremely important to remind colleagues of the major pressures we and all local authorities are experiencing regarding homelessness which will limit our capacity to respond.

Supplementary Question:

A hundred and one years ago, Bromley welcomed several hundred Belgian refugees with offers of accommodation, and it would be good to think we have not lost our sense of compassion, so I would request that steps are taken where possible to encourage bodies to come forward, and to try to actively set up a register rather than wait for other people.

Reply:

I have a degree of sympathy with Cllr Allen and we will do what we can to assist people wherever and whenever possible.

8. From Cllr Russell Mellor to the Portfolio Holder for Renewal and Recreation

Can the Portfolio Holder inform as to the number of planning applications in the last Civic year which when presented to a Planning Sub-Committee have requested Members Views?

Reply:

In the last civic year, there were no planning applications requesting Member's views when presented to a planning sub-committee.

Supplementary Question:

Councillor Mellor enquired about proposals for including Members Views in all future planning applications.

Reply:

Recommendations are made by the planning officers. The planning officers are free to put a recommendation forward for Members Views if they so wish. My own view is that a professional, experienced planning officer should be able to make a recommendation one way or another on the planning information available to them.

Additional Supplementary Question:

Councillor Simon Fawthrop reminded the Chairman that the last meeting of the Development Control Committee was unanimous in its view that Members Views

should be made available and he stated that it seemed that the democratic will of this Council, and the will to set the policy, may be being thwarted by officers.

Reply:

I do not believe that the democratic position of the Council is being thwarted. The opportunity to put forward a recommendation of Members Views is there, and Development Control Committee at its last but one meeting endorsed that and that is still the case.

Additional Supplementary Question:

Councillor Tony Owen asked whether the Chairman accepted that although planning applications could be finely balanced, and therefore you are going to say yes or no, there was room for doubt and did he accept that having a dogmatic recommendation from officers in favour seriously compromised at appeal to the planning inspectorate and left the Council open to costs which it might not otherwise be open for.

Reply:

I accept that there are some very finely balanced planning applications. I still feel that the planning officer should be able to make a recommendation one way or another. The opportunity to recommend Members Views is there, but as far as the planning inspectorate is concerned, and I think we are talking about applications refused by our Council, if the reasons for refusal are legitimate grounds as determined by Members the Inspector will either agree or disagree with that view, but properly presented grounds of refusal should not result in us incurring costs. As far as I am aware, instances where we have incurred costs have been where the reasons for refusal have not been particularly substantial.

9. From Cllr Angela Wilkins to the Leader of the Council

The Local Government Transparency Code 2015 sets out “..to place more power into citizens’ hands to increase democratic accountability and make it easier for local people to contribute to the local decision making process and help shape public services. The code requires all (English) local authorities to publish the following information:

Quarterly:

- expenditure exceeding £500
- Government Procurement Card transactions
- procurement information

Annually

- local authority land
- social housing assets
- grants to voluntary, community and social enterprise organisations
- organisation chart
- trade union facility time
- parking account
- parking spaces

- senior salaries
- constitution
- pay multiple
- fraud

Can you please clarify on which of these requirements the Council is fully compliant? Where the Council is not complaint, please explain why not and by what date the Council will comply?

Reply:

The Council is fully compliant except for some technical procurement information for some contracts of between £5- £50,000. This will be remedied following the imminent completion of a new eProcurement system and the adoption of revised contract procedure rules and that should be complete by the end of December.

Supplementary Question:

There were a number of these items which I couldn't find – trade union facility time was one. Would you, in the spirit of the legislation, consider making the data more readily accessible to people who are less able to find it when it is hidden away.

Reply:

I am sure we would all want to be as transparent and clear as possible. If it practically possible I am sure officers will do everything they can to make it easy to access the information.

10. From Cllr Kathy Bance to the Portfolio Holder for Care Services

For many children living in temporary accommodation their school has been the one consistent in their lives. How successful are LBB being in housing people with school aged children into temporary accommodation within a reasonable distance from the child's schools?

Reply:

The Council seeks to secure temporary accommodation locally. However as the supply is extremely limited and insufficient to meet current demand, it has been necessary to procure accommodation outside of the local authority boundary to meet statutory duties. In the first instance this will be in surrounding boroughs with the search area sequentially extended as availability and demand requires.

In offering temporary accommodation, the Council will consider and does consider the suitability of each offer, taking into account the factors including size and location of the property, transport links and the availability of support networks in the area, health factors, education and employment. In terms of education specifically those households who have children with special educational needs or children at who are at a critical stage in their education such as close to taking public examinations will be given priority for in-borough placements. This means that the vast majority of such families are accommodated within the borough or nearby localities. Where this has not been possible, the Council works closely with the family to identify move-on accommodation in a suitable location as quickly as possible.

Supplementary Question:

Does the London Borough of Bromley have the staffing resources necessary to deal with the demands for urgent temporary housing requests in a timely manner so as not to add to the stress these families are facing?

Reply:

Our housing department works tremendously hard and currently they are working to maximum capacity and are able to cope with the problems that are presented to them.

COUNCIL MEETING

19th OCTOBER 2015

QUESTIONS FOR WRITTEN REPLY FROM MEMBERS OF THE COUNCIL

1. From Cllr Simon Fawthrop to the Portfolio Holder for Renewal and Recreation

How many planning applications in the last year in relation to Petts Wood & Knoll Ward were received?

(a) in the last financial year

Reply:

Including adverts, certificates, prior approvals and LBC – 220

Valid planning applications only (PS2) -176

(b) In this current financial year.

Reply:

(To 6th October 2015)

Including adverts, certificates, prior approvals and LBC - 131

Valid planning applications only (PS2) – 95

In relation to the total applications received by the Council what proportion is this of all the applications received by the Council in the same period?

Reply:

Last Financial Year:

Including adverts, certificates, prior approvals and LBC – 4021 – PW&K apps make up 5.5%

Valid planning applications only (PS2) -2823 – PW&K apps make up 6.2%

Current Financial Year (to 6th October):

Including adverts, certificates, prior approvals and LBC – 2249 – PW&K apps make up 5.8%

Valid planning applications only (PS2) – 1549 – PW&K apps make up 6.1%

a) Over the same period how many applications were called in to committee by Petts Wood & Knoll ward members?

Reply:

2014 – 21

2015 – 8 to date

b) What is this as a proportion of the total number of applications for Petts Wood & Knoll ward?

Reply:

2014 – 21 of 130 = 16.15%

2015 – 8 of 50 = 16%

2. From Cllr Simon Fawthrop to the Portfolio Holder for Renewal and Recreation

How many responses to the Biggin Hill consultation survey which were included in the Council and Executive reports on 25th March 2015 were excluded from the final results because they were duplicate entries at the same address, of these how many were in favour of the proposals and how many were against?

Reply:

The figures contained within the report show that in total, 416 responses were recorded but excluded from analysis principally because names and/or addresses were omitted and or because a 'yes' or 'no' preference was not indicated. There is the possibility or probability that duplicate responses are contained within the 41,711 total individual responses analysed and it is for this reason that the report references the 14,754 individual identified property responses. Analysis of these individual identified property responses shows that there were 11196 (76%) 'yes' responses and 3558 (24%) 'no' responses.

3. From Cllr Simon Fawthrop to the Portfolio Holder for Renewal and Recreation

(a) What legal considerations have been given to a) the Human Rights Act in relation to both individual rights and rights to the enjoyment of land (Schedule I part II Article 1) in drawing up the report on Biggin Hill Airports proposals for extended operating hours (The Act postdates the Lease). Please provide a list of any legal advice given?

(b) the Climate Change Act 2008 in drawing up the report on Biggin Hill Airports proposals for extended operating hours (The Act postdates the Lease). Please provide a list of any legal advice given?

Reply:

Officers have considered relevant legislation and case law in preparing the report. It must be remembered that the rights under Article 1 of the First Protocol set out in the Human Rights Act 1998 are qualified rights and secondly that BHAL is on the drafting as much a "person" with Human rights for the purposes of Article 1 as any resident. The reports prepared have undertaken the necessary balancing exercises notwithstanding as was recognised in the High Court case that the impact of the Act on contracts entered into before 2 October 2000 will not always be clear cut.

On the Climate Change Act 2008 this had not been considered as the proposal, if agreed, would reduce aircraft movements and possibly indirectly encourage newer, quieter and more efficient aircraft.

4. From Councillor Peter Fookes to the Portfolio Holder for Public Protection and Safety

What representations has Bromley made to the Mayor of London and Stephen Greenhalgh with regard to the proposal to withdraw all Police Community Support Officers from the streets of the borough and when will there be consultation with residents of the borough on this matter?

Reply:

At this stage there are no specific proposals and so no representations or consultations have taken place. When the Metropolitan Police have got their financial settlement for future years then consideration will be given to an appropriate response in the interests of the residents of the Borough.

5. From Councillor Peter Fookes to the Portfolio Holder for Care Services

What follow up assessment has been provided to all those residents with mild learning disabilities who were part of the Key Ring scheme who lost out as a result of the cuts that you introduced in April?

Reply:

Prior to support from Keyring coming to an end, people who were previously supported by Keyring were referred to Care Management for review or assessment of needs to determine whether people required continuing support and if so at what level.

Reviews were prioritised according to the needs present at the time. I understand that there is one review outstanding but that this is currently under way.

6. From Councillor Peter Fookes to the Portfolio Holder for Care Services

How much does the borough pay agencies for locum social workers and what is the longest contract offered?

Reply:

Bromley pay rates for Locum Social Workers range from £23 - £30 per hour and for Senior Practitioners £29 - £32 per hour. The assignments are offered on a short term basis with a view to the assignment ending if a permanent Social Worker is recruited. The notice period is one week.

Bromley has entered into a Memorandum of Understanding with the majority of the other London Boroughs with a view to work collaboratively with each other and with agency suppliers to develop mechanisms to ensure that rates and charges for supplying agency staff appropriately reflect the skills and experience of workers and the remuneration of permanent staff.

7. From Councillor Tom Philpott to the Portfolio Holder for Renewal and Recreation

Further to Councillor Nicholas Bennett's oral question earlier this year, can the Portfolio Holder please give an update on the long hoped for refurbishment of West Wickham Leisure Centre. Specifically, can he update members on the current projected timescale for work to commence and whether it is expected that this work would be built into any future borough wide contract with MyTime?

Can the Portfolio Holder also advise what steps the council is taking in the meantime to ensure that facilities in West Wickham are kept up to an adequate standard by MyTime?

Reply:

The Council is currently considering the future options regarding the boroughs leisure offer and is in discussions on the future provision of facilities with Mytime Active, the charitable trust set up by the Council to manage its leisure facilities.

This also includes the long term proposals for the West Wickham Leisure Centre, the Council is currently awaiting a response from Mytime with regard to their proposals for West Wickham Leisure Centre.

In the interim period however, certain urgent repairs and maintenance will be undertaken by Mytime to ensure that ensure the building is safe, clean and hygienic.

Mytime active have in the last few months installed brand new air conditioning in the gym and repaired remaining air conditioning units, repainted and refreshed the teaching pool changing rooms, repaired around 40 lockers, removed harmless algae from the pool floor. Mytime Active have also employed internal cleaning staff dedicated to keeping customer areas clean and hygienic during peak hours. Mytime are also proposing the replacement of around 36 lockers in the ladies and teaching pool changing areas, the installation of 2 new shower cubicles in the gym changing rooms, as well as replacement and repair of other minor pieces of equipment and key areas.

Mytime will endeavour to keep the facility clean and undertake the minor day to day repairs as required. It is hoped that the Council and Mytime Active will shortly conclude their discussions on future leisure provision within the Borough together with agreed future investment proposals.

8. From Cllr Angela Wilkins to the Portfolio Holder for the Environment

Whilst I am grateful that at last the street cleaning schedule has been made available to the public, please will the Portfolio Holder change the location of the schedule on the site so that people can easily find it? As this schedule has the potential to deliver direct service monitoring by local residents, will the Portfolio Holder also agree to proactively publicise the availability of the schedule by press release / stakeholder communications etc.?

Reply:

There are no plans to change the website further at this time following Cllr William Huntington-Thresher's innovative suggestion to publicise Bromley's street sweeping schedules at the March ES PDS meeting.

Plans are already afoot to advertise the links presence more widely and this will manifest itself in the impending edition 'Environment Matters' which will be reaching local doorsteps in approximately 5 weeks time from now.

Members can obviously contribute to this process themselves, by alerting Residents Associations, Friends Groups and other interested persons to further assist the Department in their scrutiny function of the Contractor's performance.

9. From Cllr Angela Wilkins to the Portfolio Holder for Care Services

The Portfolio Holder is aware of a recent infestation of bed bugs in Amplio House. Can the Portfolio Holder please give concise timeline of events and in particular details of how and when residents and their carers/guardians were informed of this outbreak by either Avenues Management or LBB? Can the Portfolio Holder also please supply the method statement and HACCP analysis provided by Avenues management in relation to both the prevention and treatment of infestations of this type?

Reply:

Care Services will ask Avenues Trust to provide us with this information and the timeline of their communication with their service users.

10. From Cllr Angela Wilkins to the Portfolio Holder for the Environment

Officers report unprecedented levels of fly tipping in the Borough. I am informed that clearance of such debris is now being undertaken by personnel otherwise employed on regular street cleaning. Please can you provide details of the existing contract specification, SLA and KPIs on the clearance and disposal of fly tipped waste? Does the Portfolio Holder agree with me that residents should not suffer dirtier streets because of the actions of a minority of offenders who may well not even live in the Borough? And if so, what is he going to do to ensure this doesn't happen?

Reply:

Fly-tipping removal can be allocated to various contractors subject to the volume of material involved, as well the contents if they are hazardous.

This methodology has been employed for several years.

The street cleaners remove material on a daily basis where it is found on their routine scheduled cleaning frequencies.

The Council's environmental service aims are available on the Council's website under the Council & Democracy page however we aim to clear rubbish on the public highway within five working days.

If investigating a fly-tip for enforcement purposes we may keep the rubbish in situ, where it is safe to do so, while evidence is gathered to facilitate prosecution.

Arrangements for the collection of hazardous waste (once verified) are made with specialist contractors.

I certainly do agree that residents, businesses and visitors to the Borough should not suffer the blight of fly-tipping. Whilst I cannot “ensure” anything in terms of outcome around anti-social and/or criminal behaviour, I have already alerted local MPs, the Minister of State, the Environment Agency and DEFRA to my concerns and strong belief that the existing powers available to Local Authorities provide an insufficient deterrent to the disgusting individuals who behave in this manner. Likewise for the need for a significant bolstering to Magistrates punishment tariffs, to ensure tougher routine punitive action can be taken against those responsible when apprehended.

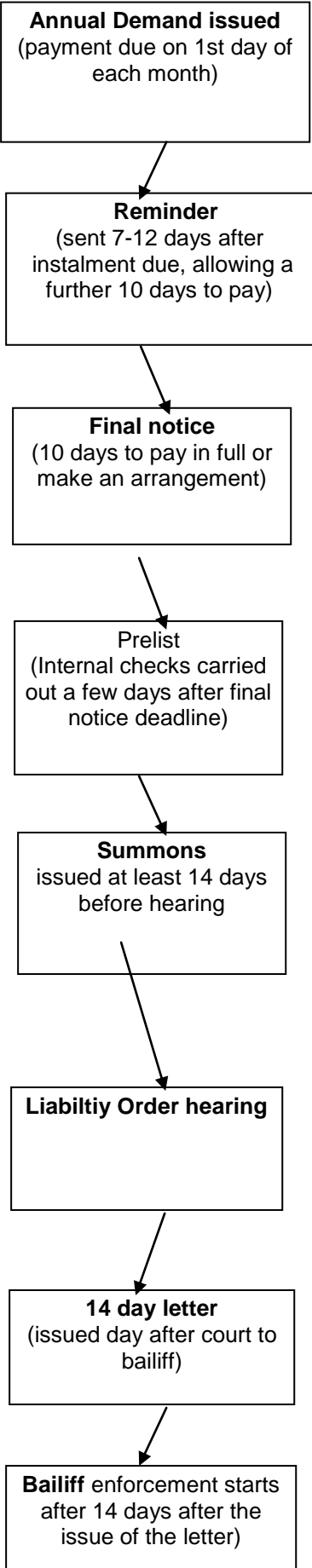
11. From Cllr Ian Dunn to the Portfolio Holder for Resources

Will the Portfolio Holder provide full details of the processes used by Liberata for the follow up of Council Tax and Business Rate debt, including the use of bailiffs?

Reply:

Further to your question regarding the processes used by Liberata for the follow up of Council Tax and Business Rate debt, I enclose the relevant flow charts. These contain the action to be taken, together with time allowed prior to escalation to the next stage.

Council Tax Recovery



12. From Cllr Ian Dunn to the Portfolio Holder for Resources

Will the Portfolio Holder provide the components of the Council's contract with Liberata governing their use of bailiffs.

Reply:

Please find detailed below the relevant paragraphs of the Exchequer Services specification regarding the use of bailiffs and subsequent action of the Authority and/or its contractor.

From Council Tax Service Level Requirements

Bailiff

The Service Provider shall:

- 2.13.1 Seek authorisation from LBB of the Bailiff Company the Service Provider wishes to employ to undertake action on behalf of LBB. Provide a copy of the Bailiff Company's code of practice and list of charges and any other information regarding the proposed Bailiff Company. For the avoidance of doubt only Bailiff Companies accepted by LBB will be permitted to operate on LBB accounts. Any current or future costs in using Bailiffs will be met by the Service Provider.
- 2.13.2 Monitor the Bailiff to ensure they comply with all relevant legislation and that targets set by the Service Provider in conjunction with LBB are being achieved, and that the Bailiff code of practice and LBB requirements are being adhered to.
- 2.13.3 Ensure the Bailiffs carry out work for the Council in accordance with the following:
 - a) The Council's Equal Opportunities Policy
 - b) Any Code of Practice as issued by the Certificated Bailiffs Association
 - c) A quality management standard of ISO9002 or equivalent
- 2.13.4 Administer, monitor and liaise with Bailiff/relevant body on execution of Warrants of Arrest.
- 2.13.5 Monitor all accounts/Warrants of Arrest held with the Bailiff to ensure all payments have been noted, prior to action.
- 2.13.6 Provide details of recovery cases returned from the Bailiff on a quarterly basis (May, August, November and February) detailing what further action is to be taken to recover the outstanding debt.

- 2.13.7 Ensure all income collected on LBB's behalf by external bodies (e.g. Bailiffs, solicitors) is monitored to ensure that the amounts received are correct.
- 2.13.8 Ensure any payments collected by the Bailiffs are paid directly into the Council's account and payments made by cash are transferred to the Council's account within 15 days of receipt.
- 2.13.9 Fully update the Bailiffs on any changes affecting the amount of a Liability Order or circumstances of the customer, which will affect how the Bailiffs secure payment.
- 2.13.10 Check all Bailiffs' letters and documents comply with any relevant statutory requirements, are in plain English, include a detailed breakdown of the debt (including costs and fees), contain information on how to contact the Bailiffs and how payment can be made.
- 2.13.11 Notify LBB of any appeals in connection with distress immediately in writing, prepare case files as required by the Council's legal representative, attend Court as a witness and secure attendance by Bailiffs and carry out any follow up action necessary.
- 2.13.12 Ensure Liability Orders are returned by the Bailiff if they have been unsuccessful after 90 days
- 2.13.13 Where Liability Orders are returned from the Bailiffs:
- a) Ensure that payments collected by the Bailiffs are paid directly into the Council's account and are allocated accurately to the correct accounts and summons debts.
 - b) Ensure all records are updated accurately including the reason for return.
 - c) Check the reasons for return for each Liability Order within 15 working days of return from the Bailiffs and ensure further enforcement is taken where a balance remains in accordance with statutory requirements within a further 10 working days.
- 2.13.14 For 'nulla bona' returns send a committal pending letter within 15 working days.
- 2.13.15 Where a Bailiff returns a Liability Order as unexecuted (e.g. marked "nulla bona" or as being unable to obtain access) the Service Provider shall carry out one or more of the following actions:
- a) Make arrangements with the debtor to clear all outstanding sums;
 - b) Obtain an Attachment of Earnings;

- c) Obtain an attachment of Income Support Order;
- d) Initiate Bankruptcy proceedings against the debtor following appropriate checks for suitability, and be responsible for the associated costs of such action, and checking if the debtor is known to LBB Social Services.
- e) Initiate Charging Order process where appropriate and be responsible for the associated costs of such action.
- f) Consider referring the debt to a Debt Collection Agency, and be responsible for the associated costs of such action.
- g) Seek a Committal Hearing in respect of the Debtor.
- h) Undertake an occupancy checks to ascertain whether the debtor is still in occupation.

- 2.13.16 Check cases monthly where committal letters have been sent and ensure appropriate enforcement is taken relevant to any details held on customers' financial circumstances.
- 2.13.17 Select cases for committal proceedings where all other alternative attempts to enforce outstanding arrears have been unsuccessful and pass case details to LBB for approval.
- 2.13.18 Where approval for committal proceedings is given, prepare summonses and complaint lists and attend committal complaint hearings with LBB.
- 2.13.19 Include information required by law in all committal summonses and warrants and ensure all summonses and warrants are in a format agreed with LBB.
- 2.13.20 Check committal summonses for accuracy prior to posting or preferably delivery by hand.
- 2.13.21 Post committal summonses by recorded delivery or first class post within 1 day of the complaint date. Each committal summons must be posted separately and the certificate of posting kept and taken to Court as evidence.
- 2.13.22 Respond to all customer enquiries on committal cases and take alternative enforcement action wherever possible.
- 2.13.23 Prepare case files for all cases listed for committal hearings, ensuring all records are accurate, and present at committal hearings as the expert witness with the LBB acting in the presenting role with the Service Provider providing.
- 2.13.24 Information and evidence as required by LBB and the Court.

- 2.13.25 Carry out any follow up action on cases after each committal hearing including the administration and enforcement of Arrest Warrants.
- 2.13.26 Non-compliance with paragraph 2.13.42 n) above shall be deemed to have occurred if more than 25 cases for current year accounts and 50 cases for previous years accounts are returned by the Bailiff unexecuted without action having been taken by the Service Provider within the required 90 day period as appropriate and/or the Service Provider fails to obtain Committal hearing dates on a minimum of 10 new cases every calendar month (unless otherwise agreed by LBB).

From NNDR Service Level Requirements:

Bailiff

The Service Provider shall:

- 2.17.1 Seek authorisation from LBB of the Bailiff Company the Service Provider wishes to employ to undertake action on behalf of LBB.
- 2.17.2 Provide a copy of the Bailiff Company's code of practice and list of charges and any other information regarding the proposed Bailiff Company. For the avoidance of doubt only Bailiff Companies accepted by LBB will be permitted to operate on LBB accounts. Any current or future costs in using Bailiffs will be met by the Service Provider.
- 2.17.3 Monitor the Bailiff to ensure they comply with all relevant legislation, Bailiff Code of practice and LBB requirements.
- 2.17.4 Ensure the Bailiffs carry out any work for LBB in accordance with the following:
- a) The Council's Equal Opportunities Policy
 - b) Any Code of Practice as issued by the Certificated Bailiffs Association
 - c) A quality management standard of ISO9002 or equivalent
- 2.17.5 Administer, monitor and liaise with bailiff/relevant body on execution of Warrants of Arrest.
- 2.17.6 Monitor all accounts/Warrants of Arrest held with the Bailiff to ensure all payments have been noted, prior to action.
- 2.17.7 Ensure all income collected on the behalf of LBB by external bodies (e.g. Bailiffs, Solicitors) is monitored to ensure that the amounts received are correct.

- 2.17.8 Ensure any payments collected by the Bailiffs are paid directly into LBB's account and payments made by cash are transferred to LBB's account within 10 days of receipt.
- 2.17.9 Fully update the Bailiffs on any changes affecting the amount of a Liability Order or circumstances of the customer, which will affect how the Bailiffs secure payment.
- 2.17.10 Check all Bailiff's letters and documents comply with any relevant statutory requirements, are in plain English, contain information on how to contact the Bailiffs and how payment can be made and clearly states the period of the debt and breakdown of costs/fees charged.
- 2.17.11 Notify LBB of any appeals in connection with distress immediately in writing, prepare case files as required by LBB's legal representative, attend Court as a witness and secure attendance by Bailiffs and carry out any follow up action necessary.
- 2.17.12 Ensure that Liability Orders are returned by the Bailiff after 90 days if collection has been unsuccessful unless an arrangement is in place or full payment is expected shortly after the 90 day period.
- Where Liability Orders are returned from the Bailiffs, the Service Provider will:
- 2.17.13 Ensure that payments collected by the Bailiffs are paid directly into LBB's account and are allocated accurately to the correct accounts and summons debts.
- 2.17.14 Ensure all records are updated accurately including the reason for return.
- 2.17.15 Check the reasons for return for each Liability Order within 10 working days of return from the Bailiffs and ensure further enforcement is taken where a balance remains in accordance with statutory requirements.
- 2.17.16 Where a Liability Order is returned 'nulla bona', within 10 working days, send the customer a committal pending letter.
- 2.17.17 Check cases monthly where Committal letters have been sent and ensure appropriate enforcement is taken relevant to any details held on customer's financial circumstances.
- 2.17.18 Select cases for Committal proceedings where all other alternative attempts to enforce outstanding arrears have been unsuccessful and pass case details to LBB for approval.
- 2.17.19 Where approval for Committal proceedings is given, prepare summonses and complaint lists and attend committal complaint hearings with LBB.

- 2.17.20 Include information required by law in all Committal Summonses and Warrants and ensure all Summonses and Warrants are in a format agreed with LBB.
- 2.17.21 Check Committal Summonses for accuracy prior to posting.
- 2.17.22 Post Committal Summonses by 1st class post within 1 day of the complaint date.
- 2.17.23 Respond to all customer enquiries on committal cases and take alternative enforcement action wherever possible.
- 2.17.24 Prepare case files for all cases listed for Committal Hearings, ensuring all records are accurate, and present at committal hearings as the expert witness with LBB acting in the presenting role with the Service Provider providing information and evidence as required by LBB and the Court.
- 2.17.25 Carry out any follow up action on cases after each Committal Hearing including the administration and enforcement of Warrants of Arrest.
- 2.17.26 Where a Bailiff returns a Liability Order as unexecuted (e.g. marked “nulla bona” or as being unable to obtain access) the Service Provider shall carry out one or more of the following actions:
- a) Make arrangements with the Debtor to clear all outstanding sums
 - b) Obtain full payment from the Debtor of all outstanding sums
 - c) Initiate Bankruptcy or Liquidation proceedings against the Debtor
 - d) Seek a Committal Hearing in respect of the Debtor
- 2.17.27 Non-compliance with paragraph 2.17.84 above shall be deemed to have occurred if more than 25 cases for current year accounts and 50 cases for previous years accounts are returned by the Bailiff unexecuted without action having been taken by the Service Provider within the required 90 day period as appropriate and/or the Service Provider fails to obtain Committal Hearing dates on a minimum of 5 new cases every calendar month (unless otherwise agreed by LBB).

Sundry Debtors Service Level Requirements:

- 2.20.1 Ensure all appropriate recovery remedies are considered and the most suitable solution is taken and followed through to successful conclusion which must not exceed 1 year from the date Complaint was made:
- a) Attachment of Earnings
 - b) County Court Bailiff

- c) High Court Enforcement Officers
- d) Oral Examination
- e) Third Part Debt Order
- f) Charging Order
- g) Bankruptcy

13. From Cllr Ian Dunn to the Portfolio Holder for the Environment

What criteria are used to determine how frequently footpaths and carriageways are swept? Are there any differences in how these criteria are applied in different parts of the borough? Are there any plans to change these criteria?

Reply:

Frequencies of cleaning are based upon the hierarchy of the street, distinguishing between the pavement and the road, and are influenced by local factors such as the proximity of nearby amenities such as schools, shops, transport interchanges etc, which might be subject to heavy footfall and vehicle movements.

The same methodology is applied Boroughwide. There are no plans to change the current criteria at this point in time.

14. From Cllr Kathy Bance to the Portfolio Holder for Education

Can the Portfolio Holder please provide an update on the Council's plans for the future of Kentwood Adult Education Centre?

Reply:

The consultation on the proposed changes to Adult Education started on 16th October for staff and is due to start around 21st of October for students and stakeholders. Under these proposals the adult education service will continue to use the Kentwood site for the delivery of courses, which would include English, maths, courses for unemployed adults and some non-accredited leisure type courses. However, it is proposed that the nursery at the Kentwood adult education site would close in order to free up additional space for some of the courses to be relocated following the closure of the Widmore site. All the proposed changes would come into effect from the start of the 2016/17 academic year.

15. From Cllr Richard Williams to the Portfolio Holder for the Environment.

Despite numerous complaints to Thames Water regarding an ongoing leak on Anerley Hill SE19, the leak has not been rectified. Will the Council put additional pressure onto Thames Water to rectify this problem?

Reply:

Thames Water have advised Council Officers that they intend to undertake the necessary repairs during the week commencing today.

16. From Cllr Vanessa Allen to the Portfolio Holder for Resources.

As the transition period for Independent Electoral Registration ends on 1 December 2015, please will the Portfolio Holder advise on the following:

- How many people were registered to vote, broken down by ward, for the general election of May 2015?
- How many people are individually registered to vote, broken down by ward, as of now?
- What percentage of the population of the borough do these figures represent, again by ward?
- How are moves into the borough tracked (whether into purchased or rented accommodation), and how are new residents contacted?
- What steps will be taken after 1 December to keep the electoral register up to date, and how and when will residents be contacted?

Reply:

The following table answers the first two bullet points -

| WARD | Registered to vote for General Election on 7 May 2015 (Parliamentary electorate only) | Registered to vote as at Sept 2015 (including*) | *Unconfirmed as at Sept 2015 (to be deleted 1/12/15 if no response rec'd) |
|---|--|--|--|
| Bickley | 11474 | 11851 | 183 |
| Biggin Hill | 7878 | 8004 | 141 |
| Bromley Common & Keston | 12031 | 12458 | 193 |
| Bromley Town | 12162 | 13084 | 339 |
| Chelsfield & Pratts Bottom | 11224 | 11462 | 206 |
| Chislehurst | 11840 | 12218 | 223 |
| Clock House | 11434 | 12000 | 291 |
| Copers Cope | 11724 | 12385 | 280 |
| Cray Valley East | 10856 | 11350 | 252 |
| Cray Valley West | 11866 | 12248 | 276 |
| Crystal Palace | 8346 | 9147 | 321 |
| Darwin | 4116 | 4160 | 62 |
| Farnborough & Crofton | 11593 | 11870 | 175 |
| Hayes & Coney Hall | 12291 | 12576 | 170 |
| Kelsey & Eden Park | 12103 | 12446 | 215 |
| Mottingham & Chislehurst North | 7004 | 7399 | 174 |
| Orpington | 11797 | 12121 | 203 |
| Penge & Cator | 11837 | 12721 | 435 |

| | | | |
|---------------------------------|---------------|---------------|------|
| Petts Wood & Knoll | 10667 | 10937 | 123 |
| Plaistow & Sundridge | 11133 | 11695 | 297 |
| Shortlands | 7464 | 7703 | 140 |
| West Wickham | 11830 | 12118 | 158 |
| TOTAL | 232670 | 241953 | 4857 |

For the remaining bullet points the answers are -

- We do not have this (population) data so cannot provide you with the details requested.
- Currently, we track moves/changes through the canvass, citizenship ceremonies, and records from Council Tax and Registrars (deaths) – an application form (either a Household Enquiry form or an Invitation to register form, as appropriate) is sent to the property/individual when we become aware of the change. We also provide information on the registration process, on the Council website and through press releases, social media and poster campaigns
- After the publication of the revised register on 1 December 2015, we are exploring the possibilities of undertaking more extensive data mining to track new resident (as the law allows) using records from Housing Benefits, Parking, Blue Badge and CRM (in addition to records from Council Tax, Registrars, and Citizenship ceremonies). Again an application form (either a Household Enquiry form or an Invitation to register form, as appropriate) will be sent to the property/individual when we become aware of any change. An annual canvass will be undertaken next autumn.

Earlier this year (in February 2015) we sent a Household Notification letter to every property in the Borough in the lead up to the General election on May 2015 to ensure the register was as up to date as possible - this was very effective. The exercise cost approximately £45,000 and was (largely) funded on this occasion by Central Government. Unfortunately it is unlikely we will have the resources to undertake a similar exercise in the lead up to the GLA election in May 2016.

17. From Cllr Kevin Brooks to the Portfolio Holder for Care Services

The recent policy to ‘no longer include households on the register if they are assessed as lacking one bedroom and are not tenants of partner Housing Associations’ has caused concern and consternation amongst residents. Would the Portfolio Holder please provide the rate of the appeals and specify the numbers of those who have appealed on medical grounds? Would the Portfolio Holder please inform us what levels of support and advice are being provided for residents that make an appeal, particularly concerning appeals on medical grounds?

Reply:

768 applications were cancelled as part of the Allocation Scheme review.
70 households (9%) submitted a request for a review.

The majority of households submitting a review indicated that lacking a bedroom should be sufficient to allow them to be included on the Housing Register and have requested a review on that basis.

Of the 70 review requests submitted 8 households (11%) indicated that their review was submitted on medical grounds either fully or in part. 3 of these households (4%) provided medical information that had already been assessed prior to the cancellation; no priority was previously awarded.

The Service will review each application separately in line with the guidance sent out within the Allocation Scheme; copies of the full scheme and a summary can be downloaded from the Bromley Homeseekers website www.bromleyhomeseekers.co.uk. The reviews are being carried out by senior officers and each customer will receive a letter tailored to their individual needs and circumstances. Irrespective of whether or not the review decision is upheld customers will be provided with details of alternative housing options and, where appropriate, details of relevant support agencies in order that they may source further support and assistance.

Whilst the number of reviews received is lower than expected we fully recognise that the changes made to the Allocation Scheme has caused concern to a number of households. However we remain satisfied that the changes made were essential in order to ensure that the Scheme is legally and statutorily compliant and that it is proportionate in managing expectations against the backdrop of the available supply of accommodation so that those included on the housing register have a realistic expectation of being successful in securing an offer of accommodation through the scheme.

This page is left intentionally blank

Report No.
CSD15142

London Borough of Bromley

PART ONE - PUBLIC

Decision Maker: COUNCIL

Date: Monday 14th December 2015

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

Title: PETITIONS

Contact Officer: Graham Walton, Democratic Services Manager
Tel: 0208 461 7743 E-mail: graham.walton@bromley.gov.uk

Chief Officer: Mark Bowen, Director of Corporate Services

Ward: Petts Wood and Knoll

1. Reason for report

- 1.1 Under the Council's Petition Scheme, if petitioners are dissatisfied with the Council's response to a petition they have submitted they can request that the issue be brought to a meeting of the full Council for consideration, provided that the number of verified signatures exceeds the threshold required (500 signatures, or 1,000 signatures for an e-petition.) The lead petitioner or their nominee can address the Council for up to five minutes.
- 1.2 A petition has been received from the Knoll Residents Association asking the Council to designate part of Petts Wood and Knoll ward as an Area of Special Residential Character (ASRC); further details are set out in section 3 of this report.
-

2. **RECOMMENDATION**

The Council is requested to consider the case made by the petitioners and make recommendations to Development Control Committee and the Executive as necessary for the matter to be considered under the Local Plan process.

Corporate Policy

1. Policy Status: Existing Policy: Petitions are dealt with in accordance with the Council's agreed Petition Scheme.
 2. BBB Priority: Excellent Council:
-

Financial

1. Cost of proposal: No Cost:
 2. Ongoing costs: Not Applicable:
 3. Budget head/performance centre: N/A
 4. Total current budget for this head: N/A
 5. Source of funding: N/A
-

Staff

1. Number of staff (current and additional): N/A
 2. If from existing staff resources, number of staff hours: N/A
-

Legal

1. Legal Requirement: None:
 2. Call-in: Not Applicable: This report does not involve an executive decision.
-

Customer Impact

1. Estimated number of users/beneficiaries (current and projected): N/A
-

Ward Councillor Views

1. Have Ward Councillors been asked for comments? N/A
2. Summary of Ward Councillors comments: N/A

3. COMMENTARY

- 3.1 The Council's Petition Scheme allows for petitioners to present their case to full Council if they are dissatisfied with the Council's response to their petition, provided that the number of verified signatures exceeds the threshold of 500 signatures. The lead petitioner or their nominee can address the Council for up to five minutes. Once Council has considered the matter, it can choose whether to recommend any further action.
- 3.2 A petition was received in August 2015 from the Knoll Residents Association asking the Council to designate part of Petts Wood and Knoll ward as an Area of Special Residential Character. The petition contained in excess of 900 signatures.
- 3.3 The full prayer of the petition is as follows –
- “To safeguard the distinctive character of the Knoll Area (broadly the area bounded by Dale Wood Road, Crofton Lane, Lynwood Grove cutting across to Irvine Way, Broxbourne Road, Chislehurst Road, Orpington High Street continuing into Sevenoaks Road until the railway line) by designating it an Area of Special Residential Character. We, the undersigned, are adult residents of the Knoll and petition the London Borough of Bromley to designate the Knoll area an ASRC.”
- 3.4 Members will recall that at the Council meeting on 29th June 2015 a petition was submitted requesting the designation of Bull Lane Allotments in Chislehurst as Local Green Space. The Council's response on that occasion was to refer the issue to Development Control Committee and the Executive so that the request could be assessed through the Local Plan process, and a similar approach could be applied in the case of the request from the Knoll Residents Association.

| | |
|---|----------------------------------|
| Non-Applicable Sections: | Policy/Financial/legal/Personnel |
| Background Documents: (Access via Contact Officer) | Petition documents |

This page is left intentionally blank

Report No.
CSD15140

London Borough of Bromley

PART ONE - PUBLIC

Decision Maker: COUNCIL

Date: Monday 14 December 2015

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

Title: BUDGET MONITORING 2015/16 - TRANSFER FROM CENTRAL CONTINGENCY TO THE GROWTH FUND

Contact Officer: Graham Walton, Democratic Services Manager
Tel: 0208 461 7743 E-mail: graham.walton@bromley.gov.uk

Chief Officer: Mark Bowen, Director of Corporate Services

Ward: (All Wards);

1. Reason for report

- 1.1 At its meeting on 2nd December 2015 the Executive received the attached report – the second budget monitoring report for 2015/16. This is based on general expenditure and activity levels up to the end of August 2015, with more up to date projections included for key or volatile budgets. The Executive agreed recommendation (n) to recommend to Council that £6.5m of the underspend on services and the Central Contingency be transferred to the Growth Fund. This is described in section 3.10 of the report.
-

2. **RECOMMENDATION**

Council is recommended to agree that £6.5m of the underspend on services and the Central Contingency be transferred to the Growth Fund as detailed in paragraph 3.10.3 of the attached report.

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: Not Applicable:
 4. Total current budget for this head: £ Not Applicable:
 5. Source of funding: 2015/16 underspends & Central Contingency
-

Staff

1. Number of staff (current and additional): Not Applicable:
 2. If from existing staff resources, number of staff hours: Not Applicable:
-

Legal

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

Customer Impact

1. Estimated number of users/beneficiaries (current and projected): Not Applicable:
-

Ward Councillor Views

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

| | |
|---|----------------------------------|
| Non-Applicable Sections: | Policy/Financial/Legal/Personnel |
| Background Documents: (Access via Contact Officer) | See attached report |

Decision Maker: Executive

Date: 2nd December 2015

Decision Type: Non-Urgent Executive Non-Key

Title: BUDGET MONITORING 2015/16

Contact Officer: James Mullender, Finance Manager
Tel: 020 8313 4292 E-mail: James.Mullender@bromley.gov.uk

Chief Officer: Director of Finance

Ward: (All Wards);

1. Reason for report

- 1.1. This report provides the second budget monitoring position for 2015/16 based on general expenditure and activity levels up to the end of August 2015, with more up-to-date projections included for key or volatile budgets. The report also highlights any significant variations which will impact on future years, as well as any early warnings that could impact on the final year end position.
-

2. RECOMMENDATIONS

2.1. Executive are requested to:

- (a) consider the latest financial position;
- (b) note that a projected net underspend on services of £1,711k is forecast;
- (c) consider the comments from the Education, Care and Health Services Department as detailed in section 3.2;
- (d) agree the release of £112k from Central Contingency for the additional costs of Concessionary Fares as detailed in para 3.3.2;
- (e) agree the drawdown of £1.9m grant funding in Central Contingency for the additional costs of commissioning Health visiting which has transferred to Public Health as detailed in para 3.3.3;

- (f) agree the drawdown of £97k grant funding in Central Contingency for Individual Electoral Registration as detailed in para 3.3.4;**
- (g) agree the drawdown of £526k grant funding in Central Contingency for Independent Living Fund as detailed in para 3.3.5;**
- (h) agree the drawdown of £112k grant funding in Central Contingency for Smartphone Counter Fraud App as detailed in para 3.3.6;**
- (i) note that reports elsewhere on the agenda request the drawdown of a total of £1,972k from Central Contingency as detailed in paras 3.3.7 - 3.3.11;**
- (j) agree the supplementary estimate of £382k for Adult Education as detailed in para 3.3.12, funded from underspends within Central Contingency;**
- (k) note the Prior Year Adjustments totalling £1,109k as detailed in section 3.5;**
- (l) note a projected increase to the General Fund balance of £382k as detailed in section 3.6;**
- (m) note the full year effect of £2.6m underspend as detailed in section 3.7;**
- (n) recommend to Council that £6.5m of the underspend on services and the Central Contingency be transferred to the Growth Fund as detailed in para 3.10.3;**
- (o) note that the additional £141k funding relating to the New Homes Bonus has been transferred to the Investment Fund earmarked reserve as detailed in para 3.11.1;**
- (p) identify any issues that should be referred to individual Portfolio Holders for further action.**

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: Council Wide
 4. Total current budget for this head: £204.0m
 5. Source of funding: See Appendix 1 for overall funding of Council's budget
-

Staff

1. Number of staff (current and additional): 3,218 (per 2015/16 Budget), which includes 1,356 for delegated budgets to schools.
 2. If from existing staff resources, number of staff hours: Not Applicable
-

Legal

1. Legal Requirement: Statutory Requirement: The statutory duties relating to financial reporting are covered within the Local Government Act 1972; the Local Government Finance Act 1998; the Accounts and Audit Regulations 1996; the Local Government Act 2000 and the Local Government Act 2002
 2. Call-in: Applicable:
-

Customer Impact

1. Estimated number of users/beneficiaries (current and projected): The 2015/16 budget reflects the financial impact of the Council's strategies, service plans etc. which impact on all of the Council's customers (including council tax payers) and users of the services.
-

Ward Councillor Views

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

3. COMMENTARY

3.1. Summary of variations

3.1.1. The current projected outturn for 2015/16 is a total net underspend £2,052k, comprising £1,711k underspend on portfolio budgets, and £341k underspend on central items and general grants.

3.1.2. A summary of the overall 2015/16 Budget and the Projected Outturn is shown in the table below:

| Portfolio | 2015/16 Original Budget £'000 | 2015/16 Latest Budget £'000 | 2015/16 Projected Outturn £'000 | 2015/16 Variation £'000 |
|-----------------------------------|--|--|--|--|
| Care Services | 102,794 | 103,457 | 101,834 | Cr 1,623 |
| Education | 5,124 | 5,593 | 6,122 | 529 |
| Environment | 32,095 | 33,105 | 32,959 | Cr 146 |
| Public Protection & Safety | 2,120 | 2,120 | 2,100 | Cr 20 |
| Renewal & Recreation | 9,214 | 9,395 | 9,260 | Cr 135 |
| Resources | 37,869 | 39,339 | 39,023 | Cr 316 |
| Total Controllable Budgets | 189,216 | 193,009 | 191,298 | Cr 1,711 |
| Capital Charges and Insurance | 20,980 | 20,980 | 20,980 | 0 |
| Non General Fund Recharges | Cr 793 | Cr 793 | Cr 793 | 0 |
| Total Portfolio Budgets | 20,187 | 20,187 | 20,187 | 0 |
| Contingency Provision | 14,003 | 11,880 | 6,748 | Cr 5,132 |
| Interest on General Fund Balances | Cr 2,741 | Cr 2,741 | Cr 3,341 | Cr 600 |
| Other Central Items | Cr 16,835 | Cr 16,835 | Cr 10,194 | 6,641 |
| Prior Year Adjustments | 0 | 0 | Cr 1,109 | Cr 1,109 |
| General Government Grants | Cr 72,629 | Cr 72,629 | Cr 72,770 | Cr 141 |
| Collection Fund Surplus | Cr 2,300 | Cr 2,300 | Cr 2,300 | 0 |
| Total Central Items | Cr 80,502 | Cr 82,625 | Cr 82,966 | Cr 341 |
| Total Variation | 128,901 | 130,571 | 128,519 | Cr 2,052 |

3.1.3. A detailed breakdown of the Latest Approved Budgets and Projected Outturn for each Portfolio, together with an analysis of variations, is shown in Appendix 2.

3.2. Comments from the Education Care and Health Services Department

Care Services Portfolio

3.2.1. Overall the current outlook in the Care Services Portfolio is positive with a £1,623k controllable budget underspend predicted for the financial year. Additional costs of placements in older people and children's services are being offset by staffing vacancies and placements in learning disabilities and mental health services. Containing costs has proved a challenge, particularly in our older people's services.

3.2.2. Commissioning activity continues to secure value for money in placements and makes a significant contribution to ameliorating some of the pressures.

3.2.3. Housing continues to exert very considerable pressures on our budgets and although covered by contingencies following the very early recognition of these pressures, Members will note that we are not predicting any significant changes in pressures from those seeking

temporary accommodation and so it is important that Manorfields comes on stream at the earliest opportunity to help control these pressures.

- 3.2.4. Children's Social Care continues to see pressures from no recourse to public funds and increases in Special Guardianship Orders.
- 3.2.5. The Department will continue to closely monitor its activities in order to at least balance the budget in year and look to future years where the funding will become an even greater challenge.

Education Portfolio

- 3.2.6. The SEN and Inclusion team are looking at long term strategic opportunities to reduce the expenditure on SEN transport. The main focus is on ensuring that more children are placed in borough and so reducing significant journey costs. In addition travel training is having some impact and the use of muster points is currently being trialled.
- 3.2.7. The Youth Services full year savings of £506k for 2015/16 was not achievable due to the requirement to undertake a restructure of the service and consult with staff. The consultation is now complete and the new structure is in place, with a projected full year effect of £40k overspend in 2016/17. There is also a projected overspend in the Youth Offending Team; as a consequence of the outcome of the recent HMIP inspection, it has been necessary to delay the planned restructure of the service and employ additional staff. In addition there have been in year savings made to the Youth Justice Grant by the Ministry of Justice. The review of the existing service and interim measures required to address immediate operational delivery requirements will result in an overspend of £88k. Every effort will be made to reduce the overspends.

3.3. Central Contingency Sum

- 3.3.1. Details of the allocations from and variations in the 2015/16 Central Contingency are included in Appendix 3.
- 3.3.2. Concessionary Fares are administered by London Councils on behalf of the London Boroughs. A change in the apportionment of Concessionary Fares between Boroughs is being implemented over three years, commencing in 2014/15, as a result of updated data becoming available. The change in apportionment has a significant impact for LBB. Provision was made for this in the 2015/16 Central Contingency pending details being provided by London Councils. Provision of £10,540k was made in the Chief Executive's budget and £326k in the central contingency for the change in apportionment, which was approved for draw-down by Executive on 15th July 2015. The final cost is now known to be £10,996k, so Executive are requested to approve a further drawdown of £112k.
- 3.3.3. From October 2015, responsibility for commissioning of Health visiting passed from NHS Health England to Public Health in the Local Authority. The annual value for this service is £3.8m in 2016/17. £1.901m has been transferred for the part-year effect in 2015/16 and is held in contingency. The Health Visiting service specification has been developed nationally and is mandated in five key areas (antenatal health promoting reviews, new baby reviews, six to eight week assessments, one year assessments, and two to two and a half year reviews) by the Department of Health. The service is currently tied up in a block contract with Bromley Healthcare which has been novated over to the Local Authority. The funding is ring-fenced for Public Health services. It is requested that the £1.901m be released from Central Contingency to cover the £1.901m contract that has transferred.

- 3.3.4. For the third and final year, government has allocated grant funding for the additional costs/burdens of the transition to Individual Electoral Registration, with Bromley receiving £97k. Executive are requested to agree the drawdown of this funding to be used for the additional costs of printing, postage and despatch of the numerous forms and letters that are required to be sent.
- 3.3.5. The Independent Living Fund (ILF) was a central government fund established to provide services to disabled people with high care needs to enable them to remain living independently in the community. The fund was managed by the Department of Work and Pensions (DWP) but on the 30th June 2015 the fund closed and the responsibility was devolved to the Local Authority. Funding was transferred for each individual user of the fund. The funding is not ring-fenced but as the clients are transferred so are the costs. The total funding for Bromley amounted to £526k for 2015/16 and it is requested that this be released from Central Contingency in 2015/16 to reflect these changes in responsibility. Future allocations will be given on a case by case basis and will have to be bid for. It is assumed at this stage to be cost neutral.
- 3.3.6. Special funding was made available by DCLG for innovative bids to fight fraud, with Bromley putting in a bid (as lead borough) to develop and launch a mobile phone fraud app with 38 boroughs signing up. The bid was successful with total funding of £200k - £5k per borough plus an admin fee of £10k to oversee the process. It is requested that the £112k in the Central Contingency be released to fund the expenditure remaining in 2015/16.
- 3.3.7. The Tackling Troubled Families grant is to fund the development of an ongoing programme to support families who have multi-faceted problems including involvement in crime and anti-social behaviour with children not in education, training or employment. This support is delivered through a number of work streams cross cutting across council departments and agencies. £226k has already been previously approved and drawn down for 2015/16 and a further £661k is requested for draw down elsewhere on the agenda to continue the project and its commitments in the current financial year.
- 3.3.8. There continues to be a significant gap between the need for Housing that is affordable and the available supply of both social housing and affordable rented accommodation. Over the last five years the rent that we are effectively able to charge, in terms of what is considered reasonable, has been frozen and the housing allowance has been reduced. Rising costs of rents and the effect of the welfare reform have seen the number of homeless approaches to Bromley increase. There are now just under 1,100 households in temporary accommodation. Bromley has anticipated this and set aside £1.1m in 2015/16 to cover any cost pressures arising from homelessness. £649k is being requested elsewhere on the agenda to offset the pressures in the division.
- 3.3.9. A report elsewhere on this agenda is seeking to use £106k from the 2015/16 underspend in the Central Contingency to jointly fund the development work to RIBA Stage 4 of a capital scheme for a Biggin Hill Memorial Museum.
- 3.3.10. A sum of £1m is included within Central Contingency for Parking Enforcement. A report elsewhere on the agenda requests that a sum of £306k be released from this for the purchase and installation (through the ESPO Security and surveillance equipment & services Framework) of five automated cameras for enforcement at schools and ten automated cameras to undertake Bus Lane enforcement. The balance of £694k is not required, which has been reflected in current projections.
- 3.3.11. Other reports elsewhere on the agenda request that £200k be drawn down from underspends in Central Contingency for the costs of legal and actuarial advice relating to a Pensions

Investment Proposal, and £50k for the cost of legal advice relating to Residential Property Acquisitions.

3.3.12. As Members will be aware, the Adult Education service has been subject to significant reductions in the grant received from the Skills Funding Agency over the past few years (£724k since 2010/11). The service was restructured in 2012/13, and has since made several other changes to help contain the impact of this reduction, such as keeping back office posts vacant, reducing caretaking and cleaning staff hours, reducing the printing and distribution of the prospectus, and the closure of Poverest nursery. As a result the current projection is for a £382k overspend in 2015/16. Officers will soon be consulting on a further proposed restructure which would be implemented from September 2016 which would reduce the overspend to around £200k in a full year; however further grant reductions are expected for the 2016/17 and 2017/18 academic years. As all action has been taken to reduce this in-year, following the Education Budget Sub-Committee meeting on 20th October 2015, the Portfolio Holder for Education has requested that Executive approve a supplementary estimate of £382k funded from underspends within Central Contingency. In the event that any restructure or other measures are able to reduce the need for this full amount in future years, the surplus will be returned to the Central Contingency.

3.4. Carry forwards from 2014/15 to 2015/16

3.4.1. At its meeting on 10th June, Executive approved the carry forward to 2015/16 of £1,186k underspend in 2014/15, to be allocated to contingency and drawn-down on the approval of the relevant Portfolio Holder, with £786k approved for draw-down to date. Additionally £484k was approved under delegated authority, bringing the total carried forward to £1,670k.

3.5. Prior Year Adjustments resulting in a Credit Provision in the Accounts of £1,109k

3.5.1. At the end of 2014/15 provision was made for a potential loss of Housing Benefit subsidy for Local Authority errors and administrative delay overpayments. This element of subsidy is based on the value of errors above a set threshold and it is prudent to allow for a reduction in subsidy as a result of any errors that might be picked up and extrapolated as part of the audit of the final subsidy claim and result in lower subsidy levels. The claim has now been audited, and the provision of £459k can now be released.

3.5.2. A provision for termination costs relating to a transferred service has been held for some years now against the possibility of potential claims for redundancy, legal costs, compensation, etc at the ceasing of the contract. The likelihood is getting smaller that there will be any come back on this. It is proposed that £300k now be released as it will not be used.

3.5.3. Although there is some evidence of some additional unknown Learning Disabilities and Mental Health clients coming through it is not on the same levels as previously seen. It is therefore proposed to reduce the provisions by £200k and £150k respectively to reflect this.

3.6. General Fund Balances

3.6.1. The level of general reserves is currently projected to increase by £382k to £20.4m at 31st March 2016 as detailed below:

| | 2015/16 Projected Outturn £'000 |
|---|--|
| General Fund Balance as at 1st April 2015 | Cr 20,000 |
| Total net variation on Services and Central Items (section 3.1) | Cr 2,052 |
| Carry forwards (funded from 2014/15 underspends) (para 3.4.1) | <u>1,670</u> |
| General Fund Balance as at 31st March 2016 | <u>Cr 20,382</u> |

3.7. Impact on Future Years

3.7.1. The report identifies expenditure pressures which could have an impact on future years. The main areas to be considered at this stage are summarised in the following table:

| | 2015/16 Budget £'000 | | 2016/17 Impact £'000 |
|---------------------------------------|-------------------------------------|----|-------------------------------------|
| Care Services Portfolio | | | |
| Assessment & Care Management | 19,545 | Cr | 192 |
| Learning Disabilities Care Management | 2,676 | | 136 |
| Learning Disabilities Placements | 24,578 | | 97 |
| Children's Placements | 27,887 | | 128 |
| Public Health | Cr 372 | Cr | 495 |
| Savings achieved early | | | <u>Cr 1,623</u> |
| | | | <u>Cr 1,949</u> |
| Education Portfolio | | | |
| Bromley Youth Support Programme | 1,549 | | 40 |
| Blenheim & Community Vision Nurseries | 0 | Cr | 74 |
| Education Services Grant | Cr 2,128 | | <u>178</u> |
| | | | <u>144</u> |
| Environment Portfolio | | | |
| Markets | Cr 2 | Cr | 40 |
| Waste | 18,282 | Cr | 260 |
| Highways (incl London Permit Scheme) | 7,169 | | 80 |
| Parking | Cr 6,708 | Cr | 30 |
| | | | <u>Cr 250</u> |
| Resources Portfolio | | | |
| Operational Property - planned | 375 | | 175 |
| Customer Services | 937 | | 36 |
| Investment & Non-Operational Property | 390 | Cr | 185 |
| Investment Income | Cr 7,393 | Cr | 544 |
| | | | <u>Cr 518</u> |
| TOTAL | | | <u>Cr 2,573</u> |

3.7.2. Given the significant financial savings that the council will need to make over the next four years, it is important that all future cost pressures are contained and that savings are identified early to mitigate these pressures.

3.7.3. Further details including action to be taken to contain these pressures are included in Appendix 4.

3.8. Interest on Balances

3.8.1. There is still no real sign of interest rates improving and an average rate of 1% has again been prudently assumed for interest on new fixed term deposits (lending to banks and other local authorities) in the 2015/16 revenue budget, in line with the estimates provided by the Council's external treasury advisers, Capita, and with officers' views. The Bank of England

base rate is still expected to rise, but the expected start of the rise has been put back to mid-2016 and could be even later. There have been no improvements to counterparty credit ratings, as a result of which the restrictions to investment opportunities that followed ratings downgrades in recent years have still been in place. However, the Council has been able to benefit from the increases in the limits for the two part-nationalised banks (Lloyds and RBS) approved by the Council in October 2014, higher rates from longer-term deals placed with other local authorities, higher average balances than anticipated and the strong performance of the CCLA Property Fund and it is currently forecast that the 2015/16 outturn will be around £3.35m compared to the budget of £2.74m; i.e. a surplus of £0.6m.

3.9. The Schools Budget

- 3.9.1. Expenditure on Schools is funded through the Dedicated Schools Grant (DSG) provided for by the Department for Education (DfE). DSG is ring fenced and can only be applied to meet expenditure properly included in the schools budget. Any overspend or underspend must be carried forward to the following years Schools Budget.
- 3.9.2. There is a total projected underspend of £75k on DSG funded services, which will be added to the £9.9m carried forward from 2014/15. Details of the 2015/16 monitoring of the School's Budget will be reported to the Education Portfolio Holder.

3.10. Growth Fund

- 3.10.1. A key priority for the Council is economic development and inward investment which was reflected in the Local Plan report to Executive in February 2013. Supporting economic growth, new investment creates employment opportunities, potentially reduces the cost of council tax support and generates income through business rates, new homes bonus and other investment opportunities.
- 3.10.2. Members have previously approved the allocation of £10m to be ring-fenced for investments which support growth in Biggin Hill area (£3.5m), Cray Corridor (£3.5m) and Bromley Town Centre (£3m). There are further opportunities to support economic development and on 5th October the Chancellor set out plans to full devolve 100% of business rates to local government (includes GLA for London) by 2020. Although this change is expected to be cost neutral it will provide an opportunity to generate additional income through the uplift in business rate income arising from economic growth as the Council will retain a higher share of business rates. Generating additional income will be more critical as the Council will lose core government funding in the future.
- 3.10.3. It is therefore proposed to increase the one off funding available in the growth fund by a further £6.5m to be met from monies not required in the current year from the Council's 2015/16 Central Contingency Sum and underspends in other areas.
- 3.10.4. The setting aside of this additional funding will also require the approval of Council.
- 3.10.5. Any future release of these monies will be subject to a detailed report to Members for their approval.

3.11. Investment Fund

- 3.11.1. As it's meeting on 14th January 2015, Executive agreed that the New Homes Bonus be set aside to provide additional funding for the Council's Investment Fund. At the time this was estimated to be £4,400k. Since then this has been confirmed to be £4,541k, and Executive are asked to note that the additional £141k has also been added to the Investment Fund.

3.11.2. Full details of the current position on the Investment Fund are included in the Capital Programme Monitoring report elsewhere on the agenda.

3.12. Section 106

3.12.1. An update on Section 106 balances as at 31st August 2015 is included in Appendix 5. Further details on the arrangements for utilising Section 106 monies are provided in the “Capital Programme Monitoring – 2nd Quarter 2015/16” and “Update on Section 106 Contributions for Education” reports elsewhere on this agenda.

4. POLICY IMPLICATIONS

4.1. The “Building a Better Bromley” objective of being an Excellent Council refers to the Council’s intention to provide efficient services and to have a financial strategy that focuses on stewardship and sustainability. Delivering Value for Money is one of the Corporate Operating Principles supporting Building a Better Bromley.

4.2. The “2015/16 Council Tax” report highlighted the financial pressures facing the Council. It remains imperative that strict budgetary control continues to be exercised in 2015/16 to minimise the risk of compounding financial pressures in future years.

4.3. Chief Officer’s comments are included in section 3.2.

5. FINANCIAL IMPLICATIONS

5.1. These are contained within the body of the report with additional information provided in the appendices.

| | |
|---|--|
| Non-Applicable Sections: | Legal Implications Personnel Implications |
| Background Documents: (Access via Contact Officer) | Draw-down of the Homeless Contingency - Executive 2 nd December 2015; Update on Tackling Troubled Families Project - Executive 2 nd December 2015; Impact of Deregulation Act on Parking CCTV - Executive 2 nd December 2015; Update on Residential Property Acquisitions - Executive 2 nd December 2015; Biggin Hill Memorial - Executive 2 nd December 2015; Provisional Final Accounts - Executive 10 th June 2015; 2015/16 Council Tax - Executive 11 th February 2015; Draft 2015/16 Budget and Update on Council’s Financial strategy 2016/17 to 2018/19 - Executive 14 th January 2015; Financial Management Budget Monitoring files across all Portfolios. |

Report No.
CSD15139

London Borough of Bromley

PART ONE - PUBLIC

Decision Maker: COUNCIL

Date: Monday 14 December 2015

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

Title: COUNCIL TAX SUPPORT/REDUCTION 2016/17

Contact Officer: Graham Walton, Democratic Services Manager
Tel: 0208 461 7743 E-mail: graham.walton@bromley.gov.uk

Chief Officer: Mark Bowen, Director of Corporate Services

Ward: N/A

1. Reason for report

- 1.1 At its meeting on 2nd December 2015 the Executive considered a report advising them of the results of the public consultation exercise on Council Tax Support and requesting that the scheme be recommended to Council for adoption. The report, an appendix summarising the consultation results and a supplementary paper on the effects of the Chancellor's Autumn Statement are attached, together with the Impact Assessment presented to the Executive for its meeting on 15th July 2015.
-

2. **RECOMMENDATION**

Council is recommended to adopt, for the financial year 2016/17, a scheme whereby entitlement for working age claimants is calculated on 75% of the household's Council Tax liability (thereby, the maximum assistance provided to a claimant of working age is 75% of his/her Council Tax liability.) Other elements of the proposed scheme remain unchanged to that in place for 2015/16*, except where revision is required as a result of revised legislation/guidance and/or annual uprating.

*A copy of the 2015/16 scheme can be found at:

http://www.bromley.gov.uk/downloads/file/2479/adopted_council_tax_support_scheme_2015

Corporate Policy

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

Financial

1. Cost of proposal: Estimated annual cost of scheme with minimum 25% liability - £11.045m (estimated LBB scheme expenditure and increased collection costs)
 2. Ongoing costs: Recurring Cost:
 3. Budget head/performance centre: 40002/400003
 4. Total current budget for this head: £7.365m
 5. Source of funding: Government funding – not identified as a separate item in grant notification
-

Staff

1. Number of staff (current and additional): 8 + Liberata staff
 2. If from existing staff resources, number of staff hours: Once scheme is adopted, extra work will fall on Liberata – this is taken into account in costings provided.
-

Legal

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

Customer Impact

1. Estimated number of users/beneficiaries (current and projected): 17,300 (current number of households in receipt of Council Tax Support.)
-

Ward Councillor Views

1. Have Ward Councillors been asked for comments? No
2. Summary of Ward Councillors comments: N/A
- 3.

| | |
|---|--------------------------------|
| Non-Applicable Sections: | Policy/Finance/Legal/Personnel |
| Background Documents: (Access via Contact Officer) | See attached report |

Decision Maker: Executive

Date: 02 December 2015

Decision Type: Non-Urgent Executive Key

Title: COUNCIL TAX SUPPORT/REDUCTION 2016/17

Contact Officer: John Nightingale, Head of Revenues and Benefits
Tel: 020 8313 4858 E-mail: john.nightingale@bromley.gov.uk

Chief Officer: Director of Finance

Ward: (All Wards);

1. Reason for report

To advise Members of the results of the public consultation exercise and seek approval of the scheme to be forwarded to Full Council for approval.

In making this decision Members are asked to note the Impact Assessment attached as Appendix 1 to the Council Tax Support 2016/17 report, presented to the 15/7/15 meeting of the Executive.

2. **RECOMMENDATION(S)**

1. **Members consider the responses to the public consultation exercise and note the outcome of the work on the impact of Welfare reform in Bromley set out in section 3.2.**

2. **Members are asked to request that Full Council, at the meeting of the 14th December, adopt for financial year 2016/17 a scheme whereby entitlement for working-age claimants is calculated on 75% of the households Council Tax liability. Thereby the maximum assistance provided to a claimant of working-age is 75% of his/her Council Tax liability.**

Corporate Policy

1. Policy Status: New Policy:
 2. BBB Priority: Not Applicable:
-

Financial

1. Cost of proposal: – Estimated annual cost of scheme with minimum 19% liability – £15,512k
Estimated annual cost of scheme with minimum 25% liability – £14,318k
Estimated annual cost of scheme with minimum 30% liability - £13,330k
 2. Ongoing costs: Recurring Cost:
 3. Budget head/performance centre: 400002/400003
 4. Total current budget for this head: £7.365m
 5. Source of funding: Government funding, not identified as a separate item in grant notification.
-

Staff

1. Number of staff (current and additional): 8 + Liberata staff
 2. If from existing staff resources, number of staff hours: Once scheme adopted – extra work will fall on Liberata, taken into account in costings provided
-

Legal

1. Legal Requirement: Statutory Requirement:
 2. Call-in: Applicable:
-

Customer Impact

1. Estimated number of users/beneficiaries: 17,300 (current number of households in receipt of Council Tax Support)
-

Ward Councillor Views

1. Have Ward Councillors been asked for comments? No
2. Summary of Ward Councillors comments:

3. COMMENTARY

3.1 Introduction

From the 01 April 2013 the national scheme for providing assistance with Council Tax (Council Tax Benefit) ceased to exist and was replaced by a local authority designed scheme for those claimants of working-age. The scheme is known as Council Tax Support/Reduction (CTS/R). For those of pensionable age, the scheme continued to be based on national rules and regulations.

In the financial year 2013/14, working-age claimants were liable to pay a minimum of 8.5% of their Council Tax liability. For the financial years 2014/15 and 2015/16 working-age claimants have been liable for a minimum of 19% of their Council Tax liability.

At the 15th July meeting of the Executive, Members agreed the options that should be entered in the public consultation exercise, the results of which are contained later in the report.

Attached as Appendix 1 to the report submitted for consideration at the 15th July meeting was an Impact Assessment in respect of the options to be entered in the consultation exercise. Members are asked to note the content of the "assessment" when considering the recommendations contained in this report. For ease of reference, the weblink to the report is entered below:

<http://cds.bromley.gov.uk/ieListDocuments.aspx?CId=121&MId=5449&Ver=4>

It should be noted that the scheme needs to be adopted at Full Council by the 31st January prior to the financial year it relates to.

3.2 Welfare Reform

At the 15 July 2015 meeting of the Executive, it was requested that we include in this report details of the impact of the Chancellor's summer statement. The following information has been obtained through interrogation of our benefit system and referencing evidence/advice from experts in the field.

Reduction in the level of earnings at which Tax Credits start to be withdrawn from £6,420 to £3,850, together with an increase in taper from 41% to 48%.

It should be noted that a transitional scheme is planned; however details have not yet been provided. The Institute of Fiscal Studies estimate that 3m households will be affected with an average loss of £1,000pa.

It is estimated that 1,800 Bromley CTS/R recipients will lose an average of £1,300pa.

4-year freeze to working-age benefits

The Institute of Fiscal Studies estimate that 13m families will lose in real terms £260pa on average by the 4th year.

Reduction in the benefit cap from £26,000pa (£18,200pa single claimant) to £23,000pa (£15,410pa single claimant)

Approximately 300 Bromley households are currently being capped; these will see a £3,000pa reduction in income. An estimated further 230 Bromley households will see their income reduced as a result of the reduction in cap to £23,000pa (£15,410pa single claimant). Start date of change not yet known.

Removal of automatic right to HB for 18-21 year olds (exemptions apply)

There are currently 184 claimants between the age of 18 and 21 receiving Housing Benefit of which 80 are also in receipt of CTS/R

Removal Tax Credit/UC entitlement for third and subsequent children from April 2017

Only relates to new claimants and new births after April 2017, so will not affect current claimants unless a change in their circumstances

Abolition of the family element in Child Tax Credit (and equivalent in UC) from April 2017

As per previous item

The above figures, subject to the freezing of work related and assessed living requirements (applicable amount), will result in 65% of the loss being met by Housing Benefit where the claimant has a rental liability and the previous entitlement allows for the level of increase. For CTS/R, subject to the points entered above, entitlement will increase to cover 20% of the loss.

However, it should be noted that the Authority will need to meet the increase in the CTS/R scheme costs.

Movement to National Living Wage and increased personal tax free allowance

These changes will have a positive impact on some of the lower paid earners, but it is not possible to specify the number or amounts. The publication "This is Money" advised that not all tax payers will be winners. Those on incomes between £5,000 and £30,000 will typically be worse off by about £1,000pa. This is due to restrictions in Tax Credits that come into force over the next two years. The worst hit in this income group are those on £13,000 pa who will be £1,606pa worse off. A family with three children and a household income of £30,000 will lose £1,519pa

3.3 Consultation

At the 15 July 2015 meeting of the Executive, a decision was made to undertake consultation on CTS/R based on 81%, 75% and 70% of the households Council Tax Liability. The consultation exercise closed on the 18 October 2015 by which time 735 responses had been received. Included in these were responses from the following representative bodies:

- Cotmandene Community Resource Centre
- Hearing Voices Group
- Zacchaeus 2000 trust
- Bromley's Experts by Experience DPULO
- Bromley Mind
- Church and Foodbank

Responses to the questions contained in the consultation exercise are entered as Appendix 1. A full report of the consultation findings can be found on the LBB website, the link for which is http://www.bromley.gov.uk/downloads/file/2460/council_support_-_consultation_report

To summarise the main findings were:

- In respect of financial year 2016/17, 43% of respondents confirmed their preference to keep the minimum contribution at 19%. However, there is a significant difference dependent on whether or not the individual is a working-age Council Tax Support recipient.
- 44% of respondents said that the Council should use its reserves to fund any additional contribution to the Council Tax Support scheme.
- 92% of respondents said that there should be a hardship fund, with 71% agreeing that it should remain at the current level (£100k)
- Where opportunity was given to provide changes to the scheme, the comments made fell into the following broad categories
 - Undertaking better checks on those receiving CTS
 - Increasing protection for certain categories of claimant

Employing a sliding scale of assistance
 Limiting the support further e.g. to those living in the lowest Council Tax band
 Helping citizens through employment opportunities

4. POLICY IMPLICATIONS

The Authority's scheme needs to be adopted on an annual basis following a public consultation exercise.

5. FINANCIAL IMPLICATIONS

Based on the current caseload and projected effect of known welfare reform changes as announced in the 2015 summer budget, detailed below are the estimated annual expenditure for the 3 options.

| Minimum working-age CTS liability | 19% | 25% | 30% |
|--|----------|------------|------------|
| Total estimated annual CTS expenditure | £15,512k | £14,318k | £13,330k |
| Less GLA estimated proportion – 22.26% | £3,453k | £3,187k | £2,967k |
| LBB estimated annual CTS expenditure Costs – 77.74% | £12,059k | £11,131k | £10,363k |
| Additional collection costs | £44k | £246.5k | £333.5k |
| Estimated LBB expenditure and Increased Collection Costs * | £12,103k | £11,377.5k | £10,696.5k |
| Difference in net costs compared to existing scheme | | £725.5k | £1,406.5k |

In addition to the above expenditure figures, the sum of £100k per annum is available for the provision of discretionary awards.

*Note does not take into account current cost of collection

The sum cited in the “difference in net costs compared to existing scheme” line assumes collection rate remains unchanged.

6. LEGAL IMPLICATIONS

Full legal implications are set out in the report considered by members of the Executive on 15th July and these are not repeated here. Members should however have regard to these and to the earlier Equality Impact assessment work undertaken. However, in summary Section 33 (1) (e) of the Welfare Reform Act 2012 abolished the national scheme of Council Tax benefit. Section 10(1) of that

Act introduced a new Section 13 A(2) into the Local Government Finance Act 1992 which obliged each local authority to make its own scheme for those who it considered to be in financial need.

Schedule 1 A of the 1992 Act sets out the procedural steps required to make or revise a scheme. These include an obligation to consider whether or not to change a scheme for any Financial year. Where changes are made there is a statutory obligation to publish a draft scheme and to consult with such persons as we deem to have an interest . That will include both individuals who receive benefit and those who don't. Any new scheme must be adopted by 31 January in the financial year preceding that in which it is to apply.

Bromley has undertaken the required consultation exercise and whereas members must have regard to the consultation outcomes, they are not obliged to follow the majority view.

| | |
|---|------------------------|
| Non-Applicable Sections: | Personnel implications |
| Background Documents: (Access via Contact Officer) | |

APPENDIX 1

London Borough of Bromley

Council Tax Support – Consultation Report

26th October 2015

Author : Louise Freeth

Consultation

A public consultation exercise was undertaken for the 16/17 Council Tax Support Scheme during a period from 17th August 2015 until 18th October 2015.

The survey was available through a variety of channels:

- A link was available on the Bromley website
- An e-mail alert was issued to 5,000 Portal users advising them of the survey
- A paper copy was issued to 4,000 households comprising of a mix of CTS recipients and non CTS recipients (2,000 households not in receipt of CTS, 1,000 recipients of working age and 1,000 recipients of pensionable age)
- A paper flyer enclosed with 5,681 Council Tax Bills issued during this period advising of the link on the website.

In total there were 735 responses received with the majority, 625, being by post and 110 via the website.

Supplementary questions were asked, for monitoring purposes, to determine whether respondents were currently in receipt of Council Tax Support or were completing the consultation on behalf of a representative body.

Of those who chose to respond to these questions, 60% stated that they were not currently in receipt of CTS.

Responses were also received from 6 representative bodies, these were:

- Cotmandene Community Resource Centre
- Hearing Voices Group
- Zacchaeus 2000 Trust
- Bromley's Experts by Experience DPULO
- Bromley MIND
- Church and Foodbank

The consultation exercise was based on 6 simple questions to residents of the Borough, 3 of which required specific responses with the remaining 3 being less direct and allowing a degree of free text response.

Of those that were specific, they sought responses in respect of:

Q1: The level of support and whether this should be limited to 81% or 75% or 70%

Q2: If LBB were required to supplement the government funding how should this be managed.

Q3: Whether there should be a hardship fund available and whether the sum of £100,000 was reasonable.

Standard Equality and Diversity questions were also asked but it was made clear that providing this information was voluntary

Outcomes.

Details of the full consultation question and analysis responses, both overall and broken down, are detailed below.

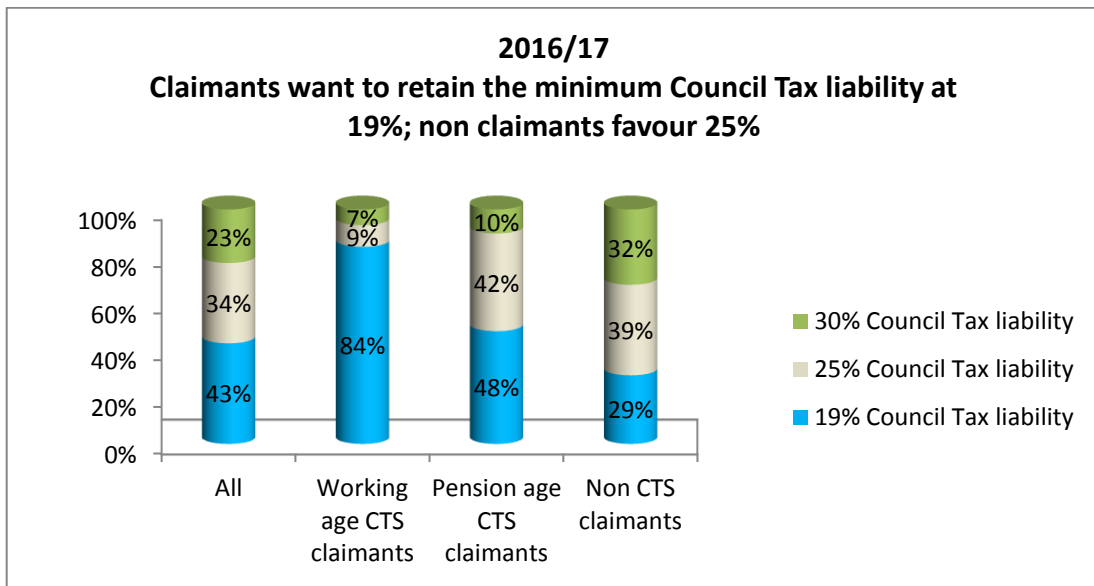
Question 1.

Q1 The options being considered by the Council are that the maximum level of support provided to working age claimants be restricted to 81%, 75% or 70%. For example, a restriction set at 75% would require working age claimants to pay a minimum of 25% of their liability. How much do you believe that working age claimants should pay towards their Council Tax?

| | 19% | 25% | 30% |
|--|--------------------------|--------------------------|--------------------------|
| Please choose only one of the following for each of the years: | | | |
| a. Year 2016/17 | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| b. Year 2017/18 | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

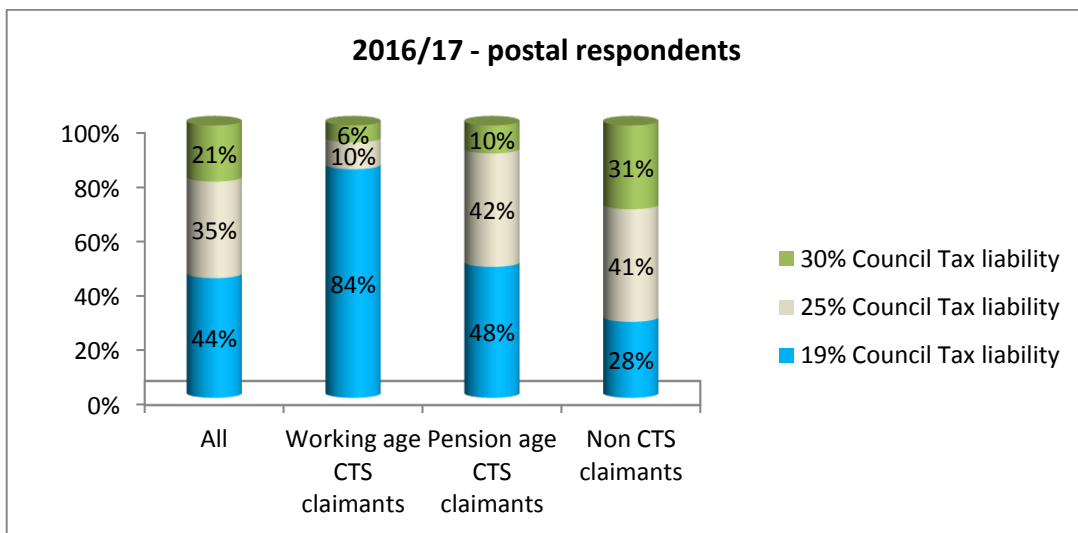
2016/17 Overall response.

Of those who responded, the *overall* outcome was that they wished to keep the scheme the same with 43% confirming this to be their preference although there is a marked difference between those who are in receipt of Council Tax Support compared to those who are not.

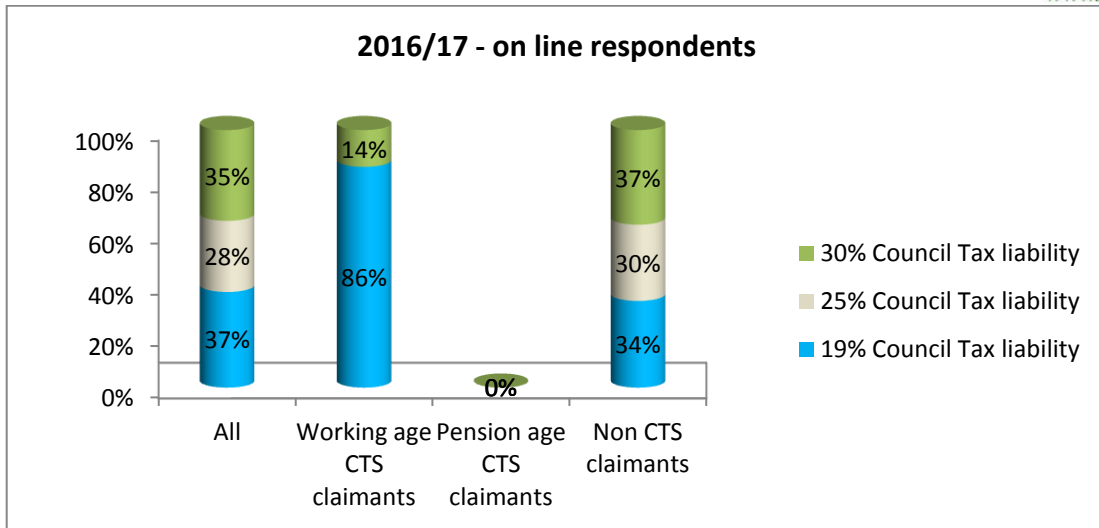


Analysis of Respondents by Survey Type

Of the postal responses received, overall 44% were in favour of retaining the level of support at a maximum of 81% although again there was a marked difference between those in receipt or not in receipt of CTS.

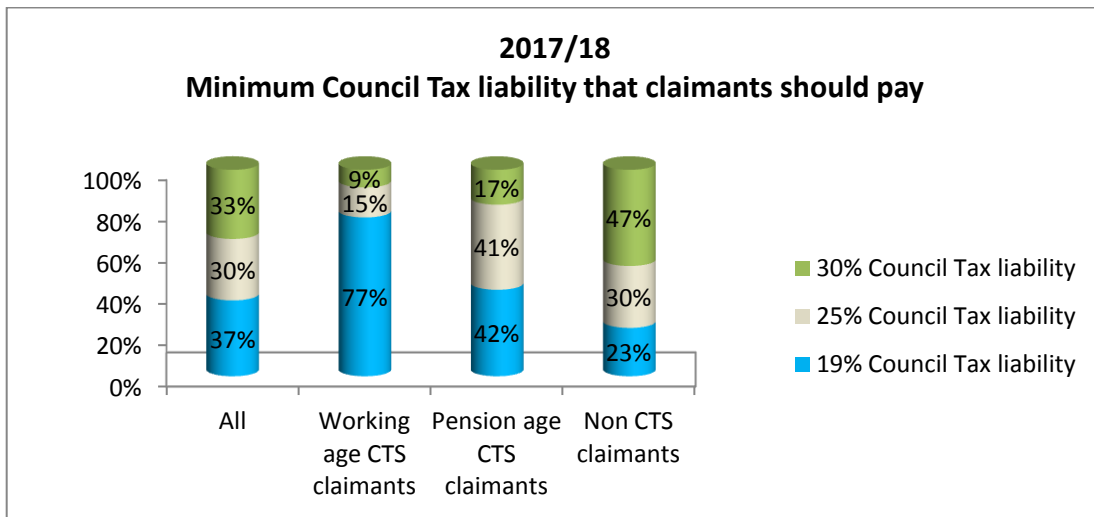


A similar situation was recorded with those who completed the survey on-line although it should be noted that the on-line survey was not completed by any pensionable age CTS recipients.



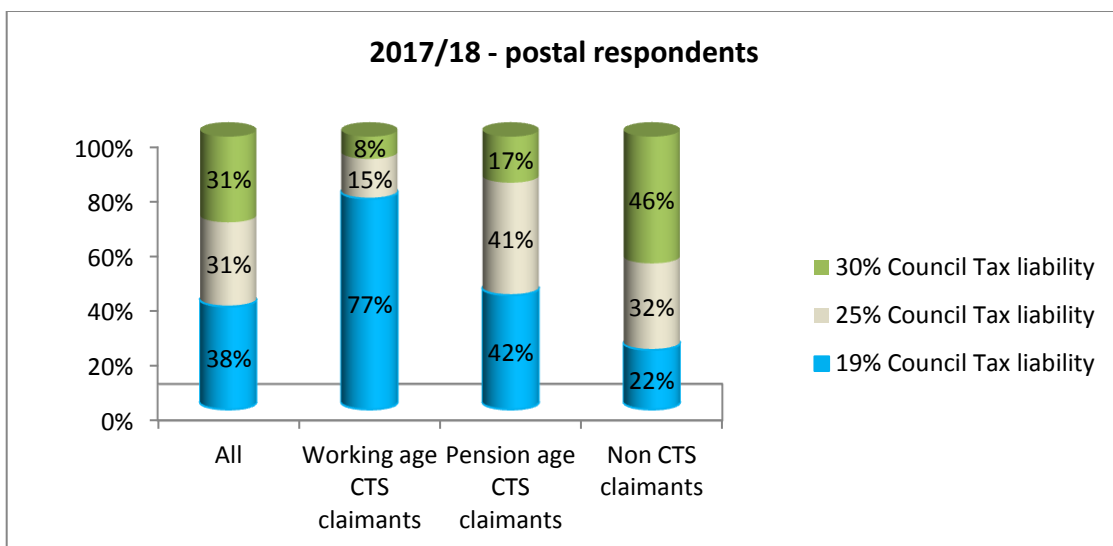
2017/18 - Overall response.

While it is clear that the Council must make a decision each year on its CTS scheme, LB Bromley took the opportunity to include a question regarding the potential scheme for 2017/18. Again the, the *overall* outcome was that they wished to keep the scheme albeit with a somewhat smaller overall figure (37%) confirming this to be their preference again with a marked difference between those who would be affected i.e. working age recipients, compared to those who are not.

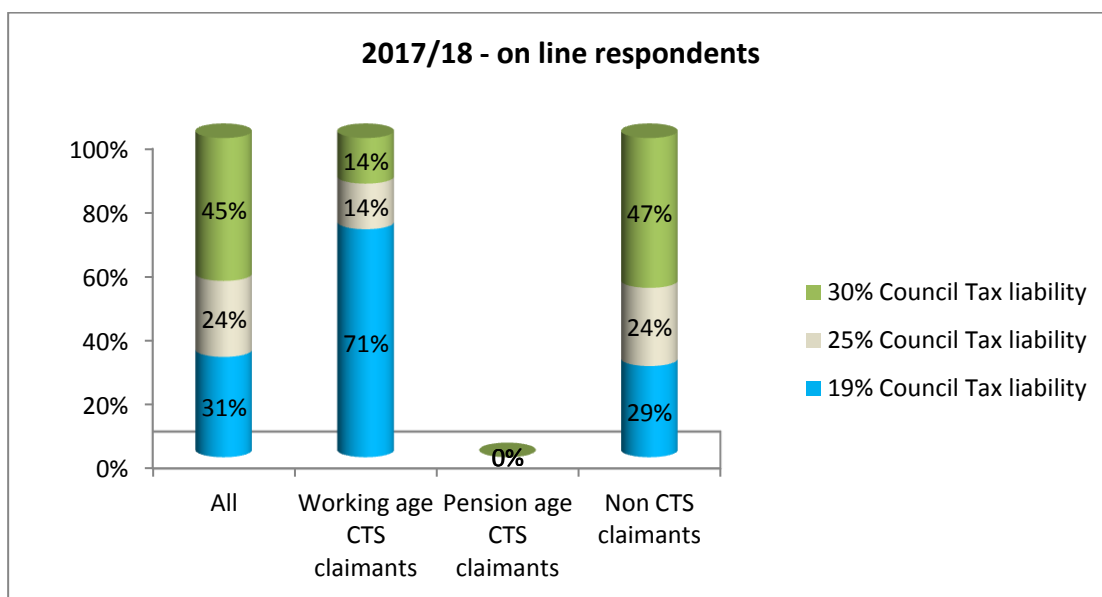


Analysis of Respondents by Survey Type.

Of the postal responses received, overall 38% were in favour of retaining the level of support at a maximum of 81% although again there was a marked difference between those in receipt or not in receipt of CTS.



A similar situation was recorded with those who completed the survey on-line although it should be noted that the on-line survey was not completed by any pensionable age CTS recipients.



Question 2.

Q2 If you think that the Council should make an additional contribution from its own finances, how do you think this should be funded? In particular, should the Council increase Council Tax or cut other Council services or use the Council reserves, or all three?

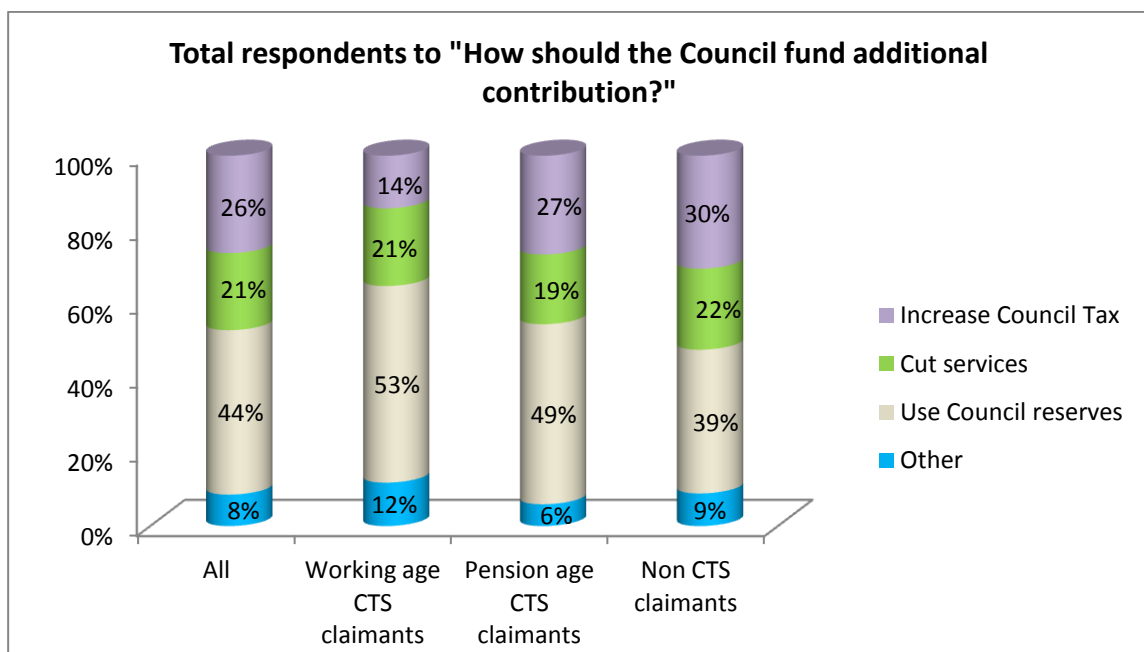
Please choose any of these that apply:

- a. Increase Council Tax
- b. Cut services
- c. Use Council reserves
- d. All three above
- e. Other

If you think services should be cut or have another suggestion, please write your answer here:

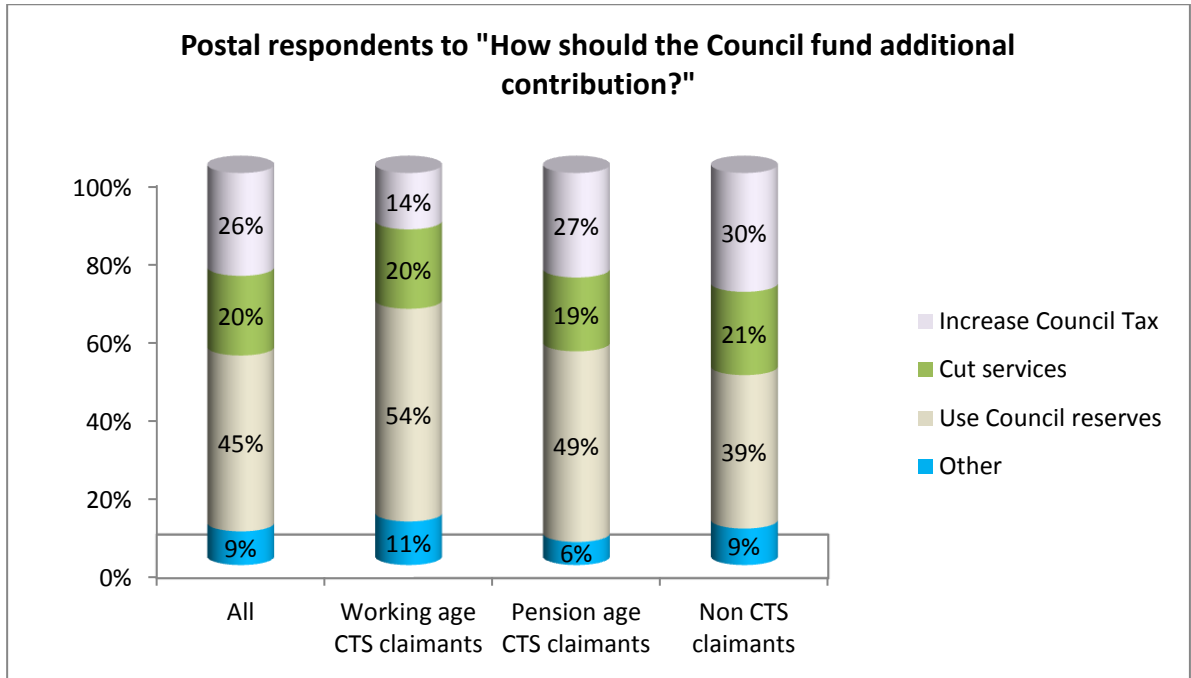
Overall response.

The overall response to this question was that the Council should use its reserves to fund any additional contribution to the Council Tax Support scheme with 44% stating this to be their preference.



Analysis of Respondents by Survey Type.

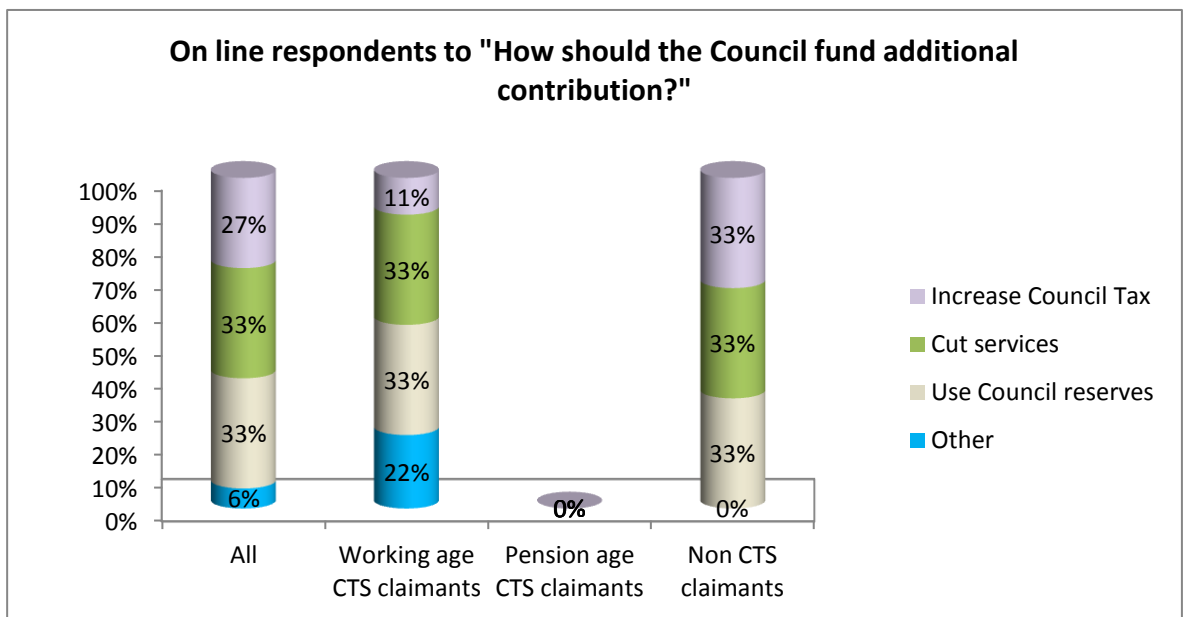
Of those who completed the postal survey, 45% confirmed this to be their preferred option.



Of those who completed the on line survey 33% confirmed this to be their preferred option which was the same irrespective of whether they were in receipt of CTS of not.

Again, it should be noted that no-one of pensionable age, in receipt of CTS, completed the on-line survey.

It should also be noted that 33% were also in favour of cutting council services in order to fund any additional contribution.



Question 3.

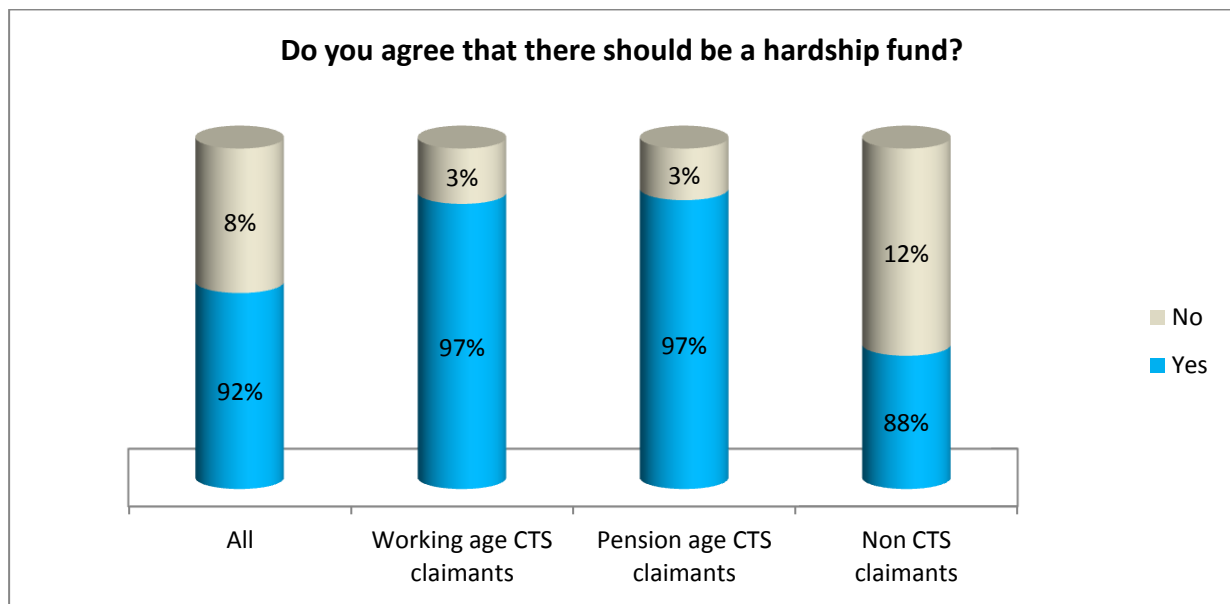
Q3 The Council has a hardship fund of £100,000 to protect the most vulnerable. This is to provide extra help to residents who are experiencing exceptional financial hardship and are unable to pay their Council Tax.

| | Yes | No |
|--|--------------------------|--------------------------|
| a. Do you agree that there should be a hardship fund? | <input type="checkbox"/> | <input type="checkbox"/> |
| b. Do you agree the level of funding at £100,000 is correct? | <input type="checkbox"/> | <input type="checkbox"/> |

If you disagree please write your answer here:
.....

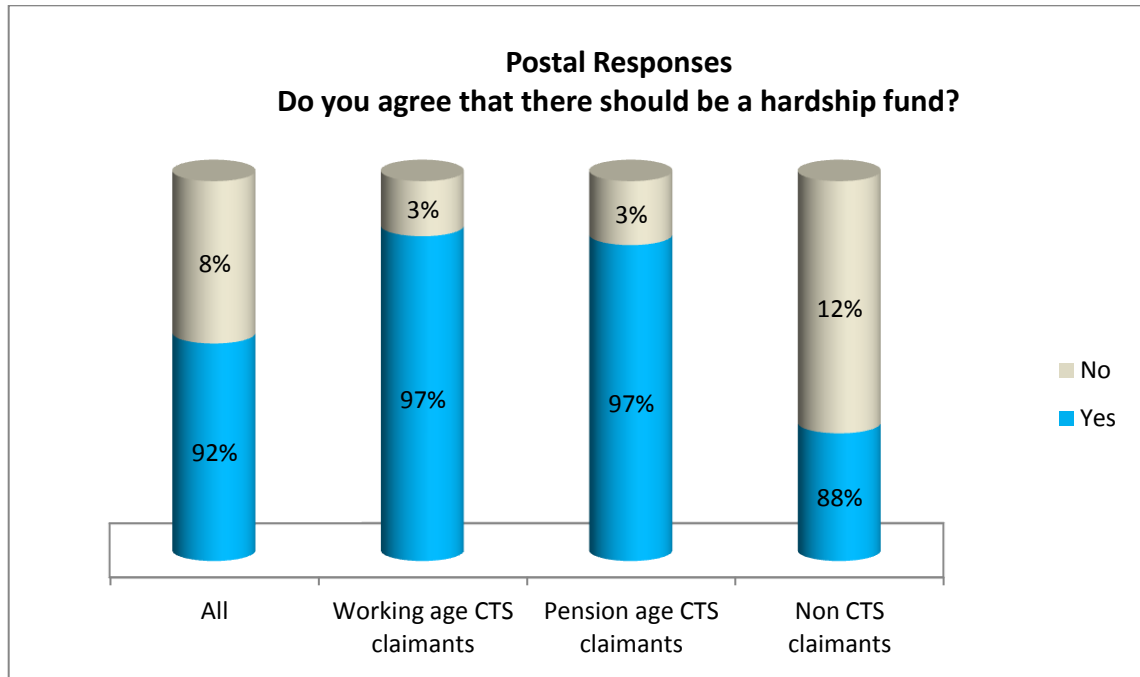
Overall response – part a.

The overall response to part (a) of this question was that, yes, the Council should have a hardship fund with 92% agreeing with this statement.

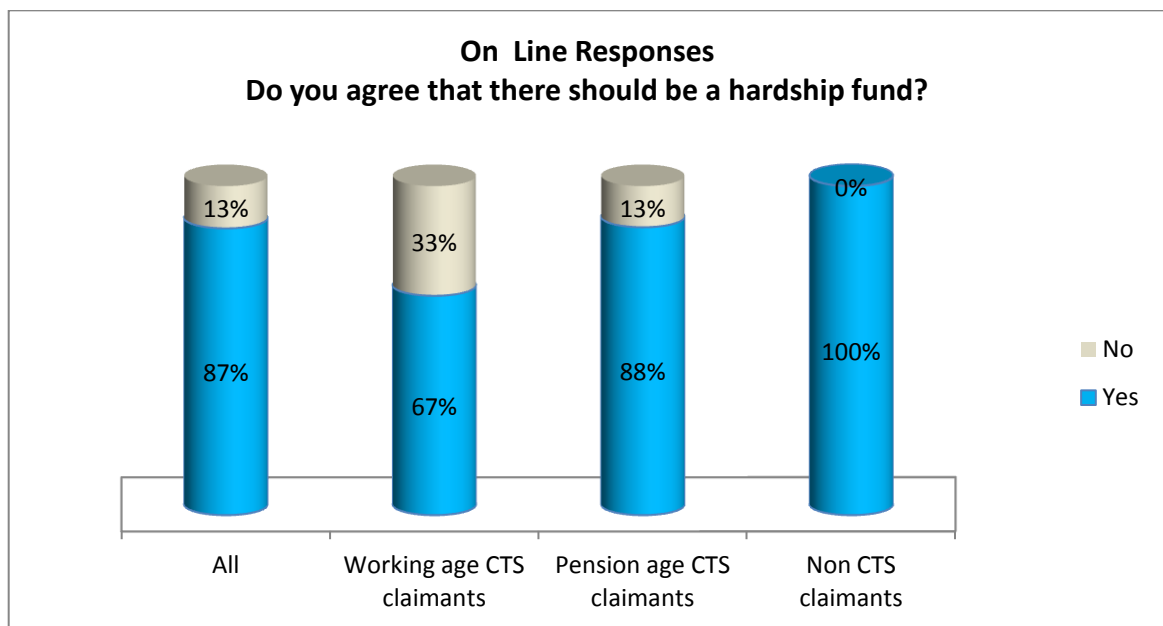


Analysis of Respondents by Survey Type.

Of those who completed the postal survey 92% confirmed that there should be a hardship fund with a slightly higher % of those in receipt of CTS agreeing with this statement, irrespective of their age.



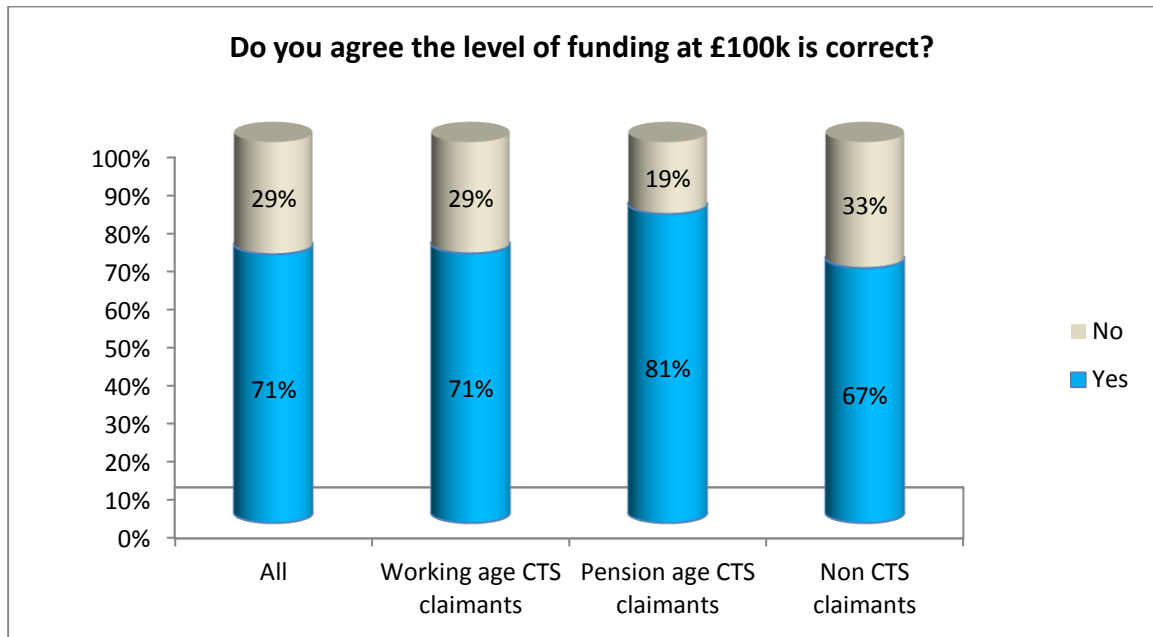
Of those who completed the on line survey 87% confirmed that there should be a hardship fund with 100% of those not in receipt of CTS agreeing with this statement. Interestingly, only 67% of those in receipt of CTS who were of working age and therefore most likely to benefit from a hardship fund agreed with the statement.



Overall response – part b.

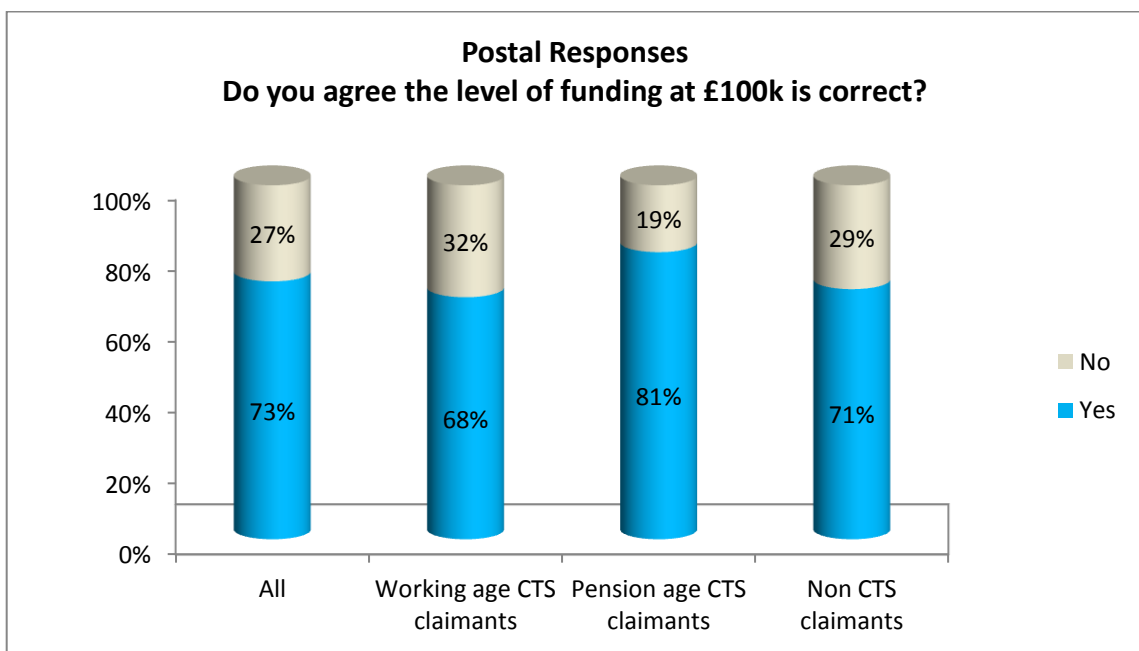
The overall response to part (b) of this question was that, yes, level of £100,000 for a hardship funding was correct with 71% agreeing with this statement.

Of those who provided further commentary 9% believed that the sum should be increased and 6% that it should be decreased. Many of the other respondents felt that they were unable to comment without any further facts and figures being provided regarding the potential spend, numbers affected etc.

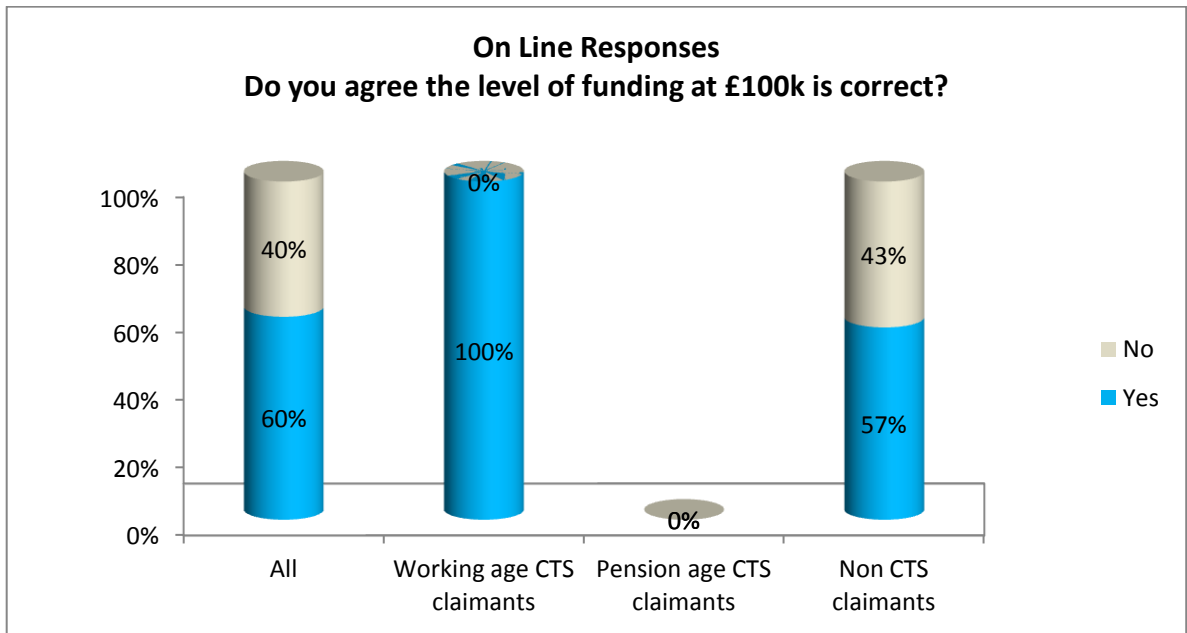


Analysis of Respondents by Survey Type.

Of those who completed the postal survey 73% confirmed that the sum of £100,000 was correct.



Of those who completed the on line survey 60% confirmed that the sum of £100,000 in respect of a hardship fund was correct. Notably, none of those currently in receipt of CTS who responded on line were of pensionable age but 100% of those of working age agreed with this proposal.



Question 4.

Question 4 provided the respondents with the opportunity to raise anything else which they believed should alter in respect of the CTS scheme.

Q4 Are there any other changes you would like to see to the Council Tax Support scheme for 2016/17 to 2017/18 or general comments regarding CTS?

Please write your answer here:

Where respondents did suggest changes, responses here fell into a number of broad categories with many suggesting the following:

- Undertaking better checks into those receiving CTS
- Increased protection for certain categories of people such as the disabled or carers
- Employing a sliding scale of assistance
- Limiting the support further e.g. to those living in the lowest Council Tax band
- Helping citizens to help themselves through employment opportunities

Equality and Diversity.

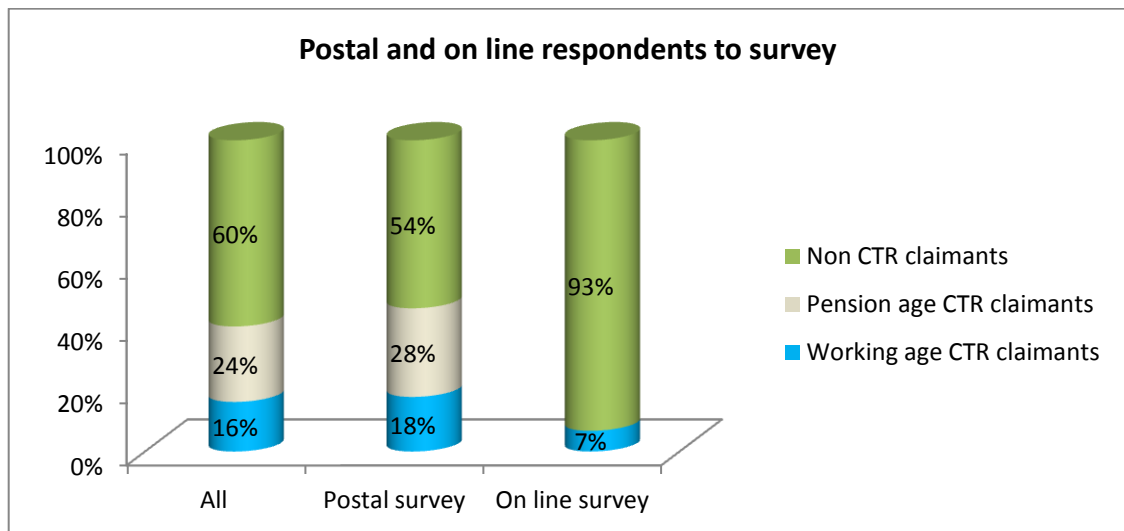
Standard questions relating to Equality and Diversity were included on the survey but it was made clear that answering these was not compulsory.

While 735 responses were received, not all respondents chose to complete the questions regarding their circumstances or ethnic background.

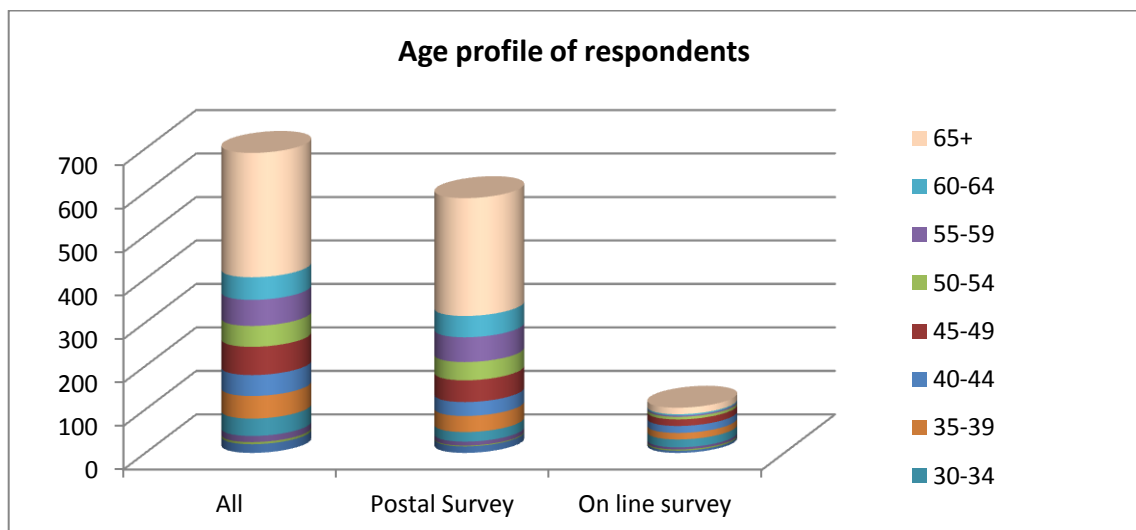
CTS Recipients.

Overall, 709 people confirmed whether they were in receipt of CTS or not and provided details of their age.

The majority of recipients were not in receipt of CTS with a marked difference in age group between those of pensionable age and working age in the channel chosen to respond.

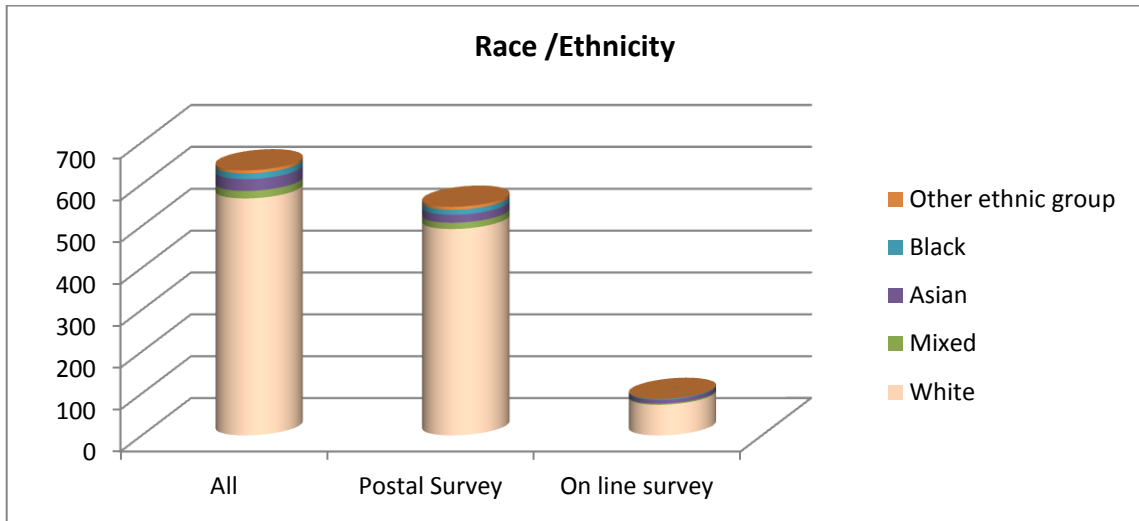


Again, not all respondents chose to confirm their age but of those who did, 670, the graph below shows overwhelmingly that the majority were of pensionable age. It is noted that pensionable age citizens did respond on-line but that these individuals were not in receipt of CTS.



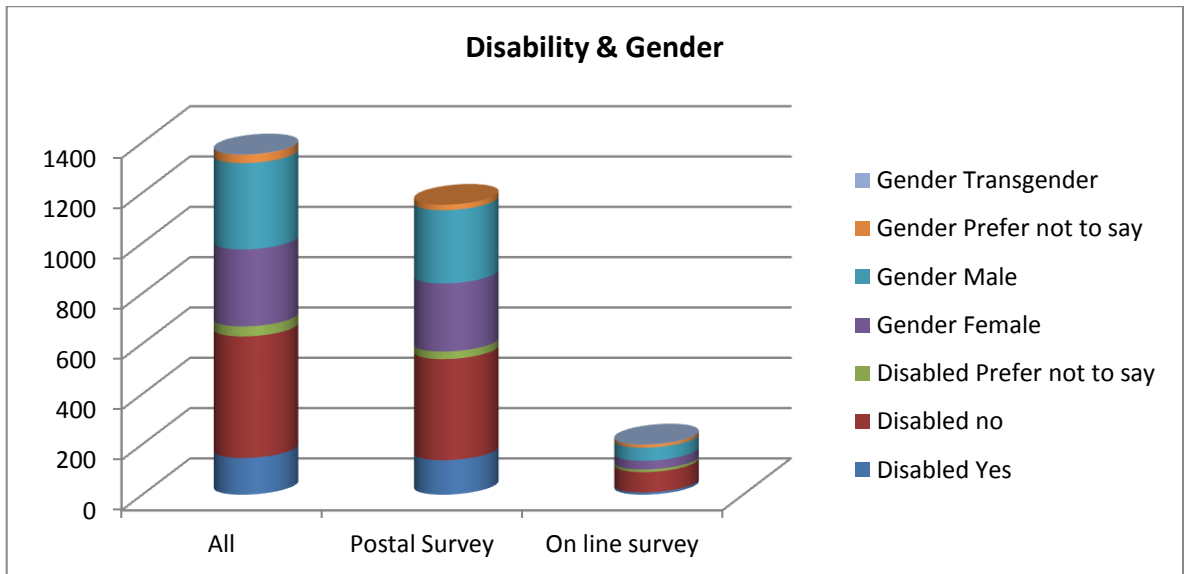
Ethnic Background.

633 respondents confirmed their ethnic background with the majority of respondents, 89%, stating that they were from a white background.



Disability and Gender.

669 respondents were happy to confirm whether they were disabled or not and 684 to confirm their gender. The analysis is shown below.



Supplementary Information to Report No. FSD15066

Council Tax Support /Reduction 2016/17

The 26/11/15 meeting of the Executive and Resources PDS requested an update of the above report following the Chancellor's Autumn statement. Below I have provided an update on the Welfare Reform section of the original report together, with revised financial implications.

It was further requested that the report advise as to the number of households in receipt of Council Tax Support at regular intervals since its inception

Welfare Reform

The abandonment of the proposed Tax Credit changes means that the first item under paragraph 3.2 no longer applies. However, The Institute of Fiscal Studies (IFS) has advised that it will make no difference in the long run as Tax Credits are being replaced by Universal Credit. Other reforms contained in the report remain unchanged.

The Autumn statement included additional future changes to the welfare system; however in many cases it is not currently possible to advise as to the affect that this will have on a households income.

Local cap on HB in private sector extended to new social tenancies

Eligible rent entered in HB calculation restricted to Local Housing Allowance rate where social rent is higher. Change applies from April 2018 and is in respect of tenancies commencing after April 2016.

IFS project on the basis of current caseload that 800,000 households would lose average of £1,300pa.

Reduction of the period for which HB is payable when the claimant is absent from home

From April 2016, HB will cease when a claimant leaves the UK for 4 more than weeks, currently 13 weeks. Unable to advise as to the number of families this will affect, as claimants do not currently have to inform the Authority of absences less than 13 weeks.

Flexibility for the Authority to raise Council Tax by up to 2% above existing threshold to spend on adult social care

Although not part of the welfare reform agenda and treated as a "precept", adoption of the 2% increase would necessitate Council Tax Support claimants contributing a large amount to their annual liability.

No allowance for this has been made in the cost of scheme or collection figures entered in the financial implications table entered below.

Financial Implications

| | | | |
|--|----------|----------|----------|
| Minimum working-age CTS liability | 19% | 25% | 30% |
| Total estimated annual CTS expenditure | £15,042k | £13,928k | £13,000k |
| Less GLA estimated proportion – 22.26% | £3,348k | £3,100k | £2,894k |
| LBB estimated annual CTS expenditure -77.74% | £11,694k | £10,828k | £10,106k |
| Additional collection costs | £36k | £217k | £314k |
| Estimated LBB expenditure and increased collection costs | £11,730k | £11,045k | £10,420k |
| Difference in net costs compared to existing scheme | | £685k | £1,310k |

Number of Council Tax Support cases in payment

| Date | Working Age | Elderly | Total |
|--------|-------------|---------|-------|
| Apr-13 | 12563 | 7997 | 20560 |
| Apr-14 | 11452 | 7634 | 19086 |
| Apr-15 | 10637 | 7221 | 17858 |
| Oct-15 | 10261 | 7047 | 17308 |

Since the Council Tax Support scheme was introduced in 2013/14 the Council has received a 20% reduction in core funding. Council Tax funding was subsumed in the Council's core grant funding in 2014/15

Impact Assessment for Council Tax Support

London Borough of Bromley

Part 1: Description of policy change and its relevance to equality

Category of trigger for Impact Assessment: A change to existing policy

Proposed change

Council Tax Benefit (CTB) was abolished on the 01 April 2013. The Local Government Act replaced CTB for working age claimants with a scheme to be designed by the local authority – Council Tax Support (CTS). Funding was no longer demand led, but based on an estimate of Borough caseloads, with an initial overall budget 10% lower than that of CTB. Residents meeting the state pension credit age being eligible for a separate national scheme to "leave them no worse off than they are now".

Reason for the service change

Bromley adopted a 2 year scheme in January 2013 for the financial years 2013/14 and 2014/15. The scheme was based on a minimum liability of 8.5% for 2013/14 and 19% for 2014/15. In December 2014 the Council agreed to retain the minimum liability at 19%.

CTS is a local scheme to assist those who are on a low income to meet their Council Tax liability. Individuals apply for CTS and if their income is below a certain level, which takes account of their circumstances, they are eligible for a reduction on their Council Tax bill.

The "generosity" of the scheme has a direct impact on the Authority's finances. Therefore, the cost of the scheme will influence service provision in other areas, reserves and/or the Council Tax level.

Given Bromley's projected budget gap, the Authority is of the opinion that the level of assistance provided by mean of CTS will need to be reduced. This Impact Assessment is based on a reduction in assistance provided to working-age claimants. In other words, working-age claimants will have their entitlement assessed on a lower level of their Council Tax liability.

Information about the proposed change

Following agreement as to the proposed scheme for inclusion in our consultation exercise, views will be sought from the Greater London Authority and a sample of Bromley households. These households will include those currently in receipt of CTS as well as those meeting their Council Tax liability from their own means.

Part 2 — Collection of Evidence — what do we know?

Description of data used

In order to assess the impact of this policy change, Bromley has used information from a variety of different sources including:

- Data collected from records from the Council Tax and Housing Benefit systems;
- Consultation responses – including equality monitoring data;
- Census 2011 first release data;
- Bromley's Budget Strategy & other financial information about the service

General Information - Bromley's population and evidenced inequality

The most up to date information about Bromley's population from the Census 2011 first release can be found here:

http://www.bromley.gov.uk/download/downloads/id/1557/census_2011_-_first_data_release_bromley_only

http://www.bromley.gov.uk/info/200088/statistics_and_census_information/322/census/10

Financial Information and Impact

The impact of this proposed scheme will affect all working-age claimants from the 1/4/16. With effect from the 1/4/16, the maximum amount of assistance available to working-age claimants under the CTS scheme will be reduced. Calculations have been supplied based on minimum liabilities of 25% and 30%.

Table 1 shows the assumed impact of a reduction in Council Tax Support for those of working age based on a current reduction of 19% (based on the current rates of Council Tax), 25 % and 30%

Table 1 - Financial Impact of Introduction of Local Scheme

| | Liability | Maximum assistance Pensionable Age | Maximum assistance under current CTS (81%) | Minimum weekly amount to pay 19% | Maximum assistance under proposed CTS (75%) | Minimum weekly amount to pay (25%) | Maximum assistance under proposed CTS (70%) | Minimum weekly amount to pay (30%) |
|----------------------------|-----------|------------------------------------|--|----------------------------------|---|------------------------------------|---|------------------------------------|
| Band A - Full Charge | £883.43 | £883.43 | £715.58 | £3.22 | £662.57 | £4.24 | £618.40 | £5.08 |
| Band A - with 25% discount | £662.57 | £662.57 | £536.68 | £2.41 | £496.93 | £3.18 | £463.80 | £3.81 |
| Band B - Full Charge | £1,030.66 | £1,030.66 | £834.83 | £3.76 | £773.00 | £4.94 | £721.46 | £5.98 |
| Band B - with 25% discount | £773.00 | £773.00 | £626.13 | £2.82 | £579.75 | £3.71 | £541.10 | £4.45 |
| Band C - Full Charge | £1,177.90 | £1,177.90 | £954.10 | £4.29 | £883.43 | £5.65 | £824.53 | £6.78 |
| Band C - with 25% discount | £883.43 | £883.43 | £715.57 | £3.22 | £662.57 | £4.24 | £618.40 | £5.08 |
| Band D - Full Charge | £1,325.14 | £1,325.14 | £1,073.36 | £4.83 | £993.86 | £6.35 | £927.60 | £7.62 |
| Band D - with 25% discount | £993.86 | £993.86 | £805.02 | £3.62 | £745.39 | £4.77 | £695.70 | £5.72 |
| Band E - Full Charge | £1,619.62 | £1,619.62 | £1,311.89 | £5.90 | £1,214.72 | £7.77 | £1133.73 | £9.32 |
| Band E - with 25% discount | £1,214.72 | £1,214.72 | £983.92 | £4.43 | £911.04 | £5.82 | £850.30 | £6.99 |

| | | | | | | | | |
|-----------------------------------|------------------|------------------|------------------|--------------|------------------|---------------|-----------------|---------------|
| Band F - Full Charge | £1,914.09 | £1,914.09 | £1,550.41 | £6.97 | £1,435.57 | £9.18 | £1339.86 | £11.01 |
| Band F - with 25% discount | £1,435.57 | £1,435.57 | £1,162.81 | £5.23 | £1,076.68 | £6.88 | £1004.90 | £8.26 |
| Band G - Full Charge | £2,208.57 | £2,208.57 | £1,788.94 | £8.05 | £1,656.43 | £10.59 | £1546.00 | £12.71 |
| Band G - with 25% discount | £1,656.43 | £1,656.43 | £1,341.71 | £6.04 | £1,242.32 | £7.94 | £1159.50 | £9.53 |
| Band H - Full Charge | £2,650.28 | £2,650.28 | £2,146.73 | £9.66 | £1,987.71 | £12.71 | £1855.20 | £15.25 |
| Band H - with 25% discount | £1,987.71 | £1,987.71 | £1,610.05 | £7.24 | £1,490.78 | £9.53 | £1391.40 | £11.44 |

Breakdown of current claimants

In order to understand how the proposed changes will impact on different protected groups Bromley has examined data, where available, based on the current benefit caseload. Data is available on the following: age, gender and disability which are noted in Table 2. There is very limited data available on the ethnic breakdown of current claimants as only 2896 claimants have completed the appropriate section on the benefit application form and of that 1343 declined to disclose the information.

Table 2 - Breakdown of Current claimants Council Tax Support

| Type | Total | Female | Male | Disabled | Disabled female | Disabled male | DLA/PIP Income |
|---|--------------|--------|------|----------|--------------------|------------------|-------------------|
| Working age - Passported (equalisation definition) | | | | | | | |
| Single no child dependant | 3415 | 1658 | 1757 | 1435 | 704 | 731 | 1254 |
| Single with child dependant | 2719 | 2612 | 107 | 289 | 270 | 19 | 474 |
| Couple no child dependant | 303 | 133 | 170 | 125 | 52 | 73 | 155 |
| Couple with child dependant | 526 | 273 | 253 | 130 | 47 | 83 | 218 |
| Working age - Non Passported | | | | | | | |
| Single no child dependant | 1007 | 552 | 455 | 241 | 117 | 124 | 214 |
| Single with child dependant | 1628 | 1564 | 64 | 45 | 44 | 1 | 114 |
| Couple no child dependant | 112 | 33 | 79 | 34 | 8 | 26 | 40 |
| Couple with child dependant | 796 | 380 | 416 | 39 | 20 | 19 | 112 |
| Total Working age | 10506 | 7205 | 3301 | 2338 | 1262 | 1076 | 2581 |
| Pensioner- Passported | 4840 | 3161 | 1679 | 1299 | 924 | 375 | 779 |
| Pensioner- Non Passported | 2427 | 1370 | 1057 | 564 | 309 | 255 | 262 |
| Total Pensioner | 7267 | 4531 | 2736 | 1863 | 1233 | 630 | 1041 |
| Overall Total | 17773 | 11736 | 6037 | 4201 | 2495 | 1706 | 3622 |

The table below provides some additional evidence by protected characteristic that has been used to complete this EIA.

| Protected Characteristic | Evidence | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
|-----------------------------------|--|----------------|----------------------|----------------------|---------------|----------------------|-----------------|--------|------|------|------|-----------------------------|--|--|--|--|-------------|-------|-----|-----|-----|-----------------------------|-------|-----|-----|-----|--------------|-------|-----|-----|-----|--------|-------|-----|-----|-----|-----------------------------------|-----|-----|-----|-----|----------|-------|-----|-----|-----|----------|-----|-----|-----|-----|---------------------------|--------|-----|------|------|
| Age | <p>Please see table 2 for detailed breakdown</p> <p>10506 (59.11%) of current claimants are under Pension Credit age and will be affected by the proposed change in policy. <i>Data based on May 2015 caseload. Caseload numbers may fluctuate on a daily basis.</i></p> <p>The data demonstrates that 4347 (41.4%) of current working-age claimants are single parent families with child dependents</p> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Disability | <p style="text-align: center;">Bromley's population</p> <p>The following table shows the number and percentage of working-age residents in receipt of benefits, including those related to sickness and Disability (latest identified data).</p> <table border="1" style="margin-left: auto; margin-right: auto;"> <thead> <tr> <th></th> <th style="text-align: center;">Bromley (numbers)</th> <th style="text-align: center;">Bromley (%)</th> <th style="text-align: center;">London (%)</th> <th style="text-align: center;">Great Britain (%)</th> </tr> </thead> <tbody> <tr> <td>Total claimants</td> <td style="text-align: center;">22,400</td> <td style="text-align: center;">11.2</td> <td style="text-align: center;">14.6</td> <td style="text-align: center;">15.0</td> </tr> <tr> <td colspan="5" style="text-align: center;">By statistical group</td> </tr> <tr> <td>Job seekers</td> <td style="text-align: center;">6,250</td> <td style="text-align: center;">3.1</td> <td style="text-align: center;">4.3</td> <td style="text-align: center;">4.1</td> </tr> <tr> <td>ESA and incapacity benefits</td> <td style="text-align: center;">8,500</td> <td style="text-align: center;">4.3</td> <td style="text-align: center;">5.9</td> <td style="text-align: center;">6.5</td> </tr> <tr> <td>Lone parents</td> <td style="text-align: center;">3,100</td> <td style="text-align: center;">1.6</td> <td style="text-align: center;">1.9</td> <td style="text-align: center;">1.5</td> </tr> <tr> <td>Carers</td> <td style="text-align: center;">1,770</td> <td style="text-align: center;">0.9</td> <td style="text-align: center;">1.0</td> <td style="text-align: center;">1.2</td> </tr> <tr> <td>Others on income related benefits</td> <td style="text-align: center;">600</td> <td style="text-align: center;">0.3</td> <td style="text-align: center;">0.4</td> <td style="text-align: center;">0.4</td> </tr> <tr> <td>Disabled</td> <td style="text-align: center;">1,800</td> <td style="text-align: center;">0.9</td> <td style="text-align: center;">0.8</td> <td style="text-align: center;">1.1</td> </tr> <tr> <td>Bereaved</td> <td style="text-align: center;">370</td> <td style="text-align: center;">0.2</td> <td style="text-align: center;">0.2</td> <td style="text-align: center;">0.2</td> </tr> <tr> <td>Key out-of-work benefits'</td> <td style="text-align: center;">18,460</td> <td style="text-align: center;">9.3</td> <td style="text-align: center;">12.6</td> <td style="text-align: center;">12.5</td> </tr> </tbody> </table> <p>Source: DWP benefit claimants - working age client group</p> <p>Key out-of-work benefits include the groups: job seekers, ESA and incapacity benefits parents and others on income related benefits. See the Definitions and Explanations for details Note: % is a proportion of resident population of area aged 16-64</p> <p style="text-align: center;">Breakdown of current claimants</p> <p>Please see table 2 for detailed breakdown of information on our current claimants</p> <ul style="list-style-type: none"> • 2338 (22.5%) of current claimants below pension credit age have declared a disability • 2581(24.57%) are receiving DLA/PIP | | Bromley (numbers) | Bromley (%) | London (%) | Great Britain (%) | Total claimants | 22,400 | 11.2 | 14.6 | 15.0 | By statistical group | | | | | Job seekers | 6,250 | 3.1 | 4.3 | 4.1 | ESA and incapacity benefits | 8,500 | 4.3 | 5.9 | 6.5 | Lone parents | 3,100 | 1.6 | 1.9 | 1.5 | Carers | 1,770 | 0.9 | 1.0 | 1.2 | Others on income related benefits | 600 | 0.3 | 0.4 | 0.4 | Disabled | 1,800 | 0.9 | 0.8 | 1.1 | Bereaved | 370 | 0.2 | 0.2 | 0.2 | Key out-of-work benefits' | 18,460 | 9.3 | 12.6 | 12.5 |
| | Bromley (numbers) | Bromley (%) | London (%) | Great Britain (%) | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Total claimants | 22,400 | 11.2 | 14.6 | 15.0 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| By statistical group | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Job seekers | 6,250 | 3.1 | 4.3 | 4.1 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| ESA and incapacity benefits | 8,500 | 4.3 | 5.9 | 6.5 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Lone parents | 3,100 | 1.6 | 1.9 | 1.5 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Carers | 1,770 | 0.9 | 1.0 | 1.2 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Others on income related benefits | 600 | 0.3 | 0.4 | 0.4 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Disabled | 1,800 | 0.9 | 0.8 | 1.1 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Bereaved | 370 | 0.2 | 0.2 | 0.2 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Key out-of-work benefits' | 18,460 | 9.3 | 12.6 | 12.5 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Sex | <p style="text-align: center;">Bromley population</p> <p>According to Census 2011 Bromley's population is 52% female and 48% male</p> <p style="text-align: center;">Breakdown of current claimants</p> <p>Please see table 2 for detailed breakdown of information on our current claimants</p> <p style="text-align: center;">68.58% of current claimants under pensionable age are female</p> <p>Indicates that women are over represented amongst our CTS claimants</p> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Gender reassignment | <p>The Council does not anticipate this policy will have a particular equality impact on this protected group.</p> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |

| | |
|-------------------------------|--|
| Pregnancy & Maternity | No specific evidence. We do not anticipate this policy will have a particular equality impact on this protected group. |
| Race | <p style="text-align: center;">Bromley population - Current claimants</p> <p>As advised earlier, there is very limited data available on the ethnic breakdown of the current claimants as only a few complete the non-mandatory section of the form.</p> <p style="text-align: center;">Borough wide information</p> <p>With only around 9% of its population "non-white", Bromley also has a far less ethnically diverse population than most other London boroughs, although a distinctive group within the borough is a settled traveller community in Crays Hill in the east of the borough. With an estimated 2,000 members, this is the largest such community in Britain and one of the largest in Europe. The BME population is expected to grow to 16% by 2036.</p> |
| Religion & Belief | No specific evidence. We do not anticipate this policy will have a particular equality impact on this protected group. |
| Civil Partnerships & Marriage | No specific evidence. We do not anticipate this policy will have a particular equality impact on this protected group. |
| Sexual Orientation | No specific evidence. We do not anticipate this policy will have a particular equality impact on this protected group. |

Part 3 - Analyse of evidence and description of the impact

| Characteristic | Actual or likely impacts (negative/positive/no impact) and justification | Actions to be taken to mitigate potential negative impacts <small>(include name of lead and estimated date of completion)</small> |
|----------------|--|---|
| Age | <p>Neutral impact for pension age claimants as the Government has stipulated this group must have their claims assessed as they are now.</p> <p>Given the large number of CTS claimants that are single parent families with dependent children the change in policy may have a negative impact on levels of child poverty. There is insufficient evidence to be certain what this impact will be.</p> <p>Justification The current scheme is being revised</p> | <p>It is proposed a hardship fund be retained for those faced with exceptional circumstances. It is further planned to retain all aspects of the current CTS scheme that provides assistance by way of disregards of income and increased allowances.</p> <p>The Council will monitor the impact on this Client group through monitoring of communications, complaints, appeals, request for discretionary awards</p> |

| | | |
|------------|---|---|
| | <p>in response to the need to significantly reduce the Authority's expenditure. Legislation dictates that the level of assistance for those of pensionable age is no lower than would have been received under the CTB scheme</p> <p>Like other councils throughout the country, Bromley's financial position remains challenging. Reduced Government funding has put significant pressure on the Authority's finances. As such it is not considered financially sustainable to maintain the current model of support provided to those claiming help with their Council Tax.</p> | <p>Responsible Officer(s) Welfare Reform Manager & Head of Revenues & Benefits — Monitoring to commence immediately</p> |
| Disability | <p>The increased level of 'contribution' will have a negative impact on current and future disabled CTS claimants as working age claimants will have to pay more towards their council tax bill.</p> <p><i>Justification – please see above</i></p> | <p>The proposed Council Tax Support scheme allows for the complete disregard of certain income types such as Disability Living Allowance/PIP and the award of Disability premiums in the benefit calculation. These will be retained to mitigate the impact on those who are disabled. The planned continuation of the hardship scheme for those faced with exceptional circumstances will further alleviate any impact on the disabled.</p> <p>Responsible Officer(s) Welfare Reform Manager & Head of Revenues & Benefits — Monitoring to commence immediately</p> |

| | | |
|-----------------------|---|--|
| Sex | <p>Females are disproportionately represented amongst current CTS claimants.</p> <p>The policy change will have a negative impact on current and future working age CTS claimants (regardless of gender) as claimants will have to contribute more towards their council tax bill than they have had previously.</p> <p>Although the policy change is applied universally (i.e. men and women will both face the same reduction in CTS) our evidence makes clear that a greater proportion of current CTS claimants are women and therefore as a protected group women will feel the impact of this policy change in greater numbers.</p> <p><i>Justification — please see earlier response</i></p> | <p>Monitoring of the impact on women who claim Council Tax Support will continue. In order to mitigate impact it is proposed that the scheme retains the income disregards and allowances that are predominately received by females for example allowances in respect of child care costs. The planned continuation of the hardship scheme will provide a further safeguard for those faced with exceptional circumstances.</p> <p>Responsible Officer(s) Head of Revenues & Benefits — Monitoring to commence immediately</p> |
| Gender reassignment | No specific impact identified other than all claimants will have to contribute more towards their council tax bill | |
| Pregnancy & Maternity | No specific impact identified other than all claimants will have to contribute more towards their council tax bill | |
| Race | <p>The policy change will have a negative impact on current and future CTS claimants (regardless of race) as some claimants will have to contribute more towards their council tax bill than they have had previously.</p> <p>There is very limited evidence available to quantify if there will be a differential impact on the different ethnicities.</p> | <p>In order to mitigate any adverse impact it is proposed that a hardship fund is retained for those faced with exceptional circumstances.</p> <p>Responsible Officer(s) Head of Revenues & Benefits — Monitoring to commence immediately</p> |

| | | |
|--|--|--|
| | There is evidence to indicate that BME communities are more likely to be unemployed and, therefore, possibly more reliant on CTS. However, there is insufficient evidence on current claimants to demonstrate this is in fact the case in Bromley. | |
| Religion & Belief | No specific impact identified other than all claimants will have to contribute more towards their council tax bill | |
| Civil Partnerships & Marriage ² | No specific impact identified other than all claimants will have to contribute more towards their council tax bill | |
| Sexual Orientation | No specific impact identified other than all claimants will have to contribute more towards their council tax bill | |

Part 5 — Completion and authorisation

| | |
|--|---|
| Officer completing assessment | John Nightingale, Head of Revenues and Benefits |
| EIA completed | |
| Officer responsible for monitoring impact | John Nightingale |
| Date EIA is scheduled to be reviewed | March 2017 |

Report No.
CSD15138

London Borough of Bromley

PART ONE - PUBLIC

Decision Maker: COUNCIL

Date: Monday 14 December 2015

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

Title: BECKENHAM PUBLIC REALM IMPROVEMENTS

Contact Officer: Graham Walton, Democratic Services Manager
Tel: 0208 461 7743 E-mail: graham.walton@bromley.gov.uk

Chief Officer: Mark Bowen, Director of Corporate Services

Ward: Copers Cope; Clock House, Kelsey & Eden Park

1. Reason for report

- 1.1 At its meeting on 2nd December 2015 the Executive considered the attached report on the Beckenham Public Realm Improvements. The scope of the scheme had increased to cover the whole of the High Street area, and there had been a corresponding increase in costs of £1.44m to £4.697m. The Executive approved the allocation of an additional £240k from capital receipts as the Council's extra contribution – the remainder of the extra amount would be funded from the Principal Road maintenance allocation 2016/17 from TfL and an increase in the main TfL contribution to £3,295m (subject to formal approval from TfL).

2. **RECOMMENDATION**

Council is recommended to increase the capital estimate of the Beckenham Public Realm Scheme by £1.44m to £4.697m.

Corporate Policy

1. Policy Status: Existing Policy:
 2. BBB Priority: Vibrant, Thriving Town Centres:
-

Financial

1. Cost of proposal: £4.697m
 2. Ongoing costs: Non-Recurring Cost:
 3. Budget head/performance centre: Capital Programme
 4. Total current budget for this head: £3.257m
 5. Source of funding: TfL funding, capital receipts and earmarked reserve for Member priorities.
-

Staff

1. Number of staff (current and additional): 4 fte
 2. If from existing staff resources, number of staff hours: N/A
-

Legal

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

Customer Impact

1. Estimated number of users/beneficiaries (current and projected): Not Applicable
-

Ward Councillor Views

1. Have Ward Councillors been asked for comments? Yes
2. Summary of Ward Councillors comments: Summarised in the attached report

| | |
|---|--------------------------------|
| Non-Applicable Sections: | Policy/Finance/Legal/Personnel |
| Background Documents: (Access via Contact Officer) | See attached report |

Decision Maker: Executive

Date: 2nd December 2015

Decision Type: Non-Urgent Executive Non-Key

Title: BECKENHAM PUBLIC REALM IMPROVEMENTS

Contact Officer: Kevin Munnelly, Head of Renewal
Tel: 020 8313 4582 E-mail: kevin.munnelly@bromley.gov.uk

Chief Officer: Director of Regeneration & Transformation

Ward: Copers Cope, Clockhouse, Kelsey & Eden Park

1. Reason for report

- 1.1 The details of this report were previously included in the Town Centre Development Programme Update report (DRR15/098) which was scrutinized by the Renewal & Recreation Policy Development and Scrutiny Committee on the 27th October 2015. Executive approval is now sought for Council match funding for the original improvement scheme which was granted in October 2013. Since then the scheme has been subject to review at the request of Transport for London and stakeholders. Whilst the scheme scope has increase to cover the whole of the High Street area, there has been a corresponding increase in costs. Transport for London has agreed in principle to increase their funding by £950k.
- 1.2 In the absence of confirmation of alternative funding sources it is requested that an additional £240k is set aside from capital receipts to match fund the additional TfL contribution of £950k, bringing the Council's total match funding to £1.152m which represents 24% of the total scheme cost of £4.697m.

2. **RECOMMENDATIONS**

- 2.1 **Members of the Executive approve the allocation of £240k from Capital Receipts for the enhanced Beckenham Town Centre Improvement Project. The release of the Capital funding will be subject to the formal approval by Transport for London of additional funding of up to £950k to support the enhanced improvement programme.**
- 2.2 **To increase the capital estimate of the scheme by £1.44m to £4.697m, subject to Full Council approval.**

2.3 In the event that other funds including S106 monies become available, the contribution from capital receipts will be reduced.

Corporate Policy

1. Policy Status: Existing Policy:
 2. BBB Priority: Quality Environment Vibrant, Thriving Town Centres:
-

Financial

1. Cost of proposal: £4.697m
 2. Ongoing costs: Non-Recurring Cost
 3. Budget head/performance centre: Capital Programme
 4. Total current budget for this head: £3.257m
 5. Source of funding: TfL funding, Capital Receipts and Earmarked Reserve for Members priorities
-

Staff

1. Number of staff (current and additional): 4 FTE
 2. If from existing staff resources, number of staff hours:
-

Legal

1. Legal Requirement: Non-Statutory - Government Guidance:
 2. Call-in: Applicable:
-

Customer Impact

1. Estimated number of users/beneficiaries (current and projected):
-

Ward Councillor Views

1. Have Ward Councillors been asked for comments? Yes
2. Summary of Ward Councillors comments: Incorporated in the body of the report

3. COMMENTARY

- 3.1 The Council received notification on 16 December 2013 that Transport for London had approved the Beckenham Initial Scheme Design (Step 1) bid and that funding of £310k was allocated to cover Design and Development costs. This funding was to be used to cover the costs of undertaking survey work and producing and consulting on an outline scheme design. This initial funding allocation also included the costs of working up a detailed design to contract stage drawings. The original estimated cost of the concept scheme was £3.257m and in support of the bid the Executive on 16th October 2013 approved the allocation of £912k (£762k Capital Receipts & £150k Members Initiative earmarked reserves) to match fund the TfL allocation of £2.345m towards the improvements.
- 3.2 Since the approval of funding for the design phase of the project, the Council has been working with the design team and external stakeholders to refine the scope, design and costings of the scheme. The outline design stage is now complete and the resulting design has been presented to the Beckenham Town Centre Working Party (2nd July 2015), the Bromley Town Centre Member Working Party (1st October 2015) and Renewal & Recreation PDS (27th October 2015) for their endorsement. Work is now moving on to completing the detailed design stage prior to anticipated implementation in mid- 2016. It is still subject to final stage sign off by both TfL and the Council's Executive.

Revised Scheme Design

- 3.3 The original concept design upon which the original Step 1 bid was based has been amended to reflect the specific input from:
- Urban Design London (TfL) Design Surgery June 2014.
 - Traffic Modelling February 2015.
 - Public Consultation 2014-15.

The design team have worked closely with stakeholders, including the Beckenham Town Centre Working Party, to refine specific design elements, and the revised design has benefited from feedback from site visits this group have undertaken. The proposed changes, many of which were requested by TfL, have resulted in a significantly improved scheme, which will enhance delivery and add to the original bid outputs and outcomes. Proposed changes and benefits include:

- Adopting a focus on investing in improving the origin and destination points in the High Street. This has included upgraded treatment of the spaces around the Odeon Cinema, Sainsbury and Lidl forecourts, Beckenham Green, Kelsey Square and the Station forecourt.
- Enhanced improvements at Beckenham Green that integrate the space better with the High Street and St George's Church. Note that Beckenham Junction and Beckenham Green were cited as top priorities in the public consultation.
- Feedback from stakeholder site visits to Richmond and Twickenham have influence the redesign of the crossing treatment, with an increase in the quality of material on footway and a simpler asphalt treatment on the carriageway.
- The most substantial change from the original scheme scope is the proposal to replace the whole of the footway in the High Street instead of undertaking limited maintenance works outside of the junction areas. It is now proposed to upgrade the whole length of the High Street from the War Memorial to Beckenham Junction by replacing the existing footway

surface with new high-quality paving. It is also now proposed to resurface the whole of the road carriageway.

Scheme Assurance and Delivery

- 3.4 In addition to the work outlined above, the design team has worked closely with a number of other internal teams to ensure that the scheme is buildable, that the impacts (particularly on traffic) are understood and that the scheme meets local expectations. The Borough's Highway Engineering team have scrutinised the designs to ensure that they meet all the necessary engineering design standards and detailing. A topographical survey was undertaken and the designs transposed onto the accurate plan. The team has advised on issues such as drainage, vehicle turning requirements at junctions and potential construction methodologies.

The designs have also been subject to traffic modelling to investigate the impact on traffic and congestion, which shows that any journey time increases are within an acceptable limits and do not affect the heavily used A2015 Rectory Road.

As part of the design development process a series of public consultation events were carried out in Spring 2015. A summary of the consultation responses is attached as Annex 1, along with of the consultation's conclusions on the priority of improvement projects, which led to many of the design changes. This consultation confirms that the revised improvement scheme has significant local stakeholder support.

Revised Cost Plan

- 3.6 As part of the review the Council also undertook a detailed scheme costings exercise. This exercise identified the significant costs differences between the original Step 1 budget estimations and the more detailed Work Stage C revised scheme drawings. The design team have worked with the engineering team to attempt to reconcile the cost differences and eliminate any unnecessary costs items. The revised scheme has then been costed using the Council's Framework Agreement with F M Conway. The main items driving the cost increases include:
- Term Contract Price Inflation Increase (£400k)
 - Proposed replacement of all footway surfaces in the High Street. (£250k)
 - Enhancement of surface treatment to origin and destination hotspots (£309k)
 - Full Carriageway Resurfacing (£272k)
- 3.7 The estimated cost of the revised scheme is now £4.697m, which represents an increase in costs of 44% on the estimated cost of the original concept scheme. Transport for London have agreed to review their funding support as part of the detailed design stage within an additional £950k funding envelope, making their maximum contribution to the improvement project £3.295m. Subtracting the previous Council capital allocation of £912k made in October 2013, leaves a potential funding shortfall of £490k. This figure will be reduced to £240k as provision will be sought to allocate £250k from the Borough's 2016/17 Principal Road Maintenance allocation to contribute the resurfacing of the High Street, which has previously been highlighted as a priority area following a condition survey.
- 3.8 In addressing the resulting funding shortfall of £240k officers are currently in discussions with Network Rail on integrating their proposed improvement works to Beckenham Junction Station, so these improvements can contribute to meeting the costs of the proposed improvements to the station forecourt and pedestrian linkages to the High Street. Officers are also examining the

allocation of S106 funding from the Glaxo Smith Kline's S106 agreement, which can be used for initiatives that promote employment opportunities, to contribute to the funding shortfall.

- 3.9 The Bromley Town Centre Outer London Fund Post Project Evaluation Report produced by Regeneris Consulting considered the employment impacts of the town centre improvements in Bromley Town Centre.

The report produced the following conclusions:

- In Bromley North Village, where the project target output for jobs was 43, the actual jobs created post project were twice the target (a total of 86)
- Businesses in the area indicated that 25% of these jobs created were attributable to the physical improvements;

Based on the findings of this study it is estimated that the revised Beckenham scheme, calculating floor area to FTE jobs using an accredited formula contained in the Homes and Communities Agency's Employment Densities Guide and taking into consideration that vacant retail spaces alone are returned into retail use, excluding the charity shops, the potential estimated job increases attributable to the scheme would equate to between 27 to 60 jobs with a figure of £20,000 average salary costs has been equated to each job created.

- 3.9 TfL acknowledge that additional funding will be required to cover the cost of the detailed design work as part of the Design & Development stage, and they have allocated a further £32k in 15/16 to cover this, bringing the detailed design budget allocation to £342k. As was the case in Bromley North Village it is proposed to use the Council's Highway Term Contractor F M Conway to undertake the detailed design for this improvement scheme. It is anticipated that this work will take approximately 5/6 months to complete. Further reports will be brought back to the R&R PDS and Executive Committees to update on design, costs and funding.

4. POLICY IMPLICATIONS

- 4.1 Work delivering the Town Centres Development Programme is entirely consistent with Policy Objectives set out in Building A Better Bromley and the Renewal & Recreation Portfolio Business Plan 2014/15. The work of the Renewal team links to the Building a Better Bromley priorities by working towards the provision of Vibrant and Thriving Town Centres.

5. FINANCIAL IMPLICATIONS

- 5.1 The estimated costs of the Beckenham Improvement scheme have been revised following the detailed design work and input from TfL. The costs have increased by 44% and are now estimated to be £4.697m. Paragraph 3.6 above, details the main variations and the table below summarises the variances of both the costs and funding: -

| Design, Development and Implementation costs | Original Estimate | Latest Estimate | Variance |
|--|--------------------------|------------------------|-----------------|
| | £'000 | £'000 | £'000 |
| Stage 1 Design and Development costs | | | |
| Transport model & survey work | 45 | 45 | 0 |
| Feasibility & outline design | 70 | 70 | 0 |
| Detailed design & consultation | 195 | 227 | 32 |
| | 310 | 342 | 32 |
| Implementation costs | | | |
| Capital works including contingency | 2,747 | 4,155 | 1,408 |
| Scheme management costs | 200 | 200 | 0 |
| | 2,947 | 4,355 | 1,408 |
| Total estimated scheme costs | 3,257 | 4,697 | 1,440 |
| Funding | | | |
| TfL (subject to formal approval) | 2,345 | 3,295 | 950 |
| Earmarked reserve balance for Beckenham Improvements | 150 | 150 | 0 |
| Capital Receipts (subject to approval) | 762 | 1,002 | 240 |
| Principal Road maintenance 2016/17 allocation from TfL | 0 | 250 | 250 |
| | 3,257 | 4,697 | 1,440 |

- 5.2 The Council had previously agreed a contribution of £912k towards the scheme and TfL have now informally confirmed a maximum contribution of £3.295m, which includes the £342k for the design and development costs. This leaves a potential funding shortfall of £490k.
- 5.3 Provision will be sought to allocate £250k from the Borough's 2016/17 Principal Road Maintenance allocation from TfL, to contribute to the resurfacing of the High Street, which reduces the potential shortfall to £240k. Officers are investigating various options to address this shortfall including entering into discussions with Network Rail about the integration of their proposed improvement works to Beckenham Junction Station and the potential use of the S106 contribution from the Glaxo development. The first part of the S106 contribution would be expected to be received 18 months after the start date of the development, estimated to be around Summer 2017.
- 5.4 In the absence of confirmation of alternative funding sources it is requested that an additional £240k is set aside from capital receipts to match fund the additional TfL contribution of £950k , bringing the Council's total match funding to £1.152m which represents 24.5% of the total scheme cost of £4.697m.

6. LEGAL IMPLICATIONS

- 6.1 None for the purposes of this report.

7. PERSONNEL IMPLICATIONS

- 7.1 None for the purposes of this report.

| | |
|---|--|
| Non-Applicable Sections: | |
| Background Documents: (Access via Contact Officer) | |

This page is left intentionally blank

ANNEX 1 - BECKENHAM TOWN CENTRE

Summary of findings from consultation on concept designs

Section 1 – Introduction

This note highlights the main findings from the recent consultation exercise run by Bromley Council in order to seek views on the concept designs for the Beckenham town centre public realm scheme. The consultation was held over the four week period from 2 to 27 March 2015. The consultation focused on the RIBA Stage 2 concept designs prepared by East Architects.

The remainder of the note is structured as follows:

- **Section 2** – summarises the **main objectives and key audiences** for the consultation exercise;
- **Section 3** – outlines the **consultation activities and events** that took place during the consultation period;
- **Section 4** – explains **how the Council has recorded feedback** from residents and key stakeholders during the consultation exercise;
- **Section 5** – highlights the **key findings** from the consultation exercise;
- **Section 6** – identifies the **main implications for the concept designs**; and
- **Section 7** – makes recommendations for the **dissemination of the key findings**.

The note includes the following appendices:

- **Appendix A** – Concept plans used for the public exhibition boards; and
- **Appendix B** – Consultation feedback form.

Section 2 – Consultation objectives and key audiences

The main objectives for this consultation exercise were as follows:

1. To remind people of the overall scheme objectives and reinforce the shared ambition to deliver something very special in Beckenham town centre;
2. To explain the key elements of the concept design for the Beckenham town centre public realm scheme, including the provisional traffic modelling results;
3. To show what can be delivered given the funding that we currently have available for the scheme;
4. To show what could be achieved if we were able to secure additional funding for Beckenham;
5. To gather views and priorities from the local communities which will enable us to finalise the concept designs before moving to the next stage of design development; and
6. To explain what happens next and the overall timetable for delivering the improvements to the public realm in Beckenham town centre.

Key audiences

The consultation exercise was aimed at the following key audiences:

- Ward Councillors and other key elected Members;
- Businesses in Beckenham, especially those with a frontage on the High Street;
- Beckenham Town Team;
- Resident associations;
- Members of the public; and
- Transport for London as the key funding partner.

Promotion of the consultation exercise

The consultation exercise was promoted in the following ways:

- Bromley Council news releases issued in advance of and during the consultation exercise;
- Bromley Council website;
- Updates on social media;
- Letter circulated by e-mail to Beckenham businesses and other stakeholders;
- Leaflets which were hand delivered to all businesses on Beckenham High Street; and
- Leaflets which were hand delivered to all residential streets adjoining the High Street.

Although the consultation exercise was widely promoted in advance of the main activities taking place, we did receive some comments from residents who felt that they had not been given sufficient notice of the public exhibition in particular.

Section 3 – Consultation activities and events

The consultation exercise included the following activities and events:

- **Public exhibition** – we held a public exhibition of the concept designs at Citygate Church from 11:30 am to 8 pm on Thursday, 12 March 2015. The exhibition was manned by staff from East Architects and from Bromley Council. There were a total of 128 visitors throughout the day, with many people staying for considerable periods of time to scrutinise the plans in detail and to discuss their views with staff;
- **Copers Cope Area Residents' Association AGM** – East Architects and Bromley Council attended the Copers Cope Area Residents' Association AGM on 18 March 2015. The audience of 75 people heard a presentation on the concept designs followed by a lively question and answer session; and
- **Beckenham Business Association** – East Architects and Bromley Council presented the concept plans to Beckenham Business Association meeting on 25 March 2015. The attendance was relatively light with only nine local businesses at the meeting. Even so, the discussion which followed the presentation generated some very valuable feedback.

Section 4 – Recording feedback

The consultation exercise generated a rich range of valuable feedback on the concept plans for Beckenham High Street. We have recorded feedback received in the following ways:

- **Conversations at consultation events** – we have reflected the views expressed during conversations and the formal question and answer sessions at the main consultation events;
- **Feedback forms** – we have captured the views expressed in a total of 32 feedback forms submitted by hand, by post and online; and
- **E-mail feedback** – we have also reflected the views expressed in 51 e-mails sent to the beckenhamimprovements@bromley.gov.uk mailbox that was created for the consultation exercise.

Section 5 – Key findings

What people like most about the plans

The overriding view emerging from the consultation exercise was that there is clearly a very strong groundswell of opinion which welcomes the concept plans for Beckenham High Street. Consultees welcomed the aspiration to create something very special for Beckenham, recognising that the time has now come for significant investment in the town centre.

The consultation feedback form asked respondents “what do you like most about the concept plans for Beckenham town centre?” The following aspects of the proposals were identified by respondents as being the things which they like most about the concept plans:

- The proposals for the **Albemarle Road/High Street junction and the related plans for Beckenham Green**. Many people like the idea of opening up Beckenham Green to the High Street, although some respondents noted that this would remove an effective screen to traffic noise and make the boundary of the Green less secure for young children;
- The prospect of **fewer heavy goods vehicles (HGVs) using the High Street** as a result of the Albemarle Road/High Street junction improvements. However, some residents of Rectory Road raised concerns about the extra HGV movements that would affect their homes if HGV traffic were diverted away from the High Street;
- **Feature lighting** – the proposals for enhanced lighting throughout the High Street and feature lighting in special places were strongly welcomed;
- **Enhanced pedestrian experience** – many people felt that the concept plans would enhance the experience of pedestrians and shoppers using Beckenham High Street;
- The proposals for **wider pavements** where possible without snarling up traffic were seen as being a key factor in enhancing the pedestrian experience on the High Street;
- The aspirations to **de-clutter the High Street** and to provide a **coherent, high quality public realm** with well-chosen and carefully positioned street furniture were both very well-liked by respondents. There was a clear feeling that the plans would make the High Street more “user friendly” than at present;
- **Safer crossings** – many people recognised the benefits of enhanced crossing points for the High Street, both on the southern side of the Bromley Road junction and elsewhere along the High Street; and

- **War Memorial junction** – there was a clear feeling that investment is needed at the War Memorial junction which is generally seen to be a rundown gateway to Beckenham High Street. Most people welcomed the working assumption in the concept plans that the War Memorial will not be moved from its current location.

What people do not like about the plans

The consultation feedback form asked respondents “is there anything that you do not like about the concept plans?” The following aspects of the proposals were identified by respondents as being the things which they do not like about the concept plans:

- **Pedestrian access to the War Memorial roundabout** – there was widespread scepticism about the aspiration to provide a surface treatment which would encourage pedestrians to access the War Memorial roundabout. There were concerns in equal measure about the danger to pedestrians and the likely congestion for traffic if people were crossing the carriageway onto the roundabout. There was also a strong feeling that any attempt to widen the footway in front of the Odeon Cinema would not leave sufficient room for two lanes of traffic on that side of the roundabout;
- **Lighting in Beckenham Green** – there was a strong feeling that the existing traditional street lanterns in Beckenham Green should not be replaced with a more contemporary design as they currently contribute to the historic character of this part of the town centre;
- **Beckenham Green boundary with the High Street** – there were some concerns about safety for young children and increased traffic noise for users if the western edge of Beckenham Green were to be made more permeable with the High Street;
- **Cycling provision** – some people felt that the concept plans are “too car-centric” and a number of respondents expressed disappointment that the proposals do not include more dedicated provision for cyclists, including dedicated cycle lanes and enhanced cycle parking; and
- **Shared space pedestrian areas** – there were concerns expressed about the potential for conflict between pedestrians and motorists in shared space areas such as the proposed loading bays at selected points on the High Street footway.

Key priorities for investment

The consultation materials made it clear that there may not be sufficient funding available to deliver the full design intent for Beckenham High Street. With this constraint in mind, the consultation feedback form asked respondents “what are your key priorities for Beckenham town centre?” Table 1 below summarises the main findings.

Table 1 – Priorities for Beckenham town centre

| Scheme area | Top priority | High priority | Medium priority | Low priority |
|------------------------------|---------------------|----------------------|------------------------|---------------------|
| Beckenham Junction and Green | 59.3% | 25.9% | 11.1% | 3.7% |
| Bromley Road junction | 15.4% | 30.8% | 38.5% | 15.4% |
| Thornton’s Corner | 11.1% | 18.5% | 44.4% | 25.9% |
| Kelsey Square | 3.7% | 22.2% | 51.9% | 22.2% |
| War Memorial junction | 38.5% | 42.3% | 0% | 19.2% |
| Lighting | 33.3% | 29.6% | 14.8% | 22.2% |
| Street furniture and signage | 11.1% | 25.9% | 44.4% | 18.5% |
| Parking and loading bays | 22.2% | 22.2% | 25.9% | 29.6% |

The results shown in Table 1 are based on a total sample size of 27 people who completed this question in the consultation feedback form. Given the relatively small sample size, some caution is necessary when interpreting these results.

Notwithstanding this caveat, Table 1 reveals that the two areas given the highest priority for investment are as follows:

- **Beckenham Junction and Beckenham Green** – 85.2% of respondents see this area as being either a top priority or a high priority for the town centre; and
- **War Memorial Junction** – 80.8% of respondents see this area as being either a top priority or a high priority for the town centre.

Of the thematic elements of the scheme identified by the consultation materials, the proposed lighting improvements were seen as the most important, with 62.9% of respondents identifying lighting as either a top priority or a high priority for the town centre.

The proposed treatment of parking and loading bays on the High Street provoked the most divided opinion of all the potential priorities for investment. For this element of the concept plans there was an even distribution of responses from top priority through to low priority.

Other comments and observations

The consultation exercise also generated the following comments, observations and questions on the concept plans for Beckenham High Street:

- How will the aspiration to reduce HGV movements on the High Street be realised in practice? Many people found it difficult to make the link between the Albemarle Road/High Street junction improvements and HGV movements along the High Street;
- What about an additional diagonal pedestrian crossing from Beckenham Junction station to Beckenham Green?
- There is a need to maintain the space for six parking bays at the train station outside Regency Cars. The representatives from Regency Cars who attended the public exhibition were not at all convinced about the proposals for a shared space approach to the new parking bays;
- There is also a need to tackle the poor quality of the shop fascia signage along the High Street. This concern was raised by a number of respondents;
- The War Memorial should be left where it currently resides in the roundabout;
- There is a need to ensure the correct phasing of traffic lights on the High Street to facilitate optimum traffic flows and maintain safety for pedestrians;
- There was a strong feeling that more trees should be planted along the High Street and at the War Memorial junction;
- What will the Council do to ensure that the disruption to local businesses is kept to a minimum during the construction of the scheme;
- How will independent, local businesses survive if the improvements drive up rents; and
- For new paving, careful thought should be given to the choice of material to ensure that the new surface opens up the look and feel of the High Street as much as possible.

Section 6 – Implications for the concept designs

The key implications arising from the consultation exercise for the concept designs for Beckenham High Street are as follows:

- How do we balance the aspiration to open up views of (and access to) the War Memorial with the strong concerns about safety for pedestrians?
- How do we balance the aspiration to increase the permeability between Beckenham Green and the High Street whilst maintaining a recognisable boundary edge to the western side of the Green?
- Do the benefits of opening Beckenham Green to the High Street outweigh the disadvantages of doing so?
- Do the proposals for the High Street maximise the potential to include provisions which will promote more and safer cycling?

I have asked Julian Lewis from East Architects to give some thought to these questions during the process of finalising the concept plans for the High Street. There may also be other design-related questions which occur to Julian on reviewing this note.

Section 7 – Dissemination of the consultation findings

Charlie Parish from TfL has already expressed an interest in the findings from the consultation exercise. We can include Section 5 of this note on key findings in the forthcoming paper to TfL on the revised Major Scheme bid for Beckenham town centre. In the meantime, it would be worth sharing the complete note with Charlie Parish and colleagues from TfL.

Once the purdah period has expired, the consultation findings should be shared with the following key audiences:

- Beckenham Town Centre Working Party;
- Beckenham Town Team;
- Beckenham Business Association; and
- Copers Cope Residents Association.

It would also make sense for the Council to issue a press release highlighting the key findings from the consultation exercise. This paper could be supplied as a note to editors to support the press release and also be made available to the general public via the Council website.

**Mark Teasdale
Consultant
Renewal Team
29 April 2015**

Report No.
CSD15137

London Borough of Bromley

PART ONE - PUBLIC

Decision Maker: COUNCIL

Date: Monday 14 December 2015

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

Title: TREASURY MANAGEMENT - PERFORMANCE Q2 2015/16 & MID-YEAR REVIEW

Contact Officer: Graham Walton, Democratic Services Manager
Tel: 0208 461 7743 E-mail: graham.walton@bromley.gov.uk

Chief Officer: Mark Bowen, Director of Corporate Services

Ward: N/A

1. Reason for report

- 1.1 At the meeting on 26th November 2015, the Resources Portfolio Holder and the Executive and Resources PDS Committee received the attached report summarising treasury management activity during the period up to 30th September 2015. The report also updated Members on the Council's investment with Heritable Bank and included a mid-year review of the Treasury Management Strategy Statement and Annual Investment Strategy. Council is requested to note the report and approve the changes to the prudential indicators set out in Annex B1. For clarification, we are required by statute to agree and publish prudential indicators, primarily to confirm that our capital expenditure plans are affordable and sustainable. As Members will be aware, Bromley does not borrow to finance its capital expenditure and, as a result, many of the indicators do not have any real relevance for the Council.
-

2. **RECOMMENDATION**

Council is recommended to note the report and approve changes to the 2015/16 prudential indicators, as set out in Annex B1 to the report.

Corporate Policy

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

Financial

1. Cost of proposal: Not Applicable:
 2. Ongoing costs: Non-Recurring Cost:
 3. Budget head/performance centre: Interest on Balances
 4. Total current budget for this head: £2.741 (net interest earnings) in 2015/16; currently forecast to be £0.6m over budget.
 5. Source of funding: Net investment income
-

Staff

1. Number of staff (current and additional): 0.25 fte
 2. If from existing staff resources, number of staff hours: 9 hours per week
-

Legal

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

Customer Impact

1. Estimated number of users/beneficiaries (current and projected): Not Applicable
-

Ward Councillor Views

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

| | |
|---|--------------------------------|
| Non-Applicable Sections: | Policy/Finance/Legal/Personnel |
| Background Documents: (Access via Contact Officer) | See attached report |

PART 1 - PUBLIC

Decision Maker: Resources Portfolio Holder
Council

Date: For pre-decision scrutiny by Executive and Resources PDS Committee
on 26th November 2015
Council 14th December 2015

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

Title: **TREASURY MANAGEMENT - PERFORMANCE Q2 2015/16 &
MID-YEAR REVIEW**

Contact Officer: Martin Reeves, Principal Accountant (Technical & Control)
Tel: 020 8313 4291 E-mail: martin.reeves@bromley.gov.uk

Chief Officer: Director of Finance

Ward: All

1. Reason for report

- 1.1 This report summarises treasury management activity during the quarter ended 30th September 2015 and the period 1st April 2015 to 30th September 2015. It also updates Members on the Council's investment with Heritable Bank (paragraph 3.16) and includes a Mid-Year Review of the Treasury Management Strategy Statement and Annual Investment Strategy (Annex A). The report ensures that the Council is implementing best practice in accordance with the CIPFA Code of Practice for Treasury Management. Investments as at 30th September 2015 totalled £282.6m (excluding the balance of the Heritable investment) and there was no outstanding external borrowing. For information and comparison, the balance of investments stood at £275.3m as at 30th June 2015 and £264.9m as at 30th September 2014 and, at the time of writing this report (13th November) it stood at £307.6m.
-

RECOMMENDATION(S)

- 2.1 The PDS Committee and Portfolio Holder are asked to note the report and recommend that Council approve the changes to the 2015/16 prudential indicators, as set out in Annex B1.**
- 2.2 Council is requested to note the report and approve changes to the 2015/16 prudential indicators, as set out in Annex B1.**

Corporate Policy

1. Policy Status: Existing policy. To maintain appropriate levels of risk, particularly security and liquidity, whilst seeking to achieve the highest rate of return on investments.
 2. BBB Priority: Excellent Council.
-

Financial

1. Cost of proposal: N/A
 2. Ongoing costs: N/A.
 3. Budget head/performance centre: Interest on balances
 4. Total current budget for this head: £2.741m (net interest earnings) in 2015/16; currently forecast to be £0.6m over budget
 5. Source of funding: Net investment income
-

Staff

1. Number of staff (current and additional): 0.25 fte
 2. If from existing staff resources, number of staff hours: 9 hours per week
-

Legal

1. Legal Requirement: Non-statutory - Government guidance.
 2. Call-in: Call-in is applicable
-

Customer Impact

1. Estimated number of users/beneficiaries (current and projected): n/a
-

Ward Councillor Views

1. Have Ward Councillors been asked for comments? N/A.
2. Summary of Ward Councillors comments:

3. COMMENTARY

General

- 3.1 Under the requirements of the CIPFA Code of Practice on Treasury Management, the Council is required, as a minimum, to approve an annual treasury strategy in advance of the year, a mid-year review report and an annual report following the year comparing actual activity to the strategy. In practice, the Director of Finance has reported quarterly on treasury management activity for many years, as well as reporting the annual strategy before the year and the annual report after the year-end. This report includes a mid-year review for 2015/16 and details of treasury management activity during the quarter ended 30th September 2015 and the period 1st April 2015 to 30th September 2015. The 2015/16 annual treasury strategy, including the MRP (Minimum Revenue Provision) Policy Statement and prudential indicators, was originally approved by Council in February 2015. The annual report for the financial year 2014/15 was submitted to the Executive & Resources PDS Committee on 9th July 2015 and was approved by Council on 19th October 2015. Amendments to the strategy (comprising an increase in the total investment limit for pooled investment vehicles from £25m to £40m) were approved by Council in October 2015. No further changes are proposed in this report.
- 3.2 In recent years, the Council has regularly reviewed its Investment Strategy for Treasury Management to provide a wider range of investment options, ranging from investment in corporate bonds to various investment choices over a 3 to 5 year timeframe, including investments in a property fund and in Diversified Growth Funds. The Treasury Management Code of Practice requires that priority be given to security and liquidity over the return on investments and recent changes in the regulatory environment place a greater onus on Members for the review and scrutiny of treasury management policy and activities. This report is important in that respect, as it provides details of the actual position for treasury activities and highlights compliance with Council policies previously approved by Members.
- 3.3 The Council has monies available for Treasury Management investment as a result of the following:
- (a) Positive cash flow;
 - (b) Monies owed to creditors exceed monies owed by debtors;
 - (c) Receipts (mainly from Government) received in advance of payments being made;
 - (d) Capital receipts not yet utilised to fund capital expenditure;
 - (e) Provisions made in the accounts for liabilities e.g. provision for outstanding legal cases which have not yet materialised;
 - (f) General and earmarked reserves retained by the Council.
- 3.4 Some of the monies identified above are short term and investment of these needs to be highly “liquid”, particularly if it relates to a positive cash flow position, which can change in the future. Future monies available for Treasury Management investment will depend on the budget position of the Council and whether the Council will need to substantially run down capital receipts and reserves. Against a backdrop of unprecedented cuts in Government funding (which will require the Council to make revenue savings to balance the budget in future years), there is a probability that such actions may be required in the medium term, which will reduce the monies available for investment.
- 3.5 The Council has also identified an alternative investment strategy relating to property investment. The PDS Committee has previously been informed that the planned property purchases, including purchases to date, will generate income of £2m per annum with an equivalent yield of 5 to 6%. This is based on a longer term investment timeframe of at least 3 to 5 years. This alternative investment ensures that the monies available can attract higher yields over the longer term.
- 3.6 A combination of lower risk investment relating to Treasury Management and a separate investment strategy in the form of property acquisitions (generating higher yields and risks)

provides a balanced investment strategy. Any investment decisions will also need to consider the likelihood that interest rates will increase at some point. The available resources for the medium term, given the ongoing reductions in Government funding, will need to be regularly reviewed.

Treasury Performance in the quarter ended 30th September 2015

3.7 **Borrowing:** The Council's healthy cashflow position continues and no borrowing has been required for a number of years.

3.8 **Investments:** The following table sets out details of investment activity during the September quarter and during the financial year 2015/16 to date:-

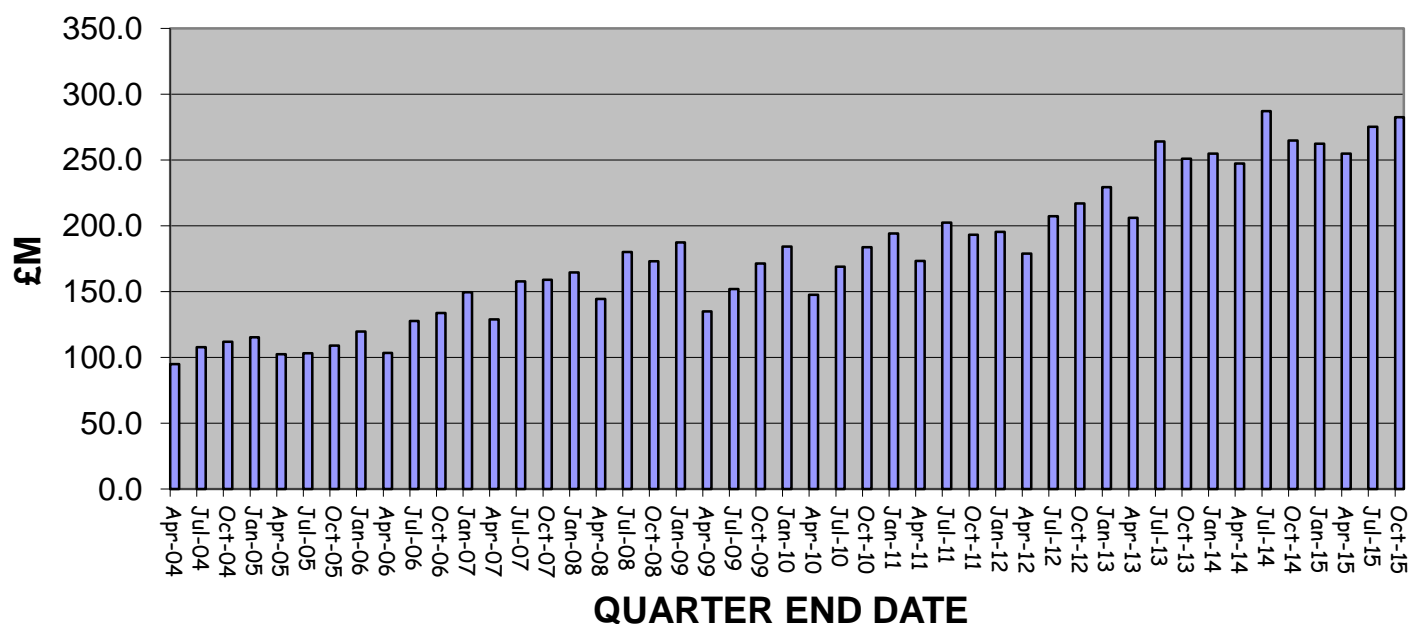
| Main investment portfolio | Qtr ended 30/9/15 | | 1/4/15 to 30/9/15 | |
|---|-------------------|---------------|-------------------|---------------|
| | Deposits £m | Ave Rate % | Deposits £m | Ave Rate % |
| Balance of "core" investments b/f | 232.50 | 1.41 | 207.50 | 1.29 |
| New investments made in period | 20.00 | 1.01 | 55.00 | 1.30 |
| Investments redeemed in period | -15.00 | 0.70 | -25.00 | 0.72 |
| "Core" investments at end of period | 237.50 | 1.40 | 237.50 | 1.40 |
| Money Market Funds | 20.10 | para 3.13 | 20.10 | para 3.13 |
| CCLA Property Fund | 15.00 | para 3.14 | 15.00 | para 3.14 |
| Diversified Growth Funds | 10.00 | para 3.15 | 10.00 | para 3.15 |
| Total investments at end of period | 282.60 | n/a | 282.60 | n/a |

3.9 Details of the outstanding investments at 30th September 2015 are shown in maturity date order in Appendix 1 and by individual counterparty in Appendix 2. An average return of 1% was included for new "core" investments (lending to banks and other local authorities) in the 2015/16 budget and the average return on the two new "core" investments during the September quarter was 1.01%. For comparison, the average LIBID rates for the September quarter were 0.36% for 7 days, 0.46% for 3 months, 0.62% for 6 months and 0.93% for 1 year. The average rate achieved on new investments placed in the period 1st April to 30th September 2015 was 1.30%, compared to the average LIBID rates of 0.36% for 7 days, 0.45% for 3 months, 0.60% for 6 months and 0.90% for 1 year. The improved average rate earned on new investments so far this year is due to the 3-year deposit placed with Lloyds Bank in April.

3.10 Reports to previous meetings have highlighted the fact that options for the reinvestment of maturing deposits have been seriously limited in recent years following bank credit rating downgrades. Changes to lending limits and eligibility criteria in recent years have alleviated this to some extent, but we have still found ourselves in the position of not having many investment options other than placing money with instant access accounts at relatively low interest rates. Active UK banks on our list now comprise only Lloyds, RBS, HSBC, Barclays, Santander UK and Nationwide and all of these have reduced their interest rates significantly in recent years. Lloyds and RBS, both still part-nationalised, are the only banks with which we can invest for more than one year (up to 3 years is permitted under our strategy) and they offer the highest rates for the longer periods. As a result, we are always full to limit (£80m each) with those banks. The Director of Finance will continue to monitor rates and counterparty quality and take account of external advice prior to any investment decisions.

3.11 The graph below shows total investments at quarter-end dates back to 1st April 2004 and shows how available funds have increased steadily over the years. This has been a significant contributor to the over-achievement of investment income against budgeted income in recent years.

TOTAL INVESTMENT PORTFOLIO



Interest Rate Forecast

3.12 The bank base rate has remained at 0.5% since March 2009 and the latest forecast by Capita Treasury Solutions (in November 2015) is for it to begin to slowly rise from mid-2016 (no change from the previous estimate given in August 2015). Capita's forecasts are shown below.

| Date | LATEST FORECAST (Nov 15) | | | | PREVIOUS FORECAST (Aug 15) | | | |
|--------|--------------------------|---------------|---------------|--------------|----------------------------|---------------|---------------|--------------|
| | Base Rate | 3 month Libid | 6 month Libid | 1 year Libid | Base Rate | 3 month Libid | 6 month Libid | 1 year Libid |
| Dec-15 | 0.50% | 0.60% | 0.80% | 1.10% | 0.50% | 0.60% | 0.80% | 1.10% |
| Mar-16 | 0.50% | 0.70% | 0.90% | 1.20% | 0.50% | 0.70% | 0.90% | 1.20% |
| Jun-16 | 0.75% | 0.80% | 1.00% | 1.30% | 0.75% | 0.80% | 1.00% | 1.30% |
| Sep-16 | 0.75% | 0.90% | 1.10% | 1.40% | 0.75% | 0.90% | 1.10% | 1.40% |
| Dec-16 | 1.00% | 1.10% | 1.30% | 1.60% | 1.00% | 1.10% | 1.30% | 1.60% |
| Mar-17 | 1.00% | 1.30% | 1.50% | 1.80% | 1.00% | 1.30% | 1.50% | 1.80% |
| Jun-17 | 1.25% | 1.40% | 1.60% | 1.90% | 1.25% | 1.40% | 1.60% | 1.90% |
| Sep-17 | 1.50% | 1.50% | 1.70% | 2.00% | 1.50% | 1.50% | 1.70% | 2.00% |
| Dec-17 | 1.50% | 1.80% | 2.00% | 2.30% | 1.50% | 1.80% | 2.00% | 2.30% |
| Mar-18 | 1.75% | 1.90% | 2.10% | 2.40% | 1.75% | 1.90% | 2.10% | 2.40% |
| Jun-18 | 1.75% | 1.90% | 2.10% | 2.40% | 1.75% | 1.90% | 2.10% | 2.40% |
| Sep-18 | 2.00% | 2.00% | 2.20% | 2.50% | n/a | n/a | n/a | n/a |
| Dec-18 | 2.00% | 2.00% | 2.20% | 2.50% | n/a | n/a | n/a | n/a |
| Mar-19 | 2.00% | 2.10% | 2.30% | 2.70% | n/a | n/a | n/a | n/a |

Other accounts

3.13 Money Market Funds

The Council currently has 7 AAA-rated Money Market Fund accounts, with Federated, Ignis, Insight, Morgan Stanley, Blackrock, Fidelity and Legal & General, all of which have a maximum investment limit of £15m. In common with market rates for fixed-term investments, interest rates on money market funds have fallen considerably in recent years. The Ignis and Federated funds

currently offer the best rate (around 0.50%). The total balance held in Money Market Funds fluctuates considerably, moving from £22.3m as at 1st April 2015 to £17.8m as at 30th June 2015 and then to £20.1m as at 30th September 2015. It peaked at £57.2m in mid-October and currently stands at £35.1m (as at 13th November 2015). The Money Market Funds currently offer the lowest interest of all our eligible investment vehicles with the exception of the Government Debt Management and Deposit Fund (currently 0.25%). During the year, funds have been and will continue to be withdrawn to fund more attractive investments, most recently at the end of October, when, following Council's agreement in October to an increase of £15m in the limit for pooled investment vehicles, the Resources Portfolio Holder and the Director of Finance approved a further £10m investment in the CCLA Fund. Funds will continue to be held in money market funds, however, as there is a need to have cash available for general Council activities and to support the strategy of investment property acquisitions.

| Money Fund | Market | Date Account Opened | Actual Balance 01/04/15 | Actual Balance 30/09/15 | Ave. Rate 2015/16 to 13/11/15 | Actual Balance 13/11/15 | Ave. Daily balance to 13/11/15 | Current Rate 13/11/15 |
|-----------------|--------|---------------------|-------------------------|-------------------------|-------------------------------|-------------------------|--------------------------------|-----------------------|
| | | | £m | £m | % | £m | £m | % |
| Federated | | 15/06/2009 | 7.3 | 5.1 | 0.46 | 15.0 | 6.0 | 0.50 |
| Ignis | | 25/01/2010 | 15.0 | 15.0 | 0.48 | 15.0 | 9.4 | 0.50 |
| Insight | | 03/07/2009 | 0.0 | - | 0.46 | - | 1.8 | 0.45 |
| Morgan Stanley | | 01/11/2012 | 0.0 | - | - | - | - | 0.44 |
| Legal & General | | 23/08/2012 | 0.0 | - | 0.46 | 5.1 | 5.2 | 0.46 |
| Blackrock | | 16/09/2009 | 0.0 | - | - | - | - | 0.37 |
| Fidelity | | 20/11/2002 | 0.0 | - | - | - | - | 0.37 |
| TOTAL | | | 22.3 | 20.1 | | 35.1 | | |

3.14 CCLA Property Fund

Following consultation between the Director of Finance and the Resources Portfolio Holder, an account was opened in January 2014 with the CCLA Local Authorities' Property Fund and an initial deposit of £5m was made, followed by further deposits of £5m in July 2014 and in March 2015. As is mentioned in paragraph 3.13 above, a further £10m was deposited in the fund at the end of October. The investment in the CCLA Fund is viewed as a medium to long-term investment and dividends are paid quarterly. The investment returned 5.25% net of fees in 2014/15 and 4.83% (net) in the first half of 2015/16.

3.15 Diversified Growth Funds

In October 2014, the Council approved the inclusion of investment in diversified growth funds in our strategy and, in December, £5m was invested with both Newton and Standard Life. The Funds both performed very well in just over three months to 31st March 2015; the Newton Fund returning 21.5% (a gain of £294k) and the Standard Life Fund returning 21.9% (a gain of £299k). In accordance with the Council decision, interest equivalent to 27% (£160k) of the total dividend was transferred to the Parallel Fund, set up in 2014/15 with an opening balance of £2.7m to mitigate the potential revenue impact of future actuarial Pension Fund valuations. In the first six months of 2015/16, however, both Funds lost value and, as at 30th September (9 months since inception), the Newton Fund had returned 1.74% (net – an overall gain of £67k) and the Standard Life Fund had returned 3.31% (net – an overall gain of £128k). Returns in October were significantly better, with Newton returning 22.9%, a gain of £97k (cumulative return to 31st October 3.83% and an overall gain of £165k) and Standard Life returning 29.3%, a gain of £124k (cumulative return to 31st October 5.87% and an overall gain of £253k).

3.16 Investment with Heritable Bank

Members will be aware from regular updates to the Resources Portfolio Holder and the Executive that the Council had £5m invested with the Heritable Bank, a UK subsidiary of the Icelandic bank, Landsbanki. In October 2008, the bank was placed in administration and our investment was frozen. An initial dividend was paid to the Council in July 2009 and, since then, a further 14 dividends have been received. To date, a total of £4,985k has been received (98% of our total claim of £5,087k), leaving a balance of £102k (2%). Council officers and our external advisers remain hopeful of a full recovery.

3.17 External Cash Management

External cash managers, Tradition UK Ltd, currently manage £20m of our cash portfolio and provide useful advice and information on treasury management matters. In 2014/15, Tradition UK achieved a return of 1.28%, which compared with the in-house team rate of 1.06% for “core” investments (1.55% including investments with the pooled vehicles). In the first half of 2015/16, Tradition UK returned 1.42% against the in-house team return of 1.38% for “core” investments (1.25% including pooled vehicles). Tradition UK work to the same counterparty list as the Council’s in-house team and so have also been constrained by strategy changes approved after the Icelandic Bank crisis and by ratings downgrades in recent years. However, the Council’s in-house team has a requirement to keep a proportion of the lending short (at lower rates) to cover cashflow, while Tradition are able to place their whole £20m for long periods. The table below shows details of their current deposits, all of which have been placed for periods of two years or three years.

| Bank | Sum | Start Date | Maturity | Period | Rate |
|-----------------------------|-------|------------|----------|---------|---|
| Lloyds | £7.5m | 18/08/14 | 18/08/16 | 2 years | 1.28% |
| RBS | £5.0m | 26/08/14 | 26/08/16 | 2 years | Min 1.52%; max 2.00% (linked to 3 month Libor) |
| West Dumbartonshire Council | £2.5m | 26/03/14 | 24/03/17 | 3 years | 1.60% |
| Perth & Kinross Council | £5m | 23/03/14 | 24/03/17 | 3 years | 1.45% |

Mid-Year Review of Treasury Management Strategy Statement and Annual Investment Strategy for 2015/16

3.18 The CIPFA Code of Practice on Treasury Management requires the Council to receive a mid-year review report on performance against the approved strategy. The Annual Investment Strategy was originally approved by Council in February 2015 and was updated in October 2015. A mid-year review, including comments on the economic background during the first half of 2015/16 and on the outlook, is included at Annex A.

Regulatory Framework, Risk and Performance

3.19 The Council’s treasury management activities are regulated by a variety of professional codes, statutes and guidance:

- The Local Government Act 2003 (the Act), which provides the powers to borrow and invest as well as providing controls and limits on this activity;

- The Act permits the Secretary of State to set limits either on the Council or nationally on all local authorities restricting the amount of borrowing which may be undertaken (although no restrictions have been placed to date);
- Statutory Instrument (SI) 3146 2003, as amended, develops the controls and powers within the Act;
- The SI requires the Council to undertake any borrowing activity with regard to the CIPFA Prudential Code for Capital Finance in Local Authorities;
- The SI also requires the Council to operate the overall treasury function with regard to the CIPFA Code of Practice for Treasury Management in the Public Services;
- Under the Act, the CLG has issued Investment Guidance to structure and regulate the Council's investment activities;
- Under section 238(2) of the Local Government and Public Involvement in Health Act 2007, the Secretary of State has taken powers to issue guidance on accounting practices. Guidance on Minimum Revenue Provision was issued under this section on 8th November 2007.

3.20 The Council has complied with all of the above relevant statutory and regulatory requirements, which limit the levels of risk associated with its treasury management activities. In particular its adoption and implementation of both the Prudential Code and the Code of Practice for Treasury Management means both that its capital expenditure is prudent, affordable and sustainable, and its treasury practices demonstrate a low risk approach.

4. POLICY IMPLICATIONS

4.1 In line with government guidance, the Council's policy is to seek to achieve the highest rate of return on investments whilst maintaining appropriate levels of risk, particularly security and liquidity.

5. FINANCIAL IMPLICATIONS

5.1 There is still no real sign of interest rates improving and an average rate of 1% was again prudently assumed for interest on new fixed term deposits (lending to banks and other local authorities) in the 2015/16 revenue budget, in line with the estimates provided by the Council's external treasury advisers, Capita, and with officers' views. The Bank of England base rate is still expected to rise, but the expected start of the rise has been put back to mid-2016 and could be even later. There have been no improvements to counterparty credit ratings, as a result of which the restrictions to investment opportunities that followed ratings downgrades in recent years have still been in place. However, the Council has been able to benefit from the increases in the limits for the two part-nationalised banks (Lloyds and RBS) approved by the Council in October 2014, higher rates from longer-term deals placed with other local authorities, higher average balances than anticipated and the strong performance of the CCLA Property Fund and it is currently forecast that the 2015/16 outturn will be around £3.35m compared to the budget of £2.74m; i.e. a surplus of £0.6m.

| | |
|---|--|
| Non-Applicable Sections: | Legal and Personnel Implications |
| Background Documents: (Access via Contact Officer) | CIPFA Code of Practice on Treasury Management & Prudential Code for Capital Finance in Local Authorities. CLG Guidance on Investments. External advice from Capita Treasury Solutions. |

Treasury Management Strategy Statement and Annual Investment Strategy

Mid-year Review Report 2015/16

1 Background

The Council operates a balanced budget, which broadly means cash raised during the year will meet its cash expenditure. Part of the treasury management operations ensure this cash flow is adequately planned, with surplus monies being invested in low risk counterparties, providing adequate liquidity initially before considering maximising investment return.

The second main function of the treasury management service is the funding of the Council's capital plans. These capital plans provide a guide to the borrowing need of the Council, essentially the longer term cash flow planning to ensure the Council can meet its capital spending operations. This management of longer term cash may involve arranging long or short term loans, or using longer term cash flow surpluses, and on occasion any debt previously drawn may be restructured to meet Council risk or cost objectives. In practice, the Council has not in the past borrowed to finance its capital expenditure and has no plans to do so at present.

As a consequence, treasury management is defined as:

“The management of the local authority's investments and cash flows, its banking, money market and capital market transactions; the effective control of the risks associated with those activities; and the pursuit of optimum performance consistent with those risks.”

2 Introduction

The Chartered Institute of Public Finance and Accountancy's (CIPFA) Code of Practice on Treasury Management 2011 was initially adopted by this Council in February 2012.

The primary requirements of the Code are as follows:

1. Creation and maintenance of a Treasury Management Policy Statement setting out the policies and objectives of the Council's treasury management activities.
2. Creation and maintenance of Treasury Management Practices setting out the manner in which the Council will seek to achieve those policies and objectives.
3. Receipt by the full Council of an annual Treasury Management Strategy Statement - including the Annual Investment Strategy and Minimum Revenue Provision Policy - for the year ahead, a **Mid-year Review Report** and an Annual Report (stewardship report) covering activities during the previous year.
4. Delegation by the Council of responsibilities for implementing and monitoring treasury management policies and practices and for the execution and administration of treasury management decisions.
5. Delegation by the Council of the role of scrutiny of treasury management strategy and policies to a specific named body. For this Council the delegated body is the Executive & Resources PDS Committee:

This mid-year report has been prepared in compliance with CIPFA's Code of Practice on Treasury Management, and covers the following:

- An economic update for the first six months of 2015/16;
- A review of the Treasury Management Strategy Statement and Annual Investment Strategy;
- A review of the Council's investment portfolio for 2015/16;
- A review of the Council's borrowing strategy for 2015/16;
- A review of any debt rescheduling undertaken during 2015/16 (not applicable);
- A review of compliance with Capital and Treasury Prudential Limits for 2015/16.

3 Economic update

3.1 Economic background and interest rates

Capita's latest interest rate forecast (received on 10th November) is shown in paragraph 3.12 of the main report.

UK. UK GDP growth rates in 2013 of 2.2% and 2.9% in 2014 were the strongest growth rates of any G7 country; the 2014 growth rate was also the strongest UK rate since 2006 and the 2015 growth rate is likely to be a leading rate in the G7 again, probably being second to the US. However, quarter 1 of 2015 was weak at +0.4% (+2.9% y/y) though there was a rebound in quarter 2 to +0.7% (+2.4% y/y) before weakening again to +0.5% (2.3% y/y) in quarter 3. The November Bank of England Inflation Report included a forecast for growth to remain around 2.5 – 2.7% over the next three years, driven mainly by strong consumer demand as the squeeze on the disposable incomes of consumers has been reversed by a recovery in wage inflation at the same time that CPI inflation has fallen to, or near to, zero since February 2015 this year. Investment expenditure is also expected to support growth. However, since the August Inflation report was issued, worldwide economic statistics have distinctly weakened and the November Inflation Report flagged up particular concerns for the potential impact on the UK.

The Inflation Report was notably subdued in respect of the forecasts for inflation; this was expected to barely get back up to the 2% target within the 2-3 year time horizon. However, once the falls in oil, gas and food prices over recent months fall out of the 12 month calculation of CPI, there will be a sharp tick up from the current zero rate to around 1 percent in the second half of 2016. The increase in the forecast for inflation at the three year horizon was the biggest in a decade and at the two year horizon was the biggest since February 2013. There is considerable uncertainty around how quickly inflation will rise in the next few years and this makes it difficult to forecast when the MPC will decide to make a start on increasing Bank Rate.

USA. The American economy made a strong comeback after a weak first quarter's growth at +0.6% (annualised), to grow by no less than 3.9% in quarter 2 of 2015, but then weakened again to 1.5% in quarter 3. The downbeat news in late August and in September about Chinese and Japanese growth and the knock on impact on emerging countries that are major suppliers of commodities, was cited as the main reason for the Fed's decision at its September meeting to pull back from a first rate increase. However, the nonfarm payrolls figure for growth in employment in October was very strong and, together with a likely perception by the Fed. that concerns on the international scene have subsided, has now firmly opened up the possibility of a first rate rise in December.

EZ. In the Eurozone, the ECB fired its big bazooka in January 2015 in unleashing a massive €1.1 trillion programme of quantitative easing to buy up high credit quality government and other debt of selected EZ countries. This programme of €60bn of monthly purchases started in March 2015 and it is intended to run initially to September 2016. This appears to have had a positive effect in helping a recovery in consumer and business confidence and a start to a significant improvement in economic growth. GDP growth rose to 0.5% in quarter 1 2015 (1.0% y/y) but came in at +0.4% (+1.5% y/y) in quarter 2 and looks as if it may maintain this pace in quarter 3. However, the recent downbeat Chinese and Japanese news has raised questions as to whether the ECB will need to boost its QE

programme if it is to succeed in significantly improving growth in the EZ and getting inflation up from the current level of around zero to its target of 2%.

Greece. During July, Greece finally capitulated to EU demands to implement a major programme of austerity and is now cooperating fully with EU demands. An €86bn third bailout package has since been agreed though it did nothing to address the unsupportable size of total debt compared to GDP. However, huge damage has been done to the Greek banking system and economy by the resistance of the Syriza Government, elected in January, to EU demands. The surprise general election in September gave the Syriza government a mandate to stay in power to implement austerity measures. However, there are major doubts as to whether the size of cuts and degree of reforms required can be fully implemented and so Greek exit from the euro may only have been delayed by this latest bailout.

- Investment returns are likely to remain relatively low during 2016/17 and beyond;
- Borrowing interest rates have been highly volatile during 2015 as alternating bouts of good and bad news have promoted optimism, and then pessimism, in financial markets. Gilt yields have continued to remain at historically phenomenally low levels during 2015. The policy of avoiding new borrowing by running down spare cash balances, has served well over the last few years. However, this needs to be carefully reviewed to avoid incurring higher borrowing costs in later times, when authorities will not be able to avoid new borrowing to finance new capital expenditure and/or to refinance maturing debt;
- There will remain a cost of carry to any new borrowing which causes an increase in investments as this will incur a revenue loss between borrowing costs and investment returns.

4 Treasury Management Strategy Statement and Annual Investment Strategy update

The Treasury Management Strategy Statement (TMSS) for 2015/16, which includes the Annual Investment Strategy, was initially approved by this Council in February 2015. A subsequent revision was approved in October 2015. It sets out the Council's investment priorities as being:

- Security of capital;
- Liquidity; and
- Yield.

The Council will aim to achieve the optimum return (yield) on investments commensurate with proper levels of security and liquidity. In the current economic climate, it is considered appropriate to keep investments short term to cover cashflow needs, but also to seek out value available in periods up to 12 months (up to 3 years with other local authorities and with the part-nationalised banks Lloyds and RBS), with highly credit rated financial institutions, using Capita's suggested creditworthiness approach, including sovereign credit rating and Credit Default Swap (CDS) overlay information.

5 Investment Portfolio 2015/16

In accordance with the Code, it is the Council's priority to ensure security of capital and liquidity, and to obtain an appropriate level of return which is consistent with the Council's risk appetite. As set out in Section 3, it is a very difficult investment market in terms of earning the level of interest rates commonly seen in previous decades as rates are very low and in line with the 0.5% Bank Rate. The continuing potential for a re-emergence of a Eurozone sovereign debt crisis, and its impact on banks, prompts a low risk and short term strategy. Given this risk environment, investment returns are likely to remain low.

Details of the Council's investment activity during the first six months of 2015/16 are provided in paragraphs 3.8 to 3.15 of the covering report and lists of current investments are provided in Appendices 1 (in maturity date order) and 2 (by counterparty). Excluding the frozen Heritable investment of £5m (98% of which has now been recovered), the Council held £282.6m of investments as at 30th September 2015 (£275.3m as at 30th June 2015).

The Director of Finance confirms that the approved limits within the Annual Investment Strategy were not breached during the first six months of 2015/16.

The Council's budget for interest on investments in 2015/16 is £2.741m, which is based on an assumed interest rate of 1.00% for new investments, and, due to a combination of longer term investments placed at higher rates, higher balances than anticipated and the good performance of the CCLA Property Fund, the current projection is for a surplus of £0.6m.

6 Borrowing

The Council's capital financing requirement (CFR) as at 1st April 2015 was £4.3m. The CFR denotes the Council's underlying need to borrow for capital purposes and, for Bromley, relates to outstanding finance lease liabilities in respect of plant, equipment and vehicles. If the CFR is positive, the Council may borrow from the PWLB or the market (external borrowing) or from internal balances on a temporary basis (internal borrowing). The Council does not borrow to finance its capital expenditure and has, in recent years, only had to borrow short-term (for cashflow purposes) on a very few occasions.

No borrowing is currently anticipated during this financial year or in any later financial year.

Prudential and Treasury Indicators – Mid-Year Review 2015/16

The old capital control system was replaced in April 2004 by a prudential system based largely on self-regulation by local authorities themselves. At the heart of the system is The Prudential Code for Capital Finance in Local Authorities, developed by CIPFA. The Code requires the Council to set a number of prudential indicators designed to monitor and control capital expenditure, financing and borrowing. The indicators for 2015/16 were approved by the Executive and the Council in February 2015 and this Annex sets out the actual performance against those indicators in the first six months, updating them where necessary. Prudential and Treasury Indicators are relevant for the purposes of setting an integrated treasury management strategy.

The Council is required to indicate if it has adopted the CIPFA Code of Practice on Treasury Management. This original 2001 Code was adopted by the full Council in February 2002 and the revised 2011 Code was initially adopted by full Council in February 2012.

Prudential Indicators for Capital Expenditure

This table shows the revised estimates for capital expenditure and the changes since the Capital Programme for 2015/16 was agreed in February 2015. The increase in the latest estimate for 2015/16 is partly the result of slippage in expenditure originally planned for 2014/15 and partly the result of the approval of additional investment property acquisitions, both of which have been highlighted in previous reports to the Executive and to PDS Committees.

| Capital Expenditure by Portfolio | 2015/16 Original Estimate £m | 2015/16 Revised Estimate £m |
|---|---|--|
| Education | 42.9 | 38.9 |
| Renewal & Recreation | 2.1 | 4.5 |
| Environment | 5.7 | 8.3 |
| Care Services | 7.9 | 12.1 |
| Resources | 5.6 | 26.3 |
| Public Protection & Safety | - | 0.3 |
| Less: estimated slippage | -5.0 | -10.0 |
| Total | 59.2 | 80.4 |

Changes to the Financing of the Capital Programme

The table below draws together the main strategy elements of the capital expenditure plans (above), highlighting the original supported and unsupported elements of the capital programme, and the expected financing arrangements of this capital expenditure.

| Capital Expenditure | 2015/16 Original Estimate £m | 2015/16 Revised Estimate £m |
|------------------------------|---|--|
| Supported | 59.2 | 80.4 |
| Unsupported | 0.0 | 0.0 |
| Total spend | 59.2 | 80.4 |
| Financed by: | | |
| Capital receipts | 11.5 | 18.4 |
| Capital grants | 38.3 | 31.4 |
| Other external contributions | 8.1 | 12.4 |
| Revenue contributions | 1.3 | 18.2 |
| Total financing | 59.2 | 80.4 |
| Borrowing need | 0.0 | 0.0 |

Changes to the Prudential Indicators for the Capital Financing Requirement, External Debt and the Operational Boundary

It is a statutory duty for the Council to determine and keep under review the “Affordable Borrowing Limits”, which comprise external / internal borrowing and other long-term liabilities, mainly finance leases. The Council’s approved Treasury and Capital Prudential Indicators (affordability limits) are outlined in the approved TMSS. The table below shows the expected “worst case” debt position over the period. This is termed the Operational Boundary. Bromley has an operational “borrowing” limit (Operational Boundary) of £30m, although in practice, this limit is never in danger of being breached.

The Authorised Limit, which represents the limit beyond which borrowing is prohibited, is another of the prudential indicators and needs to be set and revised by Members. It reflects the level of borrowing which, while not desired, could be afforded in the short term, but is not sustainable in the longer term. It is the expected maximum borrowing need with some headroom for unexpected movements. This is the statutory limit determined under section 3 (1) of the Local Government Act 2003 and, for Bromley, this figure has been set at £60m.

The table also shows the CFR, which is the underlying external need to incur borrowing for a capital purpose. The Council’s capital financing requirement (CFR) as at 1st April 2015 was £4.3m. If the CFR is positive, the Council may borrow from the PWLB or the market (external borrowing) or from internal balances on a temporary basis (internal borrowing). The Council’s CFR relates to liabilities arising from finance leases entered into in recent years in respect of various items of plant and equipment. The Council currently has no external borrowing as such.

| Prudential Indicators | 2015/16 Original Estimate £m | 2015/16 Revised Estimate £m |
|------------------------------------|---|--|
| CFR | 2.0 | 4.0 |
| | | |
| Debt – Operational Boundary | | |
| Borrowing | 10.0 | 10.0 |
| Other long-term liabilities | 20.0 | 20.0 |
| Total Operational Boundary | 30.0 | 30.0 |
| | | |
| Debt – Authorised Boundary | | |
| Borrowing | 30.0 | 30.0 |
| Other long-term liabilities | 30.0 | 30.0 |
| Total Operational Boundary | 60.0 | 60.0 |

Other Prudential Indicators

Other indicators designed to control overall borrowing and exposures to interest rate movements are included in the summary table below, which will require the approval of full Council.

ANNEX B1 Prudential and Treasury Indicators - Summary

| | 2015/16 | 2015/16 |
|--|-------------------|------------------|
| | Original Estimate | Revised Estimate |
| | £m | £m |
| Total Capital Expenditure | £59.2m | £80.4m |
| Ratio of financing costs to net revenue stream | -1.3% | 0.0% |
| Net borrowing requirement (net investments for Bromley) | | |
| brought forward 1 April | £230.0m | £254.8m |
| carried forward 31 March | £205.3m | £260.0m |
| in year borrowing requirement (reduction in net investments for Bromley) | -£14.7m | +£5.2m |
| Estimated CFR as at 31 March (finance lease liability) (NB. Actual CFR as at 31 March 2015 (finance lease liability) = £4.3m) | £2.0m | £4.0m |
| Annual change in Cap. Financing Requirement | -£0.3m | -£0.3m |
| Incremental impact of capital investment decisions | £ p | £ p |
| Increase in council tax (band D) per annum | - | - |

| TREASURY MANAGEMENT INDICATORS | 2015/16 | 2015/16 |
|---|-------------------|------------------|
| | Original Estimate | Revised Estimate |
| | £m | £m |
| Authorised Limit for external debt - | | |
| borrowing | £30.0 | £30.0 |
| other long term liabilities | £30.0 | £30.0 |
| TOTAL | £60.0 | £60.0 |
| Operational Boundary for external debt - | | |
| borrowing | £10.0 | £10.0 |
| other long term liabilities | £20.0 | £20.0 |
| TOTAL | £30.0 | £30.0 |
| Upper limit for fixed interest rate exposure | 100% | 100% |
| Upper limit for variable rate exposure | 20% | 20% |
| Upper limit for total principal sums invested beyond year-end dates | £170.0 | £170.0 |

This page is left intentionally blank

APPENDIX 1

INVESTMENTS HELD AS AT 30th SEPTEMBER 2015

| Counterparty | Start Date | Maturity Date | Rate of Interest % | Amount £m |
|--|-------------------|-------------------------|---------------------------|-------------------|
| FIXED TERM DEPOSITS | | | | |
| LLOYDS BANK | 19/11/14 | 19/11/15 | 1.00000 | 5.0 |
| KINGSTON-UPON-HILL CITY COUNCIL | 02/01/14 | 04/01/16 | 0.90000 | 2.0 |
| LLOYDS BANK | 31/03/15 | 31/03/16 | 1.00000 | 5.0 |
| GREATER LONDON AUTHORITY | 01/04/14 | 01/04/16 | 1.14000 | 15.0 |
| LLOYDS BANK | 13/04/15 | 13/04/16 | 1.00000 | 5.0 |
| RBS (collar deposit - floor 1.15%; ceiling 1.37%) | 21/05/14 | 23/05/16 | 1.15000 | 15.0 |
| LLOYDS BANK | 07/07/14 | 07/07/16 | 1.25000 | 2.5 |
| BARCLAYS BANK | 29/07/15 | 29/07/16 | 1.02000 | 10.0 |
| SANTANDER | 06/08/15 | 08/08/16 | 1.00000 | 10.0 |
| LLOYDS BANK | 18/08/14 | 18/08/16 | 1.28000 | 7.5 |
| RBS (collar deposit - floor 1.52%; ceiling 2.00%) | 26/08/14 | 26/08/16 | 1.52000 | 15.0 |
| WARRINGTON BOROUGH COUNCIL | 31/10/13 | 31/10/16 | 1.45000 | 5.0 |
| LONDON FIRE & EMERGENCY PLANNING AUTHORITY | 28/11/13 | 28/11/16 | 1.50000 | 5.0 |
| LLOYDS BANK | 04/12/14 | 05/12/16 | 1.09000 | 25.0 |
| RBS (King & Shaxson Client A/c) - CD | 13/02/15 | 13/02/17 | 1.34000 | 10.0 |
| WEST DUMBARTONSHIRE COUNCIL | 26/03/14 | 24/03/17 | 1.60000 | 2.5 |
| PERTH & KINROSS COUNCIL | 26/03/14 | 24/03/17 | 1.45000 | 5.0 |
| NORTHUMBERLAND COUNTY COUNCIL | 15/08/14 | 15/08/17 | 1.50000 | 5.0 |
| DONCASTER MBC | 15/08/14 | 15/08/17 | 1.88000 | 5.0 |
| LB CROYDON | 22/08/14 | 22/08/17 | 1.50000 | 10.0 |
| RBS (King & Shaxson Client A/c) - CD | 30/10/14 | 30/10/17 | 1.85000 | 40.0 |
| BLAENAU GWENT CBC | 04/12/14 | 04/12/17 | 1.90000 | 3.0 |
| LLOYDS BANK | 16/04/15 | 16/04/18 | 1.49000 | 30.0 |
| | | | | <u>237.5</u> |
| OTHER | | | | |
| Money Market Funds - Ignis | | Money Market Fund | | 15.0 |
| - Federated | | Money Market Fund | | 5.1 |
| CCLA Local Authority Property Fund | | Property Fund | | 15.0 |
| Diversified Growth Fund - Newton | | Diversified Growth Fund | | 5.0 |
| - Standard Life | | Diversified Growth Fund | | 5.0 |
| | | | | <u>282.6</u> |
| TOTAL INVESTMENTS AS AT 30th SEPTEMBER 2015 | | | | |
| ICELANDIC BANK DEPOSIT (not included above) | | | | |
| Heritable Bank - total claim (principal & interest) | 28/06/07 | 29/06/09 | 6.42 | 5,087,065 |
| Less: Dividend received to 30/09/15 (98%) | | | | <u>-4,985,324</u> |
| Principal sum unrecovered as at 30/09/15 | | | | <u>101,741</u> |
| Provision in 2014/15 accounts for non-recovery (5.9% of total claim) | | | | <u>300,000</u> |

APPENDIX 2

INVESTMENTS HELD AS AT 30th SEPTEMBER 2015

| | FROM | TO | RATE | £m | TOTAL £ | LIMIT | REMAINING |
|--|----------|----------|---------|------------|--------------|--------------|-----------|
| Fixed Term Deposits | | | | | | | |
| UK BANKS | | | | | | | |
| BARCLAYS BANK | 29/07/15 | 29/07/16 | 1.02000 | 10.0 | 10.0 | 20.0 | 10.0 |
| SANTANDER | 06/08/15 | 08/08/16 | 1.00000 | 10.0 | 10.0 | 20.0 | 10.0 |
| LLOYDS BANK | 19/11/14 | 19/11/15 | 1.00000 | 5.0 | | | |
| LLOYDS BANK | 31/03/15 | 31/03/16 | 1.00000 | 5.0 | | | |
| LLOYDS BANK | 13/04/15 | 13/04/16 | 1.00000 | 5.0 | | | |
| LLOYDS BANK | 07/07/14 | 07/07/16 | 1.25000 | 2.5 | | | |
| LLOYDS BANK | 18/08/14 | 18/08/16 | 1.28000 | 7.5 | | | |
| LLOYDS BANK | 04/12/14 | 05/12/16 | 1.09000 | 25.0 | | | |
| LLOYDS BANK | 16/04/15 | 16/04/18 | 1.49000 | 30.0 | 80.0 | 80.0 | 0.0 |
| ROYAL BANK OF SCOTLAND | 21/05/14 | 23/05/16 | 1.15000 | 15.0 | | | |
| ROYAL BANK OF SCOTLAND | 26/08/14 | 26/08/16 | 1.52000 | 15.0 | | | |
| ROYAL BANK OF SCOTLAND - CD | 13/02/15 | 13/02/17 | 1.34000 | 10.0 | | | |
| ROYAL BANK OF SCOTLAND - CD | 30/10/14 | 30/10/17 | 1.85000 | 40.0 | 80.0 | 80.0 | 0.0 |
| LOCAL AUTHORITIES | | | | | | | |
| NORTHUMBERLAND COUNTY COUNCIL | 15/08/14 | 15/08/17 | 1.50000 | 5.0 | 5.0 | 15.0 | 10.0 |
| KINGSTON-UPON-HILL CITY COUNCIL | 02/01/14 | 04/01/16 | 0.90000 | 2.0 | 2.0 | 15.0 | 13.0 |
| GREATER LONDON AUTHORITY | 01/04/14 | 01/04/16 | 1.14000 | 15.0 | 15.0 | 15.0 | 0.0 |
| WARRINGTON BOROUGH COUNCIL | 31/10/13 | 31/10/16 | 1.45000 | 5.0 | 5.0 | 15.0 | 10.0 |
| WEST DUMBARTONSHIRE COUNCIL | 26/03/14 | 24/03/17 | 1.60000 | 2.5 | 2.5 | 15.0 | 12.5 |
| PERTH & KINROSS COUNCIL | 26/03/14 | 24/03/17 | 1.45000 | 5.0 | 5.0 | 15.0 | 10.0 |
| LB CROYDON | 22/08/14 | 22/08/17 | 1.50000 | 10.0 | 10.0 | 15.0 | 5.0 |
| BLAENAU GWENT CBC | 04/12/14 | 04/12/17 | 1.90000 | 3.0 | 3.0 | 15.0 | 12.0 |
| DONCASTER MBC | 15/08/14 | 15/08/17 | 1.88000 | 5.0 | 5.0 | 15.0 | 10.0 |
| LONDON FIRE & EMERGENCY PLANNING AUTHORITY | 28/11/13 | 28/11/16 | 1.50000 | 5.0 | 5.0 | 15.0 | 10.0 |
| | | | | | 237.5 | | |
| Other Investments | | | | | | | |
| Money Market Funds | | | | | | | |
| IGNIS LIQUIDITY FUND | 25/01/10 | | 0.00000 | 15.0 | 15.0 | 15.0 | 0.0 |
| FEDERATED STERLING LIQUIDITY FUND | 15/06/09 | | 0.00000 | 5.1 | 5.1 | 15.0 | 9.9 |
| Pooled Fund Investments | | | | | | | |
| CCLA LOCAL AUTHORITY PROPERTY FUND | 30/01/14 | | 0.00000 | 15.0 | | | |
| STANDARD LIFE - DIVERSIFIED GROWTH FUND | 22/12/14 | | 0.00000 | 5.0 | | | |
| NEWTON - DIVERSIFIED GROWTH FUND | 22/12/14 | | 0.00000 | 5.0 | 25.0 | 25.0 | 0.0 |
| TOTAL INVESTMENTS | | | | | 282.6 | 282.6 | |
| ICELANDIC BANK DEPOSIT (not included above) | | | | | | | |
| Heritable Bank - total claim (principal & interest) | 28/06/07 | 29/06/09 | 6.42 | 5,087,065 | | | |
| Less: Dividend received to 30/09/15 (98%) | | | | -4,985,324 | | | |
| Principal sum unrecovered as at 30/09/15 | | | | 101,741 | | | |
| Provision in 2014/15 accounts for non-recovery (5.9% of total claim) | | | | 300,000 | | | |

Report No.
CSD15136

London Borough of Bromley

PART ONE - PUBLIC

Decision Maker: COUNCIL

Date: Monday 14 December 2015

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

Title: OUR HEALTHIER SOUTH EAST LONDON – JOINT HEALTH SCRUTINY COMMITTEE

Contact Officer: Graham Walton, Democratic Services Manager
Tel: 0208 461 7743 E-mail: graham.walton@bromley.gov.uk

Chief Officer: Mark Bowen, Director of Corporate Services

Ward: N/A

1. Reason for report

- 1.1 At its meeting on 17th November 2015 the Care Services PDS Committee considered the attached report on proposals to establish a non-executive joint health scrutiny committee to scrutinise the NHS programme known as “Our Healthier South East London” (OHSEL). The report had also previously been considered by the Health Scrutiny Sub-Committee. The joint committee would be supported from within existing resources by officers from the six boroughs concerned.
- 1.2 Whilst there was some scepticism at the PDS Committee at the value of such a joint committee, Members considered that it was better that Bromley should be involved and have the opportunity to represent the interests of Bromley residents.
-

2. RECOMMENDATION

Council is recommended to

(1) Authorise participation in a non-executive joint committee with other local authorities for the purpose of scrutinising the “Our Healthier South East London” project.

(2) Appoint two members to serve on the joint Committee – Care Services PDS Committee has recommended that Councillors Judi Ellis and Kevin Brooks be appointed.

(3) Delegate to the Director of Corporate Services, in consultation with the Chairman of the Care Services PDS Committee, authority to make any other detailed arrangements relating to the Council’s representation on the non-executive joint committee that are necessary.

Corporate Policy

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

Financial

1. Cost of proposal: No Cost
 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 posts (7.27fte)
 2. If from existing staff resources, number of staff hours: Any work arising from the Joint Committee will be carried out using existing resources.
-

Legal

1. Legal Requirement: Statutory Requirement: Arrangements for joint health scrutiny committees are set out in sections 7 and 8 of the Health and Social Care Act 2001 and associated regulations and guidance. The Local Government Act 1972 requires full Council approval to join a joint committee.
 2. Call-in: Not Applicable: This report does not involve an executive decision
-

Customer Impact

1. Estimated number of users/beneficiaries (current and projected): Not Applicable
-

Ward Councillor Views

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

| | |
|---|----------------------------------|
| Non-Applicable Sections: | Policy/Financial/Legal/Personnel |
| Background Documents: (Access via Contact Officer) | See attached report |

Decision Maker: **HEALTH SCRUTINY SUB-COMMITTEE
CARE SERVICES PDS COMMITTEE**

Date: **Wednesday 4 November 2015
Tuesday 17th November 2015**

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

Title: **OUR HEALTHIER SOUTH EAST LONDON - JOINT HEALTH
SCRUTINY COMMITTEE**

Contact Officer: Graham Walton, Democratic Services Manager
Tel: 0208 461 7743 E-mail: graham.walton@bromley.gov.uk

Chief Officer: Mark Bowen, Director of Corporate Services

Ward: All

1. Reason for report

- 1.1 The six clinical Commissioning Groups in South East London, working with NHS England, have been working together to address key challenges facing healthcare across the six boroughs. The programme is known as "Our Healthier South East London" (OHSEL). The NHS organisations have indicated that the proposals arising from their work are likely to require public consultation, and the six boroughs are working towards establishing a joint health scrutiny committee to scrutinise the proposals. Participation in a joint health scrutiny committee requires approval from full Council.

2. **RECOMMENDATIONS**

- 2.1 **That the Care Services PDS Committee recommends to Council that Bromley participates in the proposed joint health scrutiny committee on the Our Healthier South East London proposals and appoints two members to the joint committee.**

Corporate Policy

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

Financial

1. Cost of proposal: No Cost:
 2. Ongoing costs: Not Applicable:
 3. Budget head/performance centre: Democratic Representation
 4. Total current budget for this head: £1,055,820
 5. Source of funding: revenue Budget 2015/16
-

Staff

1. Number of staff (current and additional): N/A
 2. If from existing staff resources, number of staff hours: N/A
-

Legal

1. Legal Requirement: Statutory Requirement: Arrangements for joint health scrutiny committees are set out in Sections 7 and 8 of the Health and Social Care Act 2001 and associated regulations and guidance. The Local Government Act 1972 requires full Council approval to join a joint committee.
 2. Call-in: Not Applicable: This report does not involve an executive decision
-

Customer Impact

1. Estimated number of users/beneficiaries (current and projected): All residents
-

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 six Clinical Commissioning Groups (CCGs) in South East London (Bexley, Bromley, Greenwich, Lambeth, Lewisham and Southwark) have been working with NHS England on a programme entitled “Our Healthier South East London (OHSEL). The programme aims to address key challenges facing healthcare in South East London and develop a commissioning strategy to address these challenges. An update describing the programme is attached as Appendix A. The OHSEL Programme Director has stressed that there is no intention to reduce or change Accident and Emergency provision across the six boroughs as part of this programme.
- 3.2 Officers from the six boroughs have been working with OHSEL to establish a joint health scrutiny committee to scrutinise the proposals and the consultation arrangements. This work includes preparing draft terms of reference and proposals for working arrangements for approval by Members. All six boroughs will need to follow their own constitutional arrangements to establish the committee - the aim is to have an introductory meeting if possible before Christmas, followed by around six meetings in the first part of 2016. It is proposed that two members will be appointed from each participating borough.

4. FINANCIAL IMPLICATIONS

- 4.1 There are limited resources across the six boroughs to support the joint committee, and any costs, which will largely involve arranging and servicing its meetings, will be shared equally between participating authorities and would have to be found from within existing budgets.

5. LEGAL IMPLICATIONS

- 5.1 Arrangements for joint health scrutiny committees are set out in Sections 7 and 8 of the Health and Social Care Act 2001 and associated regulations and guidance. Where NHS proposals affect more than one authority any local authority overview and scrutiny committees wishing to be formally consulted have to form a joint committee through which formal scrutiny powers can be exercised. The Council does not have to join the proposed joint committee, but if it does not its scrutiny influence may be reduced. The Local Government Act 1972 requires full Council approval to join a non-executive joint committee.

| | |
|---|------------------|
| Non-Applicable Sections: | Policy/Personnel |
| Background Documents: (Access via Contact Officer) | |

This page is left intentionally blank

Our Healthier South East London: update August 2015

This paper sets out the progress to date of the *Our Healthier South East London* programme, which is led by the six south east London CCGs – Bexley, Bromley, Greenwich, Lambeth, Lewisham and Southwark – and NHS England. The programme aims to develop a commissioning strategy to ensure improved, safe and sustainable services across the six boroughs.

1. The case for change and our vision

We published the Case for Change in February 2014. It sets out how the six CCGs and NHS England are working together to address challenges around quality of care, finance and workforce. Commissioners recognise that while some issues can and should be addressed at local borough level by the CCG and its partners, others cross borough boundaries and require a joint response. We have a shared understanding of the challenges facing south east London. These are outlined in our Case for Change.

Our health outcomes in south east London are not as good as they should be:

- Too many people live with preventable ill health or die too early
- The outcomes from care in our health services vary significantly and high quality care is not available all the time
- We don't treat people early enough to have the best results
- People's experience of care is very variable and can be much better
- Patients tell us that their care is not joined up between different services
- The money to pay for the NHS is limited and need is continually increasing
- Every one of us pays for the NHS and we have a responsibility to spend this money well

Our collective vision

In south east London we spend £4 billion in the NHS. Over the next five years, commissioners aim to achieve much better outcomes than are achieved now by:

- Supporting people to be more in control of their health and have a greater say in their own care
- Helping people to live independently and know what to do when things go wrong
- Helping communities to support one another
- Making sure primary care services are consistently excellent and with an increased focus on prevention
- Reducing variation in healthcare outcomes and addressing inequalities by raising the standards in our health services to match the best
- Developing joined up care so that people receive the support they need when they need it
- Delivering services that meet the same high quality standards whenever and wherever care is provided
- Spending our money wisely, to deliver better outcomes and avoid waste

2. Progress of the strategy

Our programme has been built around engagement with stakeholders and the public, with strong involvement of local provider Trusts, local authorities, public and patient voices and the general public (see section 3 below). We have been talking to local people and stakeholders at every stage of the programme and we have taken their feedback into account as our strategy has developed.

A draft strategy was published in June 2014 and in June 2015, we published an updated version, which we are calling the **Consolidated Strategy**. It will be signed off by commissioners by the end of August. The strategy sets out models of care across all of our clinical workstreams:

- Community-based care
- Urgent and emergency care
- Maternity
- Children's services
- Planned care
- Cancer

These new models of care have been developed by local clinicians, working with senior NHS project managers and public and patient voices. They suggest a number of interventions to improve health outcomes for people in south east London.

Our strategy envisages a transformation in the way care is delivered, with much more care taking place in community settings while hospitals provide specialist care for those who really need it. Community-based care delivered by Local Care Networks in each borough is the foundation of the integrated whole system model that has been developed for south east London (see attached diagram).

While the models of care are far-reaching, we have not at this stage developed any proposals for specific hospital sites. The extent to which services might change at particular sites is being examined over the autumn, after which the potential options will be clearer. Should proposals emerge for major service change, we would formally consult local people on these.

For most interventions, implementation planning can commence immediately. However, there are areas where the impact of the strategy needs further consideration because there is more than one option for delivery, and it could result in significant service change. These interventions will have to undergo a robust options appraisal process.

This option appraisal process aims to identify the best way, or way(s), of delivering the overarching strategy and realising its full benefits. It filters the many potential options for how the interventions can be implemented, and is designed to identify options that are recommended for further work, and, if appropriate, for formal consultation.

Will there be a consultation?

We are currently looking at the likely impact of the strategy in some detail, with a view to considering what changes we need to make in each area to implement it successfully.

Most of the recommendations set out in the strategy can move straight away to detailed design and implementation and some changes are already underway and do not require public consultation. These are mostly community-based care initiatives, designed to deliver more care in the community, which our engagement suggests have widespread clinical, stakeholder and public support.

For services based in acute hospitals, our strategy is for all our hospitals to meet the London Quality Standards, a series of quality and safety standards designed by clinicians working with patients and the public. All 32 London CCGs have signed up to these standards and are working towards them.

We are currently carrying out an analysis of where each of our acute hospitals in south east London is in relation to these standards, so that we can determine what the next steps should be. This analysis will form part of the assessment to determine if we need to go through an options appraisal process.

We expect the analysis to be complete by early September.

If an options appraisal process led to proposals for the reconfiguration of hospital services, and major service change, public consultation would be required.

3. Impact of the strategy

We have analysed the likely impact of the strategy, though further analysis will be needed once we have a clearer idea of what may be proposed for specific sites.

The NHS in south east London currently spends £4 billion in total across commissioners and providers and has 4,166 acute hospital beds. Over the five years of the strategy, the available money will grow by £800 million to £4.8 billion. However, if we do nothing, the spend will grow in total by £1.1 billion to £5.9 billion.

The requirement for acute hospital beds will grow because the demand for health services is increasing; people are living longer but many with long term conditions such as diabetes, high blood pressure and mental illnesses. The technical advances in diagnostics and treatments mean that the costs of providing care are rising faster than inflation each year.

Our Healthier South East London is about responding better to people's needs by providing an alternative high quality model of care that is focused on improved outcomes for the population we serve. This is because:

- The care models are focused on prevention and early intervention and keeping people healthy and therefore keeping people out of hospital
- Community Based Care is the foundation of the whole system and is intended to keep people closer to home, treating them in the community and enabling people to only visit hospital when they really need to
- Care pathways and professionals will be more integrated
- Productivity is expected to increase and providers will continue to deliver efficiency savings (eg through improved procurement, combined support services, improved rostering of staff) which will help to close the gap
- Our aim will be for bed occupancy to meet the national guidance (which is not the case now) which will improve safety, quality and efficiency
- **Our current modelling therefore shows that at the end of the five years, we shall need about the same number of hospital beds as now - but some of them will be used differently (more day case, fewer inpatient beds; shorter lengths of stay...)**
- This is therefore not about closing a hospital, but about avoiding the need to build a new one, which we could not afford, by improving health and outcomes and delivering services which better meet people's needs
- It is also about creating a legacy for the future as the improvements in prevention and care should result in benefits which will materialise beyond the current time horizon of the next five years.

4. Engagement

We are committed to involving stakeholders and the public in helping us to develop the strategy. This is reflected in our approach to date and in the programme's governance.

We have held a number of independently facilitated events:

- Two deliberative events in July 2014
- An event in each borough in November/December 2014
- An event for members of patient reference groups to discuss how the programme may make decisions (our draft options appraisal methodology)
- An event in each borough in June 2015, for voluntary and community sector stakeholders (30%) and members of the public selected by random sampling to broadly represent their local communities (70%).

These events discussed the emerging case for change and the emerging ideas set out in the draft strategy. Feedback was collated and responded to in 'You Said We Did' reports produced by the programme, available on the programme website www.ourhealthiersel.nhs.uk

Issues Paper

In May 2015, we published an **Issues Paper**, summarising the case for change and the ideas set out in the strategy, together with some questions for local people and stakeholders to respond to. This has been widely distributed across south east London. The publication of Issues Papers is regarded as emerging best practice for programmes considering major service change. **We strongly recommend that all our stakeholders read and respond to the Issues Paper.**

Direct involvement of public and patient voices

Public and patient voices have been represented on all of our Clinical leadership Groups, which make recommendations about our six clinical workstreams - community-based care, urgent and emergency care, maternity, children's services, planned care and cancer. We also have a **Public and Patient Advisory Group (PPAG)**, which meets every six weeks to advise the programme on public engagement.

Equalities

An early, independent Equalities Impact Assessment was carried out in the summer of 2014 and a further Equalities Analysis was carried out in the summer of 2015. This will be published shortly on the programme website.

5. Governance and decision-making

Provider Trusts, local authorities and the public are all embedded in the programme's structures:

- They are represented on our **Clinical Leadership Groups**, which have recommended the new models of care. We also have a **Partnership Group**, drawn from CCGs, patients, local authorities, provider trusts and other stakeholder organisations, which meets on a monthly basis to discuss and feed back on key developments in the programme.
- Our **Clinical Executive Group** includes Medical Directors from local provider Trusts and NHS England and local authority and PPAG representatives.
- Both of these groups report to our **Clinical Commissioning Board**, drawn from the leadership of the local CCGs, which makes recommendations for CCGs governing bodies to consider.

In addition, CCGs have regularly updated **Health and Wellbeing Boards**, discussing the strategy with them at each key milestone.

Ultimately decision-making as to how services are commissioned rests with the Governing Bodies of the six CCGs and NHS England. Earlier this year, the six CCGs agreed that local decision-making would be taken through a **Committee in common** of the six CCGs, with each CCG nominating three representatives to this joint committee.

A full governance chart is attached.

Scrutiny

Up until now, CCGs have reported to their local Overview and Scrutiny Committees as part of business as usual arrangements. However, with the publication of the Consolidated Strategy and Issues Paper, we believe there is now a case for the establishment of a **Joint Overview and Scrutiny Committee** for south east London and we have raised this with local authorities. Our suggestion would be to have a first meeting of a Joint Overview and Scrutiny Committee before the completion of our options appraisal process.

6. Next steps

- We will continue to plan and implement most of the strategy: taking forward the new models of care and interventions that do not need public consultation. We will work with our partners in secondary, primary and community care, mental health trusts and with local authorities to do so.
- By September, we expect to know whether an options appraisal process will be required for some of the care model initiatives. If consultation is needed, we expect it to take place from July-September 2016, with preferred options agreed by December 2016.
- We will shortly publish a summary of the draft models of care and further thinking as a follow-up to the Issues Paper. This will summarise our very latest thinking, as set out the consolidated strategy.

How stakeholders and local people can help

- Respond to our Issues Paper at <http://www.ourhealthiersel.nhs.uk/about-us/issues-paper.htm> or by writing to Our Healthier South East London, 160 Tooley Street, London SE1 2TZ.
- Invite your local CCG and the programme team to a meeting to brief colleagues or to run a roadshow on your premises for your staff.
- Share this briefing and our Issues Paper with colleagues and stakeholders.

Staying in touch

You can email the programme team at SOUCCG.SELstrategy@nhs.net or follow @ourhealthiersel on Twitter.

Attached for your reference is a diagram of the programme's Whole System Model and a summary programme timeline.

Our integrated whole system model

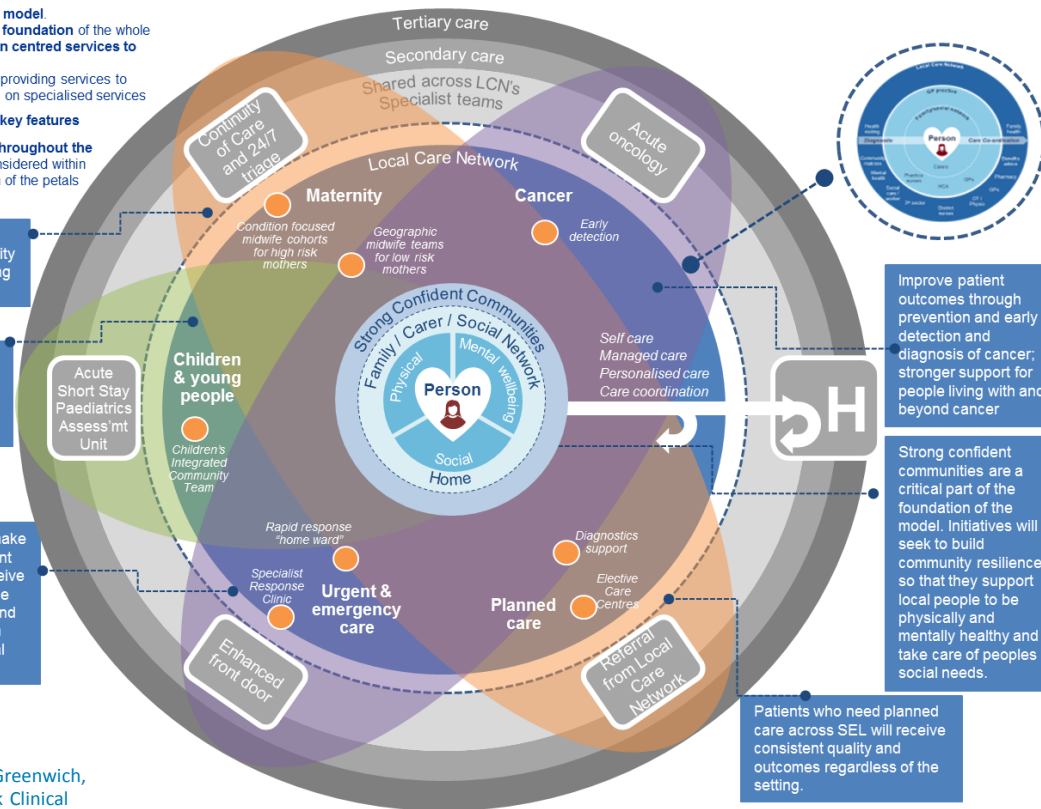
Community Based Care delivered by Local Care Networks is the foundation of the integrated whole system model that has been developed for south east London. This diagram provides an overview of the whole system model, incorporating initiatives from all 6 Clinical Leadership Groups.

- This is our **integrated system model**.
- **Local Care Networks are the foundation** of the whole system model providing **person centred services to populations**
- **The petals are the pathways** providing services to cohorts of people and drawing on specialised services
- The **orange circles** represent **key features**
- **Mental health is embedded throughout the whole system model**. It is considered within Local Care Networks and each of the petals

Mums-to-be will receive a personalised service, continuity of care and a range of birthing options

Children and young people will be able to access more specialised services through children's integrated community teams

A rapid response team will make sure patients who need urgent and emergency care will receive the treatment they need in the right place at the right time and will support patients to return home and move back to local health and care services



Improve patient outcomes through prevention and early detection and diagnosis of cancer; stronger support for people living with and beyond cancer

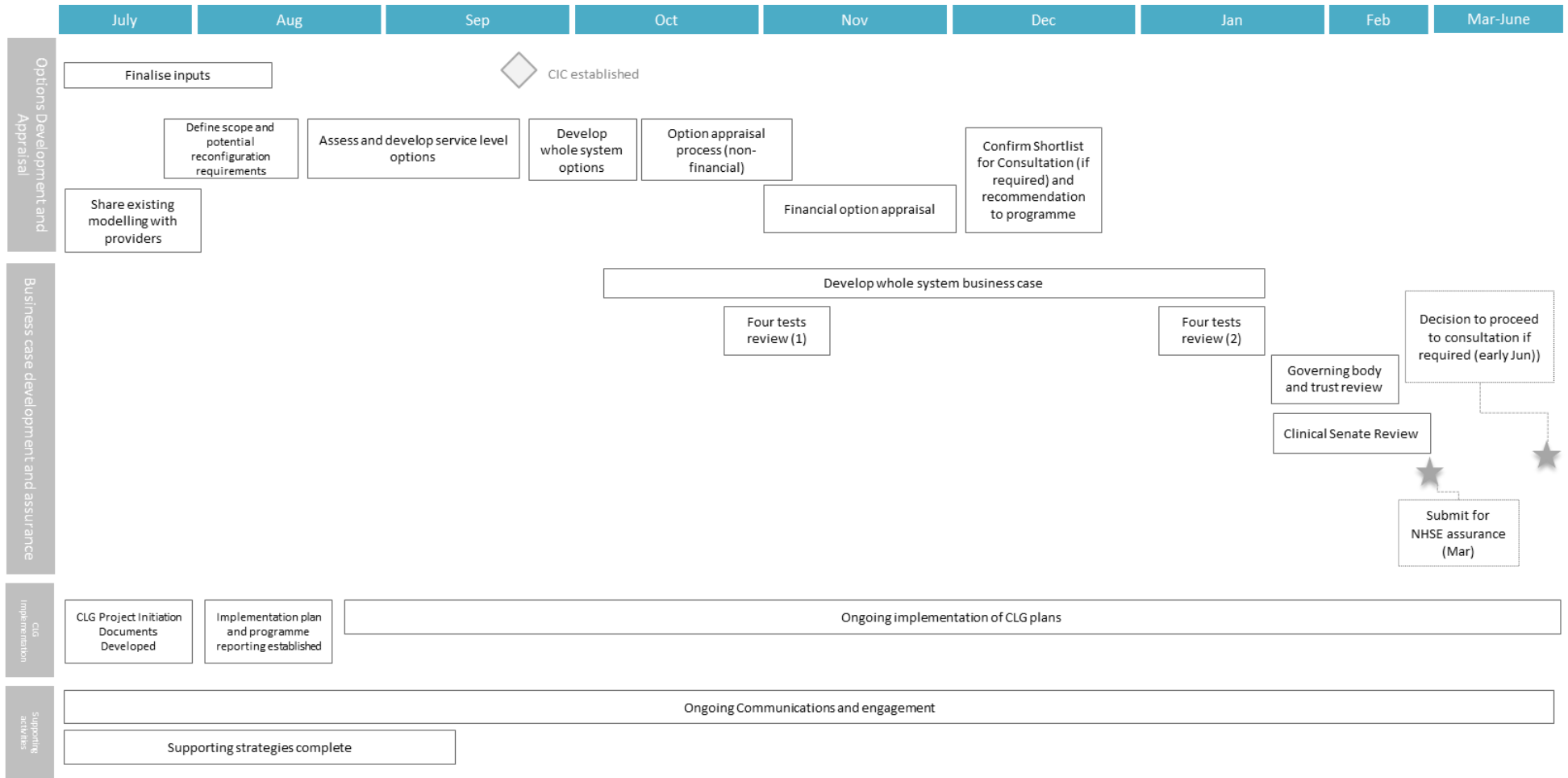
Strong confident communities are a critical part of the foundation of the model. Initiatives will seek to build community resilience so that they support local people to be physically and mentally healthy and take care of peoples social needs.

Patients who need planned care across SEL will receive consistent quality and outcomes regardless of the setting.

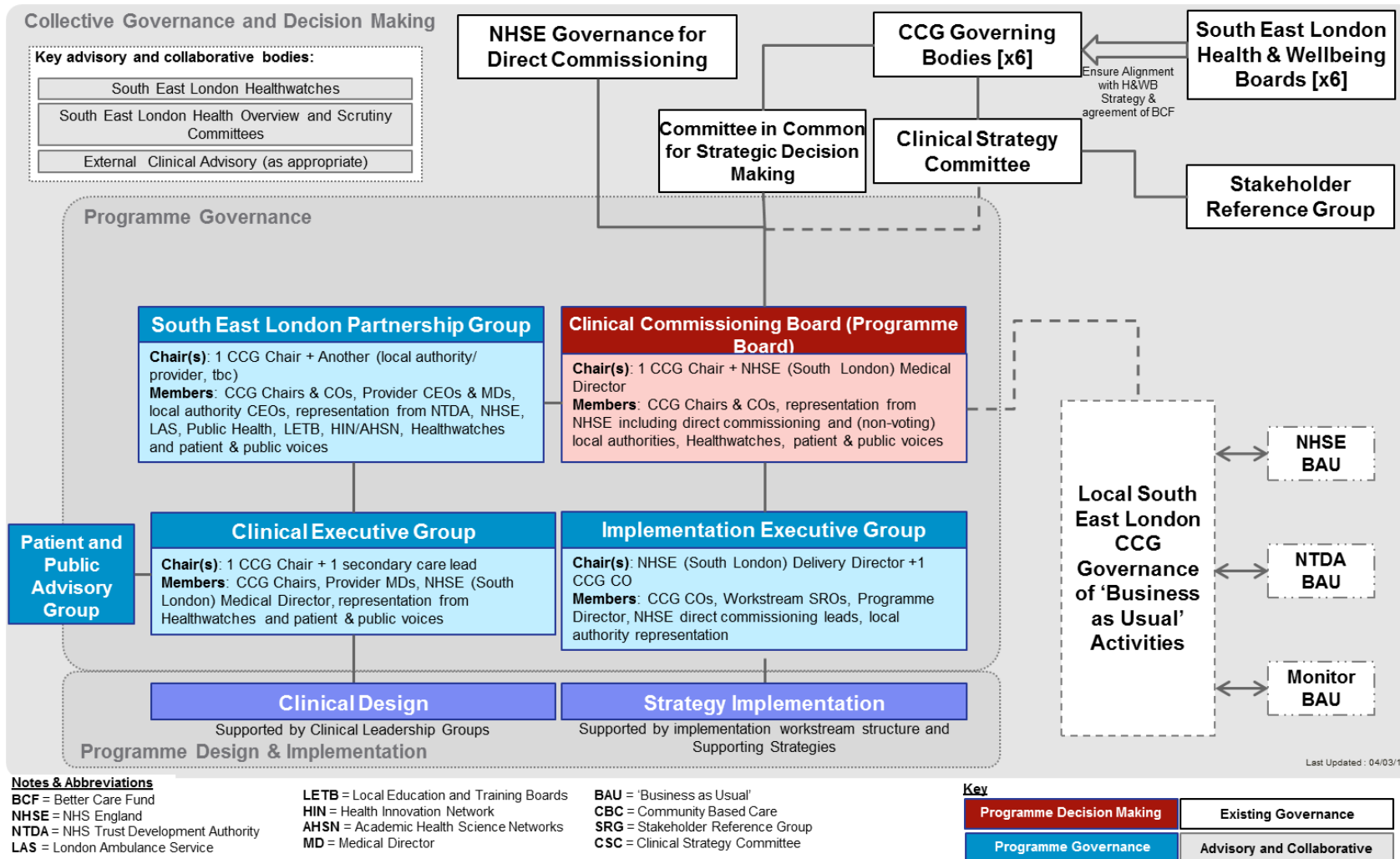
A partnership of Bexley, Bromley, Greenwich, Lambeth, Lewisham and Southwark Clinical Commissioning Groups and NHS England

Draft in progress | 4

Timeline



Governance



This page is left intentionally blank

Report No.
CSD15135

London Borough of Bromley

PART ONE - PUBLIC

Decision Maker: COUNCIL
GENERAL PURPOSES AND LICENSING COMMITTEE

Date: 14th December 2015
9th December 2015

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

Title: FINANCIAL REGULATIONS AND CONTRACT PROCEDURE RULES

Contact Officer: Graham Walton, Democratic Services Manager
Tel: 0208 461 7743 E-mail: graham.walton@bromley.gov.uk

Chief Officer: Mark Bowen, Director of Corporate Services

Ward: N/A

1. Reason for report

- 1.1 The Council's Financial Regulations and Contract Procedure Rules were last updated on 12th November 2012. Both documents need updating as a result of changes to legislation, government requirements, organisational changes and technology. The amended documents will be considered in turn by Audit Sub-Committee on 1st December, General Purposes and Licensing Committee on 9th December and full Council on 14th December. If at any stage Members make any additional changes these will be reported to the next meeting in the sequence.
- 1.2 Section 3 of the attached report to Audit Sub-Committee sets out the main changes required to bring these documents up to date, and the amended text is set out in full.
-

2. **RECOMMENDATION**

General Purposes and Licensing Committee is requested to consider any comments on the updated Financial Regulations and Contract Procedure Rules made by Audit Sub-Committee before referral to full Council.

Subject to formal referral from General Purposes and Licensing Committee, Council is recommended to approve the updated Financial Regulations and Contract Procedure Rules.

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: Internal Audit
 4. Total current budget for this head: £540k including 3174k fraud partnership costs
 5. Source of funding: General fund, Admin subsidy, Admin penalties, Legal cost recoveries.
-

Staff

1. Number of staff (current and additional): 6FTE including .5 FTE risk officer post for Internal Audit (Financial Regulations) and 3FTE for Procurement (Contract Procedure Rules)
 2. If from existing staff resources, number of staff hours: Not Applicable
-

Legal

1. Legal Requirement: Statutory Requirement
 2. Call-in: Not Applicable: This report does not involve an executive decision
-

Customer Impact

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

Ward Councillor Views

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

| | |
|---|---|
| Non-Applicable Sections: | Policy/Financial/Legal/Personnel – See attached report |
| Background Documents: (Access via Contact Officer) | Minutes of Council 12th November 2012 Minutes of General Purposes and Licensing Committee, 11th July 2012 |

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

INDEX

FINANCIAL REGULATIONS **2**

FINANCIAL PROCEDURES **25**

FINANCIAL REGULATIONS 2012 INDEX

| | | |
|-----------|--|------------------|
| 1. | <u>Status of Financial Regulations</u> | <u>3</u> |
| 2. | <u>Strategic Responsibilities</u> | <u>6</u> |
| 2.1 | <u>Financial Management</u> | <u>6</u> |
| 2.2 | <u>The Full Council</u> | <u>6</u> |
| 2.3 | <u>The Executive</u> | <u>7</u> |
| 2.4 | <u>Committees</u> | <u>7</u> |
| 2.5 | <u>The Statutory Officers</u> | <u>8</u> |
| 2.6 | <u>Chief Officers</u> | <u>10</u> |
| 2.7 | <u>Other Financial Accountabilities</u> | <u>10</u> |
| 3. | <u>Financial Planning</u> | <u>12</u> |
| 3.1 | <u>Introduction</u> | <u>12</u> |
| 3.2 | <u>Policy Framework</u> | <u>12</u> |
| 3.3 | <u>Revenue and Capital Budgeting</u> | <u>12</u> |
| 4. | <u>Risk Management and Control of Resources</u> | <u>15</u> |
| 4.1 | <u>Introduction</u> | <u>15</u> |
| 4.2 | <u>Risk Management</u> | <u>15</u> |
| 4.3 | <u>Internal Control</u> | <u>15</u> |
| 4.4 | <u>Audit Requirements</u> | <u>16</u> |
| 4.5 | <u>Preventing Fraud and Corruption</u> | <u>16</u> |
| 4.6 | <u>Assets</u> | <u>16</u> |
| 4.7 | <u>Treasury Management and Banking</u> | <u>16</u> |
| 4.8 | <u>Staffing</u> | <u>17</u> |
| 5. | <u>Systems and Procedures</u> | <u>18</u> |
| 5.1 | <u>Introduction</u> | <u>18</u> |
| 5.2 | <u>General</u> | <u>18</u> |
| 5.3 | <u>Income and Expenditure/Scheme of Delegation</u> | <u>18</u> |
| 5.4 | <u>Payments to Employees and Members</u> | <u>19</u> |
| 5.5 | <u>Taxation</u> | <u>19</u> |
| 5.6 | <u>Trading Accounts/Business Units</u> | <u>19</u> |
| 6. | <u>External Arrangements</u> | <u>20</u> |
| 6.1 | <u>Introduction</u> | <u>20</u> |
| 6.2 | <u>Partnerships</u> | <u>20</u> |
| 6.3 | <u>External Funding</u> | <u>21</u> |
| 6.4 | <u>Work for third parties</u> | <u>21</u> |
| | <u>SCHEME OF VIREMENT</u> | <u>22</u> |

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).

FINANCIAL PROCEDURES INDEX

| | | |
|----|---|-----|
| 1 | <u>General</u> | 26 |
| 2 | <u>Preparation of Budgets</u> | 29 |
| 3 | <u>Budgetary Control</u> | 30 |
| 4 | <u>Accounting Arrangements</u> | 33 |
| 5 | <u>Authorisation Limits</u> | 39 |
| 6 | <u>Order and Contracts for Goods, Works and Services</u> | 42 |
| 7 | <u>Contract Procedure Rules</u> | 45 |
| 8 | <u>Payment of Accounts</u> | 46 |
| 9 | <u>Imprest Accounts & Petty Cash</u> | 53 |
| 10 | <u>VAT</u> | 56 |
| 11 | <u>Salaries, Wages and Pensions</u> | 57 |
| 12 | <u>Income</u> | 60 |
| 13 | <u>Banking Arrangements</u> | 62 |
| 14 | <u>Treasury Management</u> | 63 |
| 15 | <u>Insurance and Security</u> | 64 |
| 16 | <u>Stocks and Stores</u> | 67 |
| 17 | <u>Plant and Equipment</u> | 68 |
| 18 | <u>Land & Property</u> | 69 |
| 19 | <u>Disposal of Assets</u> | 70 |
| 20 | <u>Internal & External Audit</u> | 72 |
| 21 | <u>Fraud and Corruption</u> | 75 |
| 22 | <u>Information Systems</u> | 76 |
| 23 | <u>Gifts and Hospitality</u> | 78 |
| 24 | <u>Procedures for Write offs</u> | 79 |
| | <u>Protocols and Supplementary Information</u> | |
| | <u>Fraud and Corruption Protocol</u> | 82 |
| | <u>Retention of Documents</u> | 86 |
| | <u>Code of Practice on Drafting Financial Implications in Committee Reports</u> | 102 |
| | <u>Code of Conduct for Gifts and Hospitality</u> | 104 |
| | <u>Transparency Code</u> | 111 |

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

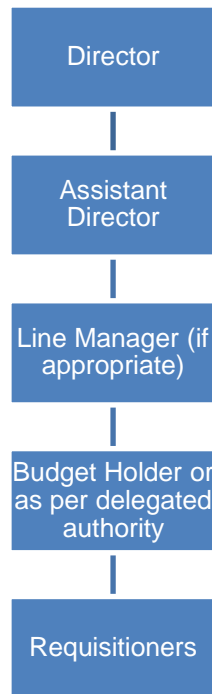
5.2 It is the responsibility of Chief Officers to ensure that a proper scheme of delegation has been established within their area and is operating effectively.

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 |
|--|--|-----------------------------|-----------|

| | | | |
|---|--|--|--|
| <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 |
|--|---------|----------------------|-----------------------------|

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](#)

Page | 1

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.

Page | 4

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**

Page | 8

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.

Page | 9

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

Page | 10

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.

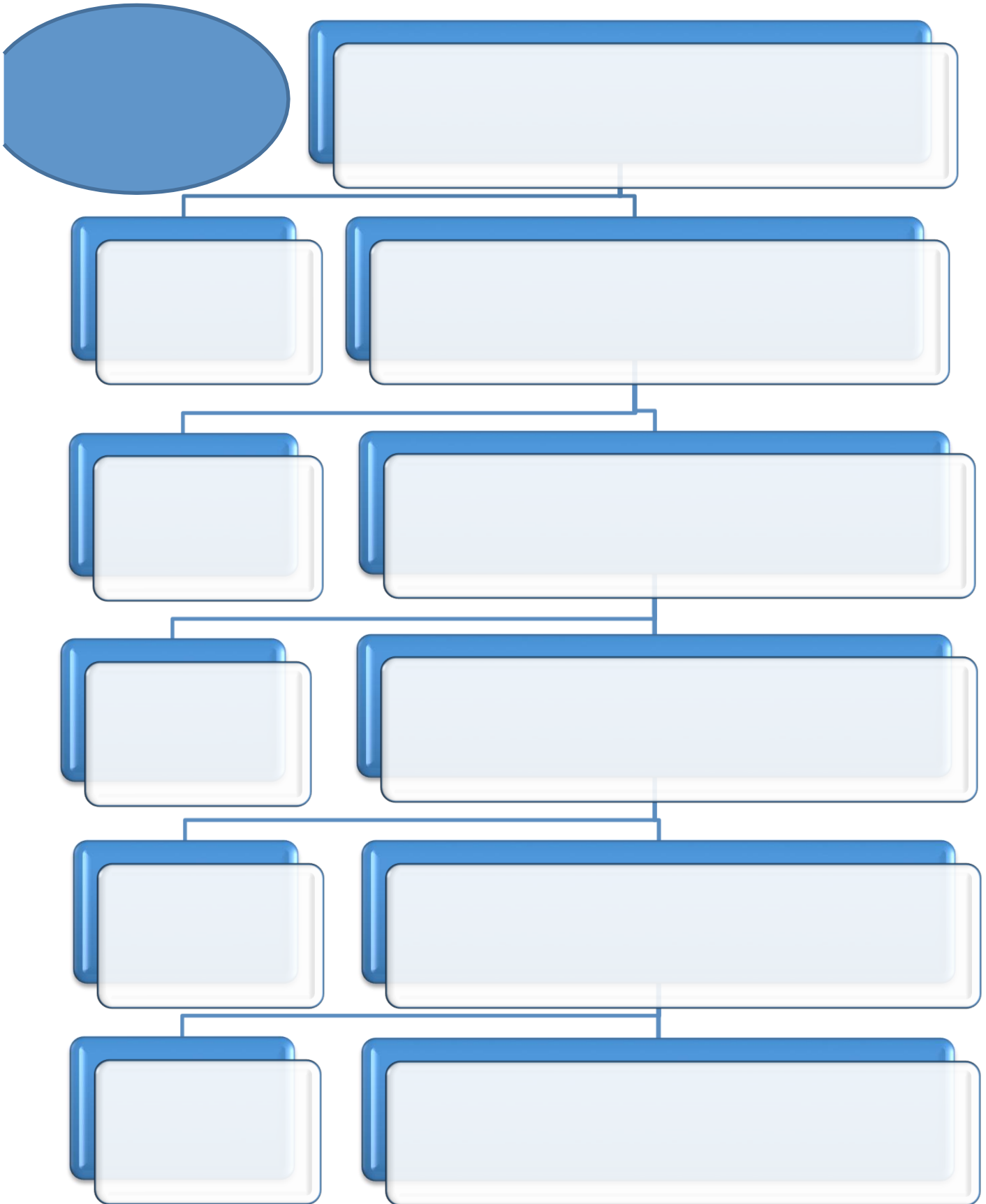
23.3 Post-contractual remedies (for contracts that have already been awarded) include contractual ineffectiveness (i.e. cancellation, but only for very serious rule breaches,) contract shortening, and civil financial penalties (fines). A properly applied standstill period gives good protection against 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

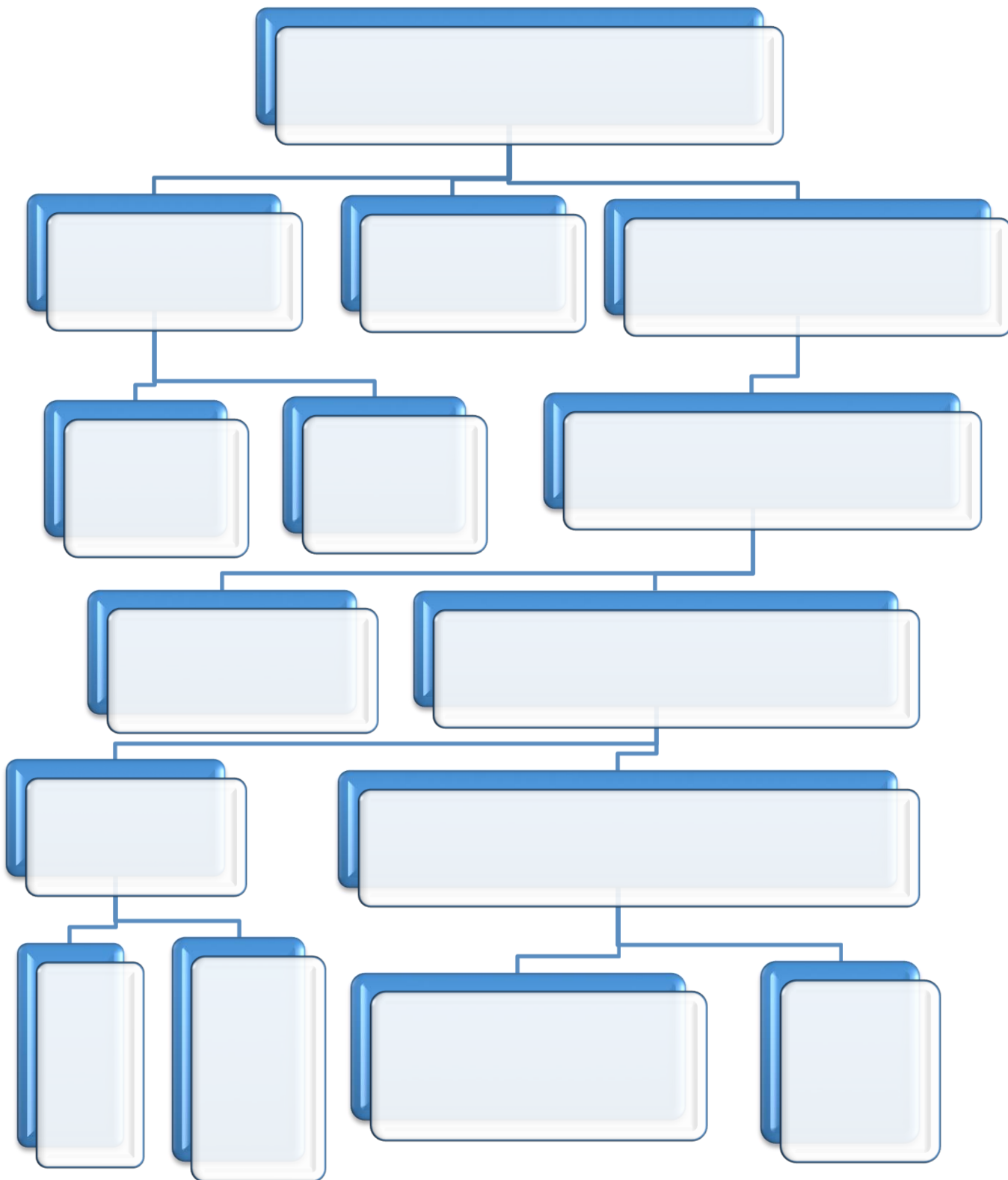
Will the contract be awarded in accordance with relevant international rules? (Regulation 17)

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

CONTENTS

| | |
|---|-----------|
| INTRODUCTION & Guide | 4 |
| SECTION 1: SCOPE OF CONTRACT PROCEDURE RULES | 6 |
| 1. BASIC PRINCIPLES | 6 |
| 2. OFFICER RESPONSIBILITIES..... | 8 |
| 3. EXEMPTIONS, COLLABORATIVE AND E-PROCUREMENT ARRANGEMENTS..... | 10 |
| 4. RELEVANT CONTRACTS | 12 |
| SECTION 2: COMMON REQUIREMENTS | 13 |
| 5. STEPS PRIOR TO PURCHASE | 13 |
| 6. RECORDS | 14 |
| 7. ADVERTISING, APPROVED LISTS AND FRAMEWORK AGREEMENTS..... | 16 |
| SECTION 3: CONDUCTING PURCHASE AND DISPOSAL | 18 |
| 8. COMPETITION REQUIREMENTS FOR PURCHASE, DISPOSAL AND PARTNERSHIP ARRANGEMENTS..... | 19 |
| 9. PRE-TENDER MARKET RESEARCH AND CONSULTATION..... | 21 |
| 10. STANDARDS AND AWARD CRITERIA..... | 22 |
| 11. INVITATIONS TO TENDER/QUOTATIONS | 23 |
| 12. SHORTLISTING..... | 24 |
| 13. EXEMPTIONS TO THE NEED FOR COMPETITIVE TENDER | 25 |
| 14. SUBMISSION, RECEIPT AND OPENING OF TENDERS / QUOTATIONS..... | 26 |
| 15. CLARIFICATION PROCEDURES AND POST-TENDER NEGOTIATION..... | 27 |
| 16. EVALUATION, AWARD OF CONTRACT AND DEBRIEFING CANDIDATES | 28 |
| SECTION 4: CONTRACT AND OTHER FORMALITIES | 32 |
| 17. CONTRACT DOCUMENTS | 32 |
| 18. BONDS AND PARENT COMPANY GUARANTEES..... | 33 |
| 19. PREVENTION OF CORRUPTION | 34 |
| 20. DECLARATION OF INTERESTS..... | 34 |
| SECTION 5: CONTRACT MANAGEMENT..... | 36 |
| 21. MANAGING CONTRACTS | 36 |

| | |
|---|-----------|
| 22. RISK ASSESSMENT AND CONTINGENCY PLANNING | 36 |
| 23. CONTRACT MONITORING, EVALUATION AND REVIEW | 36 |
| DEFINITIONS APPENDIX..... | 39 |
| ANNEX A..... | 47 |
| <u>List of Practice Notes</u> | |
| ANNEX B..... | 48 |
| EU Contracting Values and Summary of Contracting Arrangements | 48 |
| ANNEX C..... | 67 |
| Contracting Extract - Officer Scheme of Delegation | 67 |
| GENERAL CONDITIONS GOVERNING DELEGATION OF FUNCTIONS TO CHIEF OFFICERS | 67 |
| AUTHORITIES RELATED TO THE FUNCTIONS OF INDIVIDUAL PORTFOLIO HOLDERS AND COMMITTEES | 73 |
| ANNEX D..... | 75 |
| KEY DECISIONS, MEMBER AUTHORISATION AND DELEGATION | 75 |
| GUIDELINES FOR KEY DECISIONS MADE BY OFFICERS | 75 |
| <i>What is a Key Decision?</i> | 75 |
| Before a Key Decision is made - | 75 |
| After a Key Decision has been made - | 76 |
| STATEMENT OF KEY DECISION | 77 |
| ANNEX E..... | 78 |
| SUMMARY OF THE COUNCIL'S "CALL IN" REQUIREMENTS | 78 |
| Holding the Executive to Account | 78 |

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 accords 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.
-

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 Council's 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.

2

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](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.

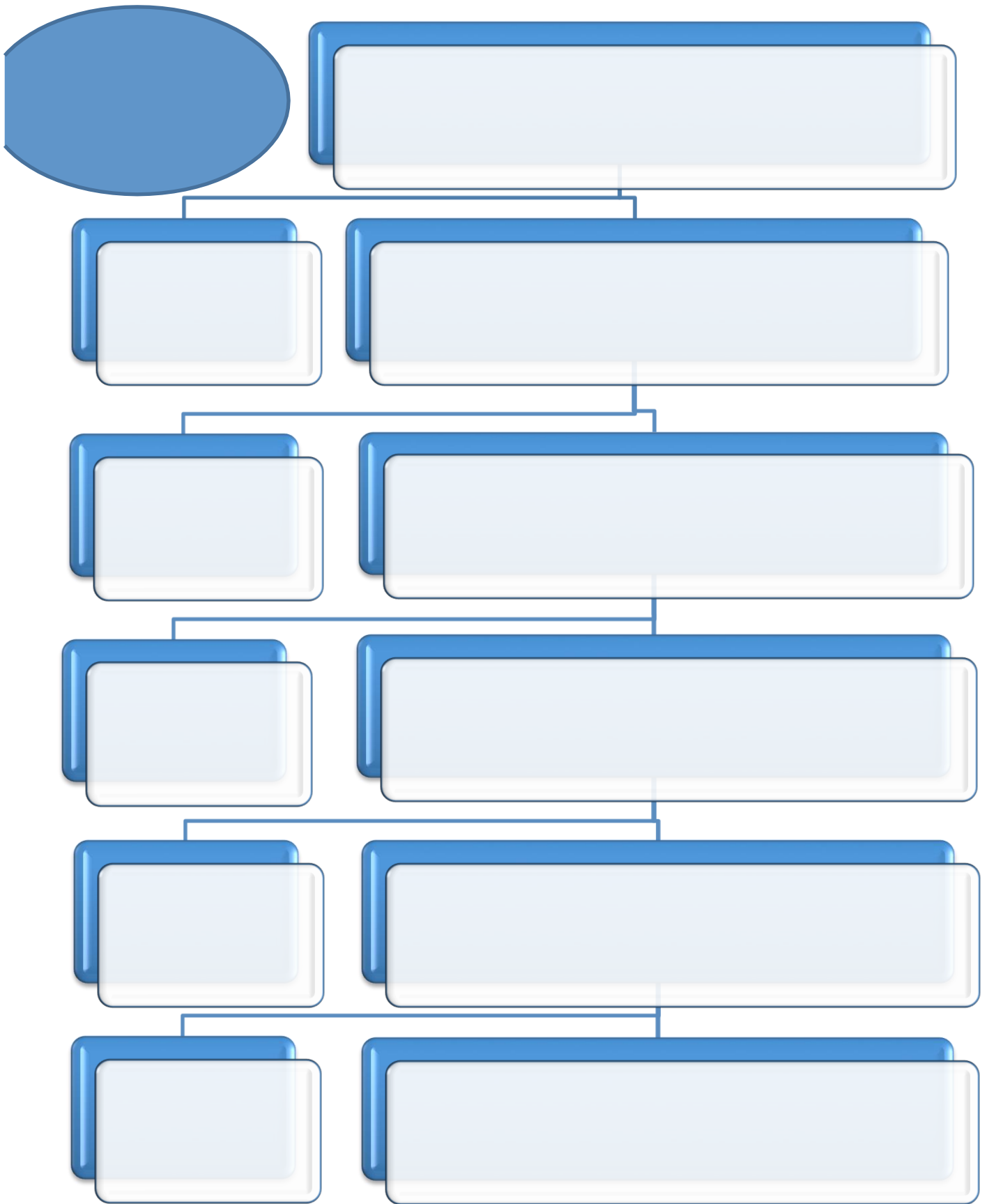
23.4 Cases can also be pursued via the European Commission, for breach of the relevant European Directive and/or the EU Treaties. These cases, where accepted by the Commission, trigger infraction proceedings against the Member State, and can lead to a CJEU hearing, substantial fines, and potentially other CJEU imposed orders against the Member State if the breach is not satisfactorily resolved by other means.

24. Further information

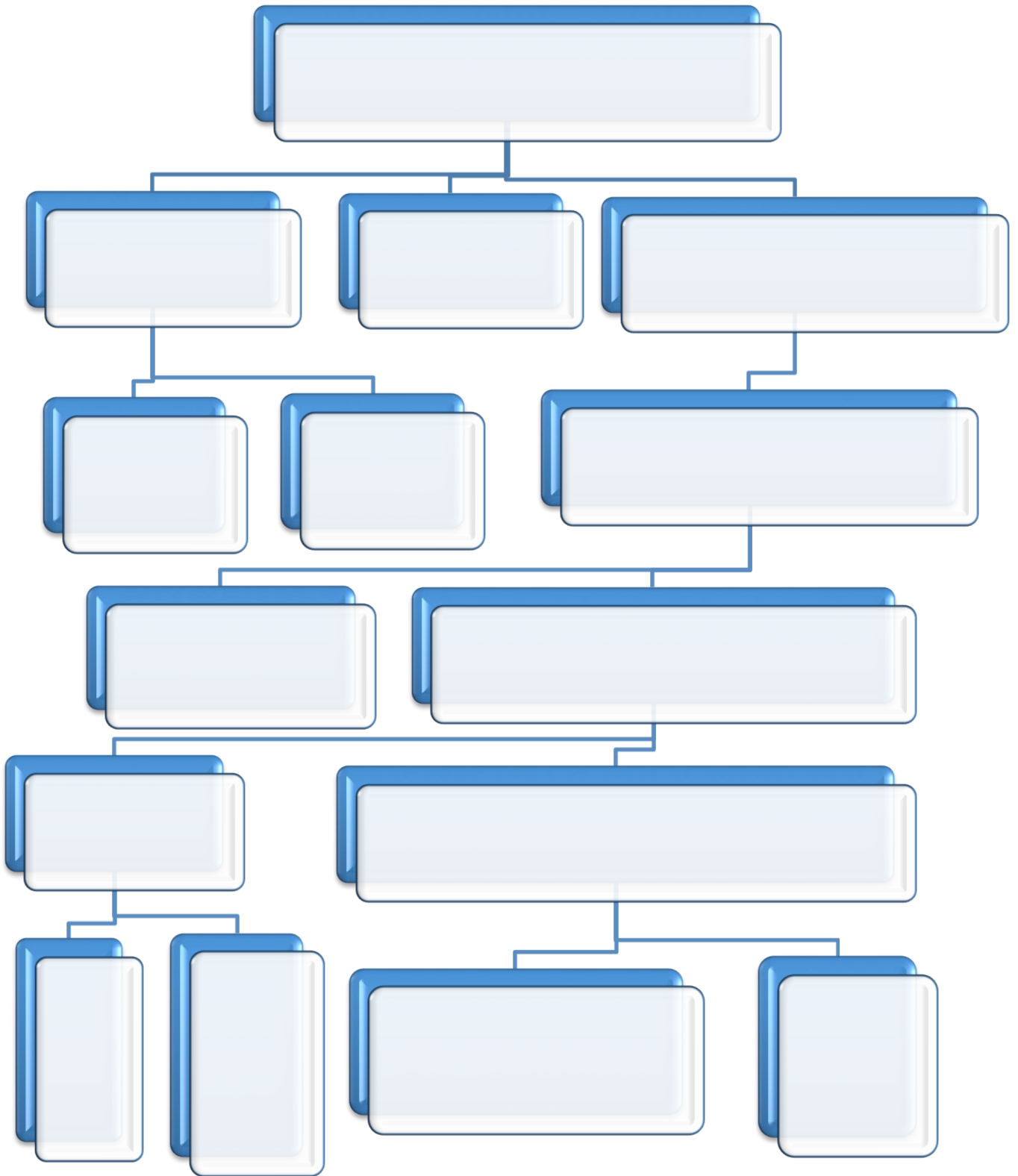
24.1 For further detailed information, including the training materials, see <https://www.gov.uk/transposing-eu-procurement-directives>. More detailed information on certain aspects of the legislation will also be made available in due course.

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 | -- | -- | -- | -- |
|--|----|----|----|----|

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> |
|--|-----------------------|

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> | |
|--|--|

| | |
|---|---|
| <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> |
|---|---|

| | |
|--|----------------|
| (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.

This page is left intentionally blank

LONDON BOROUGH OF BROMLEY
A GUIDE TO CHANGES IN CONTRACT PROCEDURE RULES

CONTENTS

| | |
|---|-----------|
| INTRODUCTION & Guide | 4 |
| SECTION 1: SCOPE OF CONTRACT PROCEDURE RULES | 6 |
| 1. BASIC PRINCIPLES | 6 |
| 2. OFFICER RESPONSIBILITIES..... | 8 |
| 3. EXEMPTIONS, COLLABORATIVE AND E-PROCUREMENT ARRANGEMENTS..... | 10 |
| 4. RELEVANT CONTRACTS | 12 |
| SECTION 2: COMMON REQUIREMENTS | 13 |
| 5. STEPS PRIOR TO PURCHASE | 13 |
| 6. RECORDS | 14 |
| 7. ADVERTISING, APPROVED LISTS AND FRAMEWORK AGREEMENTS..... | 16 |
| SECTION 3: CONDUCTING PURCHASE AND DISPOSAL | 19 |
| 8. COMPETITION REQUIREMENTS FOR PURCHASE, DISPOSAL AND PARTNERSHIP ARRANGEMENTS..... | 20 |
| 9. PRE-TENDER MARKET RESEARCH AND CONSULTATION..... | 23 |
| 10. STANDARDS AND AWARD CRITERIA..... | 23 |
| 11. INVITATIONS TO TENDER/QUOTATIONS | 25 |
| 12. SHORTLISTING..... | 26 |
| 13. EXEMPTIONS TO THE NEED FOR COMPETITIVE TENDER | 26 |
| 14. SUBMISSION, RECEIPT AND OPENING OF TENDERS / QUOTATIONS..... | 27 |
| 15. CLARIFICATION PROCEDURES AND POST-TENDER NEGOTIATION..... | 29 |
| 16. EVALUATION, AWARD OF CONTRACT AND DEBRIEFING CANDIDATES | 30 |
| SECTION 4: CONTRACT AND OTHER FORMALITIES | 34 |
| 17. CONTRACT DOCUMENTS | 34 |
| 18. BONDS AND PARENT COMPANY GUARANTEES..... | 35 |
| 19. PREVENTION OF CORRUPTION | 36 |
| 20. DECLARATION OF INTERESTS..... | 36 |
| SECTION 5: CONTRACT MANAGEMENT | 38 |
| 21. MANAGING CONTRACTS | 38 |

| | |
|--|-----------|
| 22. RISK ASSESSMENT AND CONTINGENCY PLANNING | 38 |
| 23. CONTRACT MONITORING, EVALUATION AND REVIEW | 38 |
| DEFINITIONS APPENDIX..... | 41 |
| ANNEX A..... | 50 |
| <i>Council’s Guide to Successful Procurement</i> | <i>50</i> |
| ANNEX B..... | 51 |
| EU Contracting Values and Summary of Contracting Arrangements | 51 |
| ANNEX C..... | 52 |
| Contracting Extract - Officer Scheme of Delegation | 52 |
| GENERAL CONDITIONS GOVERNING DELEGATION OF FUNCTIONS TO CHIEF OFFICERS | 52 |
| AUTHORITIES RELATED TO THE FUNCTIONS OF INDIVIDUAL PORTFOLIO HOLDERS AND COMMITTEES..... | 58 |
| ANNEX D..... | 60 |
| KEY DECISIONS, MEMBER AUTHORISATION AND DELEGATION..... | 60 |
| GUIDELINES FOR KEY DECISIONS MADE BY OFFICERS | 60 |
| <i>What is a Key Decision?.....</i> | <i>60</i> |
| Before a Key Decision is made - | 60 |
| After a Key Decision has been made - | 61 |
| STATEMENT OF KEY DECISION | 62 |
| ANNEX E..... | 63 |
| SUMMARY OF THE COUNCIL’S “CALL IN” REQUIREMENTS..... | 63 |
| Holding the Executive to Account | 63 |

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 accords 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> |
|--|-----------------------|

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> | |
|--|--|

| | |
|---|---|
| <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> |
|---|---|

| | |
|--|----------------|
| (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.