

## CONSTITUTION AND ETHICS COMMITTEE

THURSDAY 6 OCTOBER 2022

6.00 PM

Bourges/Viersen Room - Town Hall

### AGENDA

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1. Apologies for absence	
2. Declarations of Interest	
3. Minutes of the meetings held on:	3 - 10
4 July 2022	
Reconvened meeting 15 August 2022	
4. Peterborough City Council Governance Review - Terms of Reference	11 - 32
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8. Amendments to the Contract Rules	69 - 164

### INFORMATION ITEMS

9. Update on National Issues	
To note there have been no updates on National Issues since the last meeting.	
10. Dispensations Issued	
To note there have been no dispensations granted since the last meeting.	
11. Councillor Code of Conduct Complaints	165 - 168
12. Training record	169 - 170
13. Work Programme 2022/23	171 - 176

## EXEMPT ITEMS

### 14. Exclusion of the Public and Press

To resolve that the press and public be excluded from the meeting on Item 15 and 16, Honours Panel reports on the grounds that the item contains exempt information under Paragraph 1 of Part 1 of Schedule 12A of the Local Government Act 1972, as amended, and that it would not be in the public interest for this information to be disclosed (Information relating to an individual).

### 15. Honours Panel - Retired Councillors - Alderman Status

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### 16. Honours Panel Report

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## Emergency Evacuation Procedure – Outside Normal Office Hours

*In the event of the fire alarm sounding all persons should vacate the building by way of the nearest escape route and proceed directly to the assembly point in front of the Cathedral. The duty Beadle will assume overall control during any evacuation, however in the unlikely event the Beadle is unavailable, this responsibility will be assumed by the Committee Chair. In the event of a continuous alarm sounding remain seated and await instruction from the duty Beadle.*

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<http://democracy.peterborough.gov.uk/ecSDDisplay.aspx?NAME=Protocol%20on%20the%20use%20of%20Recording&ID=690&RPID=2625610&sch=doc&cat=13385&path=13385>



There is an induction hearing loop system available in all meeting rooms. Some of the systems are infra-red operated, if you wish to use this system then please contact Dan Kalley on 01733 296334 as soon as possible.

### Committee Members:

Councillors: Allen, W Fitzgerald, M Jamil (Vice Chairman), Jones, Sainsbury, N Sandford (Chair) and Simons

Substitutes: Councillors: Haseeb and A Shaheed

Further information about this meeting can be obtained from Dan Kalley on telephone 01733 296334 or by email – [daniel.kalley@peterborough.gov.uk](mailto:daniel.kalley@peterborough.gov.uk)



**MINUTES OF THE CONSTITUTION AND ETHICS COMMITTEE  
MEETING  
HELD AT 6:00PM, ON  
MONDAY, 4 JULY 2022  
BOURGES/VIERSEN ROOMS, PETERBOROUGH**

Present: Councillors Sandford (Chair), Jamil (Vice-Chair), Allen, Fitzgerald,  
Sainsbury, Simons and Alison Jones

Officers in  
Attendance: Dan Kalley, Senior Democratic Services Officer  
Fiona McMillan, Director of Law and Governance and Monitoring  
Officer  
Sue Proctor, Executive and Member Support Manager  
Cecilie Booth, Corporate Director Resources and S151 Officer

**1. APOLOGIES FOR ABSENCE**

There were no apologies for absence received.

**2. DECLARATIONS OF INTEREST**

There were none.

**3. MINUTES OF THE MEETING HELD ON 9 MARCH 2022**

The minutes of the meeting held on 9 March 2022 were agreed as a true and accurate record.

**4. UPDATE BUDGET POLICY FRAMEWORK PROCEDURE RULES**

The Constitution and Ethics Committee received a report in relation to an update to the Budget Policy Framework Procedure Rules.

The Corporate Director Resources and S151 Officer introduced the report and stated that there were a few tweaks to the framework from the previous year, taking on board some of the issues. The key changes involved more training for members and workshops around the budget setting process. In addition the dates had moved forward to allow members the opportunity to set an alternative budget.

A summary of the changes were set out in appendix A. Members were informed that the Council were now working towards a three-year budget

setting process. A first draft of the Q1 MTFFS was currently being debated. The section in 4.3 had a number of typos and these would be corrected before being presented to Full Council.

The Constitution and Ethics Committee debated the report and in summary the key points raised and responses to questions included:

- The Budget Council would be held no later than the 25 February in any given year. It was important to note that the end of February was practically the earliest the budget could be presented to Full Council, allowing for this to go through Scrutiny and Cabinet. This new process was designed to allow opposition members the opportunity to put forward ideas.
- It was difficult to define substantial amendments with regards to the budget. In previous years amendments had come through close to the meeting which prevented the finance officers working these up into proposals that were credible. This new timeline allowed for alternative budgets that were fully assessed and easier to manage.
- There was a lack of understanding from some members across the Council and further training would be welcomed. In addition, a glossary of terms would help some members understand some of the technical terms. Lack of understanding is a problem, glossary of terms some further training.
- The finance team were committed to working with opposition groups and resources within the team would be split between the executive and opposition members.
- It was important that officers worked with opposition members if they wished to create an alternative budget as soon as possible. This allowed well formulated budget proposals to be drawn up and presented to Full Council. Officers would look at the wording within section 4.3 to ensure that substantial amendments were defined clearly and differentiated from amendments that members could submit within the usual timeframes.

The Constitution and Ethics Committee considered and **RESOLVED** (unanimous) to approve the updated Budget Policy Framework Procedure Rules, as outlined in Appendix A and Recommend this to Council for approval.

## **5. UPDATE TO CIVIC PROTOCOL – HONOURS PANEL**

The Constitution and Ethics Committee received a report in relation to updates to the Honours Panel.

The Director of Law and Governance introduced the report and stated that the Civic Protocol had been updated since the last meeting except for the make-up of the Honours Panel. Members were therefore presented with the proposal of adding this to the Constitution and Ethics Committees terms of reference.

The Constitution and Ethics Committee debated the report and in summary the key points raised and responses to questions included:

- Members welcomed the proposals and agreed that it was right the Honours Panel formation and governance was part of the constitution.

The Constitution and Ethics Committee considered and **RESOLVED** (unanimous) to recommend to Full Council that the Constitution and Ethics Committee's terms of reference are amended to include responsibility for the Honours processes, with delegated responsibility for the administration of the processes to be carried out by Executive and Member Services.

## 6. GOVERNANCE REVIEW

The Constitution and Ethics Committee received a report in relation to the Governance Review as detailed in the Improvement Plan agreed at Full Council in December 2021.

The Director of Law and Governance and Monitoring Officer introduced the report and stated that this report was being presented to committee as part of the commitment to consider undertaking a review of the governance arrangements at the Council. The report set out a number of options that the committee could recommend including re-visiting the review that was undertaken in 2016 in conjunction with the Centre for Governance and Scrutiny.

Members were informed that the Council currently operated a leader and cabinet model of governance. The report set out the advantages and disadvantages of the different options, including further information on the Wandsworth model of governance, which included a number of pre-decision scrutiny committees which enabled more Councillors to get involved with decision making across the authority. If options 2 or 3 were agreed a further report would be presented to the committee to enable the process to start the review.

The Constitution and Ethics Committee debated the report and in summary the key points raised and responses to questions included:

- The Labour group had discussed the report in March and were broadly supportive of option 3 to enable a full review to be undertaken.
- The Liberal Democrat group had been in favour of introducing a committee system, similar to that operating in Cambridgeshire County Council, however the group were open to a hybrid system, similar to that at Wandsworth Borough Council in London, allowing for more Councillors to be involved in the decision-making process. The timetable in the report was well defined, although it was understandable that the timelines were dependent on the CfGS carrying out their review.

At this point Councillors Fitzgerald, Steve Allen, Simons and Sainsbury left the meeting. The meeting was therefore adjourned as the committee were no longer quorate.

6:00pm – 6.35pm  
Chairman



**MINUTES OF THE RECONVENED CONSTITUTION AND ETHICS  
COMMITTEE MEETING  
HELD AT 6:00PM, ON  
MONDAY, 15 AUGUST 2022  
COUNCIL CHAMBER, PETERBOROUGH**

Present: Councillors Sandford (Chair), Jamil (Vice-Chair), Allen, Fitzgerald, Sainsbury, Simons and Alison Jones

Officers in Attendance: Dan Kalley, Senior Democratic Services Officer  
Fiona McMillan, Director of Law and Governance and Monitoring Officer  
Rachel Edwards, Head of Constitutional Services

**7. APOLOGIES FOR ABSENCE**

There were no apologies for absence received.

**8. DECLARATIONS OF INTEREST**

There were none received.

**9. GOVERNANCE REVIEW**

The Constitution and Ethics Committee received a report in relation to the Governance Review as detailed in the Improvement Plan agreed at Full Council in December 2021.

The Director of Law and Governance and Monitoring Officer introduced the report and stated that the information was still correct as per the introduction at the meeting on 4 July 2022.

The Constitution and Ethics Committee debated the report and in summary the key points raised and responses to questions included:

- The Labour Group had a number of views within the group over what the best governance routes were. It was therefore the view of the group as a whole to recommend option 3 and have a full-scale review, this was also key to tie in the review on all out elections.

- The Liberal Democrats view was a commitment to having a committee system, similar to that at Cambridgeshire County Council. There was also an understanding that this would not be the most popular view across the authority, in light of that the group would also favour a full-scale review as per option 3. It was noted however that a hybrid system, similar to that which was proposed in 2015/16 would be favourable to the group. This would also mean support of option 2 if other agreed.
- It was agreed that is option 2 was put forward the working group would be made up of the whole membership of the Constitution and Ethics Committee.
- It was also noted that the working group could invite other smaller groups to meetings of the working group where appropriate and invite any external bodies or organisations that might assist the group.
- A proposal was made and seconded for option 3, which was for a full-scale review of the governance arrangements on a vote this was defeated.

The Constitution and Ethics Committee **RESOLVED** (3 for, 4 against) to not go with Option 3 Carry out a full-scale governance review in line with LGA/CfGS guidance which would examine all the available options.

The Constitution and Ethics Committee **RESOLVED** (5 for, 2 against) to:

1. note the options set out at paragraph 4.6 for taking forward a review of the Council's governance arrangements, as outlined in the Council's Improvement Plan agreed by Full Council in December 2021.
2. Agree to Option 2: A light-touch review of recommendations of the governance review carried out in 2015/16, which recommended a hybrid model of decision making with greater involvement of pre-decision scrutiny;
3. As Option 2 was preferred, to ask officers to bring a report back to the next committee outlining the terms of reference for a new member working group, consisting of the membership of the Constitution and Ethics Committee, to carry out a review of the previous governance review work focusing on a hybrid model of governance and bringing an updated proposal back to the formal Committee for consideration before recommending to Full Council.

## 10. DISPENSATIONS ISSUES

The Constitution and Ethics Committee considered and **RESOLVED** (Unanimous) to note that there had been no dispensations granted since the last meeting



**11. UPDATE ON NATIONAL ISSUES**

The Constitution and Ethics Committee considered and **RESOLVED** (Unanimous) to note that there had been no further updates since the last meeting.

**12. CODE OF CONDUCT COMPLAINTS RECEIVED SINCE MARCH 2022**

The Constitution and Ethics Committee received an update report on the code of conduct complaints received by the Monitoring Officer since the last meeting in March 2022.

The Constitution and Ethics Committee considered and **RESOLVED** (Unanimous) to note the report on complaints received/being handled by the Monitoring Officer since the Committee's last report in March 2022.

**13. WORK PROGRAMME, FUTURE DATES AND MEMBER ISSUES**

The Constitution and Ethics Committee received a report in relation to the Committee's Work Programme for the Municipal Year 2022/23.

The Senior Democratic Services Officer introduced the report. It was agreed that at the next meeting a terms of reference for the Governance Review Working Group would be brought to the Committee.

In addition, the Monitoring Officer agreed to ask Group Leaders for any areas where the Council could reasonably have Council Champions, ensuring that they were appropriate and did not conflict with areas currently being undertaken by individual Cabinet Members. If Council Champions were to be put forward it was also essential that the process for formalised and agreed at Annual Council meetings going forward.

The Constitution and Ethics Committee considered and **RESOLVED** (unanimous) to note the Committee's work programme as at 15 August 2022.

6:00pm – 6.35pm

Chairman

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<b>CONSTITUTION AND ETHICS COMMITTEE</b>	AGENDA ITEM No. 4
<b>6 OCTOBER 2022</b>	<b>PUBLIC REPORT</b>

Report of:	Fiona McMillan, Director of Law and Governance and Monitoring Officer	
Cabinet Member(s) responsible:	Councillor Coles, Cabinet Member for Finance and Corporate Governance	
Contact Officer(s):	Fiona McMillan, Director of Law and Governance and Monitoring Officer	Tel. 452409

**PETERBOROUGH CITY COUNCIL GOVERNANCE REVIEW – TERMS OF REFERENCE**

<b>RECOMMENDATIONS</b>	
<b>FROM:</b> Director of Law and Governance	<b>Deadline date:</b> N/A
It is recommended that the Constitution and Ethics agree the terms of reference for a working group to review the governance arrangements at Peterborough City Council.	

**1. ORIGIN OF REPORT**

- 1.1 This report is submitted to the Constitution and Ethics Committee following the committee's agreement at the previous meeting.

**2. PURPOSE AND REASON FOR REPORT**

- 2.1 The purpose of this report is for the Constitution and Ethics Committee to agree the terms of the reference for a working group to review the governance arrangements at Peterborough City Council.
- 2.2 This report is for the Constitution and Ethics Committee to consider under its Terms of Reference No. 2.7.2.1

*Authority to oversee the operation of the Council's Constitution and authority to make recommendations to Full Council as to amendments and improvements to the Council's Constitution (including the codes and protocols) subject to the receipt and consideration of a report prepared by the Monitoring Officer, with the exception of those matters under the remit of the Executive.*

**3. TIMESCALES**

Is this a Major Policy Item/Statutory Plan?	<b>NO</b>	If yes, date for Cabinet meeting	
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#### **4. BACKGROUND AND KEY ISSUES**

- 4.1 At the reconvened Constitution and Ethics Committee meeting on 15 August 2022, the committee agreed by majority to a review of the governance arrangements at Peterborough City Council. The option chosen by the committee was:

**Option 2:** Light-touch review of recommendations of the governance review carried out in 2015/16, which recommended a hybrid model of decision making with greater involvement of pre-decision scrutiny; and

To ask officers to bring a report back to the next committee outlining the terms of reference for a new member working group, consisting of the membership of the Constitution and Ethics Committee, to carry out a review of the previous governance review work focusing on a hybrid model of governance and bringing an updated proposal back to the formal Committee for consideration before recommending to Full Council.

- 4.2 The terms of reference attached at Appendix A outline the arrangements for the working group and outline the areas for the group to review.
- 4.3 Once the terms of reference are agreed meetings of the working group will be arranged, following which recommendations, if any, will be presented to the Constitution and Ethics Committee before being recommended to Full Council. It is anticipated that the working group will conclude their findings by March 2023. However, if there is further work to do the working group will continue meeting until necessary.

Some of the suggested dates are as follows:

- 2 November 2022
- 14 December 2022
- 17 January 2023

- 4.4 The primary focus of the working group will be to review the previous work carried out in 2015/16 to assess if any of the recommendations would be suitable and to review how this may work at the Council at the current time.

#### **5. CONSULTATION**

- 5.1 The governance review working group will be made up of the same membership as the Constitution and Ethics Committee. Group leaders not currently represented on the Committee will also be invited to attend to give their views. It is therefore appropriate that this committee has the opportunity to feed back their views on the terms of reference.

#### **6. ANTICIPATED OUTCOMES OR IMPACT**

- 6.1 That the terms of reference are agreed and that officers can start the process of arranging meetings of the governance review working group.

#### **7. REASON FOR THE RECOMMENDATION**

- 7.1 The recommendation before the committee allows the basis for which the governance review working group can proceed with reviewing governance arrangements at the Council.

#### **8. ALTERNATIVE OPTIONS CONSIDERED**

- 8.1 The committee has the opportunity to make any alterations to the terms of reference. The committee are to note the agreement at the previous meeting to setting up the working group looking at governance arrangements at the Council.

## **9. IMPLICATIONS**

### **Financial Implications**

- 9.1 There are no financial implications arising from the report. The Committee are to note that there may be some financial implications should the committee wish for any external work to be carried out.

### **Legal Implications**

- 9.2 There is the potential for legal and/or governance implications to arise as a result of the findings and recommendations of the working group. These will need to be explored as the working group progresses.

### **Equalities Implications**

- 9.3 There are none.

## **10. BACKGROUND DOCUMENTS**

Used to prepare this report, in accordance with the Local Government (Access to Information) Act 1985

- 10.1 Peterborough City Council Governance Review presented to Constitution and Ethics Committee  
15 August 2022

## **11. APPENDICES**

- 11.1 Appendix A – Draft Terms of Reference Peterborough City Council Governance Review  
Appendix B – Report of 2015/16 working group

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## **Peterborough City Council – Review of Governance Arrangements**

### **Terms of Reference**

#### **Objective:**

At its meeting on 15 August 2022 the Constitution and Ethics Committee agreed that a cross party working group of members be formed to review and revisit the recommendations made by the Design and Implementation working group from 2015/16, with the particular focus of reviewing a hybrid model of decision making.

#### **Scope and purpose:**

The working group will consider:

- The main features and advantages and/or disadvantages of the current structure of governance within the Council alongside the possibility of using a hybrid model of governance and/or other suitable governance arrangements
- The work of the Design and Implementation Working Group that reviewed governance arrangements in 2015/16.
- Guidance produced by the Local Government Association (LGA), Centre for Governance and Scrutiny (CfGS) and others on Council governance arrangements
- Any other research available on Council Governance arrangements
- Case studies - examples and feedback from other Councils that have changed their Council governance structures
- The impact of making a change to the Council governance arrangements i.e. cost, risk, impact on officers, impact on members of the public, etc
- What a finished system would look like and the practicalities as to how it would work
- Where appropriate invite external organisations (i.e other local authorities/LGA/CfGS) to inform the working group on the workings of other governance arrangements.
- Any costs associated with changes to the governance structures.

#### **Membership:**

The working group will be made up of all members of the Constitution and Ethics Committee. In order to maintain consistency substitution arrangements will not apply to the working group

It is expected that the working group will put forward any recommendations to the Constitution and Ethics Committee for these to be voted on at the formal meetings. Any recommendations that are approved at the formal meetings will then be presented to Full Council.

The working group will invite group leaders of all political groups to attend the meetings to provide support and ideas to the working group but they will have no voting rights unless they are a member of the Committee.

The working group will be chaired by the Chair of the Constitution and Ethics Committee.

**Quorum:**

The working group quoracy will be four, this will follow the prescribed arrangements as laid out in the Constitution for committee meetings (50% of members plus one).

**Meeting frequency:**

The working group will decide at each of its preceding meetings the date and time of its next meeting. It is anticipated that the working group will meet on a regular basis, usually monthly.

**Working arrangements:**

The working group will be supported by the Director of Law and Governance, Head of Constitutional Services and members of the Democratic Services Team. Any notes and recommendations will be produced by the Democratic Services Team.

Any papers or reports will be circulated to members of the working group within 5 days of the meeting. Additional information may be circulated after this if it is deemed relevant to the meetings discussion.

The working group will usually meet virtually via Zoom/Microsoft Teams.



## FINAL REPORT OF THE DESIGN AND IMPLEMENTATION GROUP

### ALTERNATIVE GOVERNANCE ARRANGEMENTS: HYBRID MODEL

#### 1. Purpose

- 1.1 This report sets out the recommendations of the Design and Implementation Working Group on the design proposals for a hybrid model of governance arrangements suitable for Peterborough. It details their proposals for pre-scrutiny of executive decisions and for a proposed revised scrutiny structure suitable for a hybrid model.

#### 2. Background

- 2.1 In July 2015 the Council agreed to adopt an alternative form of governance to take effect from the Annual Council meeting in 2016. The preferred model was a hybrid model of executive decision making with a greater involvement of pre-scrutiny review (a Peterborough model).<sup>1</sup> It set up a cross party working group to design the model, known as the Design and Implementation Working Group. Its terms of reference is attached (Appendix 1(a)).

- 2.2 The membership of the working group was as follows:

Cllr Thulbourn (Labour) - Chairman  
 Cllr Hiller (Conservative)  
 Cllr Lane (Independent/Werrington First)  
 Cllr North (Conservative)  
 Cllr Aitken (Conservative)  
 Cllr Sandford (Liberal Democrats)  
 Cllr Faustino (Conservative)  
 Cllr Whitby (UKIP)  
 Cllr Holdich (Conservative)  
 Cllr Sharp (Independent/Peterborough Independent Forum)

- 2.3 Since July, the Working Group has met monthly to consider:

- (a) The principles for designing a hybrid model.
- (b) The key elements of the Wandsworth model and how it could be adapted to provide a personalised set of governance arrangements to suit Peterborough City Council.
- (c) A number of approaches for designing suitable proposals for Peterborough; including deciding which decisions should go through the pre decision scrutiny process, whether there should be a reference up process (in addition to call in) and the form it should take.
- (d) Options for consulting on the budget under a hybrid model, and
- (e) The constitutional, process and timetabling implications of the new arrangements.

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<sup>1</sup> A 'hybrid' model of governance is where the executive (Cabinet and Leader) is retained but the scrutiny function alters its focus to become an advisory body to the executive in addition to providing its post scrutiny functions.

- 2.4 The Working Group also arranged to hold two workshops for all scrutiny members guided by a representative of the Centre for Public Scrutiny:
- (a) The first workshop in October was to seek scrutiny member's views on key elements of the hybrid model, the current scrutiny arrangements and the improvements they would like to see. The workshop fed back their views on the future role of scrutiny and the design principles for a new scrutiny structure.
  - (b) The second workshop was held on 7 December to consult on a proposed structure and to begin to discuss how members might programme their work to focus on pre-scrutiny and adding value.

## **Recommendations**

### **3. Principles**

- 3.1 The Working Group's first task was to discuss and agree principles to inform the design of a new system suitable for Peterborough. They agreed the following principles:
- (a) An efficient, effective and timely decision making structure, which is open, transparent, accountable, and inclusive.
  - (b) A system where
    - 1) The executive would value constructive and sensible input from Scrutiny Committees to improve decisions taken.
    - 2) Non-executive members feel that they are involved and can influence executive decisions before they are made and there is a mechanism to identify which decisions they wish to influence.
    - 3) Scrutiny acts as a "critical friend".
    - 4) Scrutiny Committee Chairmen and Cabinet Members work in partnership.
  - (c) Scrutiny Committees should make recommendations to Cabinet/Cabinet Members having regard to officer recommendations. If the Scrutiny Committee did not agree with the officer recommendations, they provide reasons.
  - (d) Cabinet should take decisions on the advice of scrutiny. The executive would be expected to agree with scrutiny's recommendations but they should still be able to take an alternative decision. In such circumstances there would have to be strong reasons for doing so and the relevant Scrutiny Committee would be informed of those reasons.
  - (e) There would need to be a process to deal with urgent decisions.

### **4. Role of Scrutiny in Peterborough**

- 4.1 The Working Group also consulted all scrutiny members at two scrutiny workshops on the future role of scrutiny and their views on the principles for designing new scrutiny arrangements.
- 4.2 Feedback from the scrutiny workshops indicated there was too much emphasis on "review and scrutiny". Scrutiny members wanted to be engaged early in the process before

decisions were made so that they could make a positive contribution. They considered that meaningful scrutiny should emerge from the following principles:

- (a) Councillors should be able to engage early in decision making and provide a strong, objective, and distinct voice.
- (b) There should be open and transparent decision-making between scrutiny and the executive, together with improved communication between them.
- (c) Scrutiny should focus on adding value: it ought to decide key areas to consider rather than being a means to review all matters.
- (d) The hybrid model should provide a mechanism to identify key issues for pre-decision scrutiny both at the policy development stage and prior to executive decision making and include a process for resolving differences.
- (e) Any Scrutiny arrangements should enable members to build sufficient knowledge and expertise in related functions and involve multiple members in the scrutiny process.

4.3 The above principles were used to design the proposed hybrid model and scrutiny arrangements. Therefore, in addition to its review and scrutiny function, the Working Group proposed the following definition be added to the role of scrutiny.

#### **DIG 1 Recommendation**

The following definition be added to the role of scrutiny:

*In addition to its role in holding the executive and partners to account, the role of scrutiny is to provide a positive input into decision-making at an early stage; both at the policy development stage and prior to decision making. It has a strong, objective and distinct voice and is a mechanism for bringing a wide range of voices, views, ideas and expertise. As members of an elected body, it will ensure it adds value and transparency at all times.*

## **5. Executive Decisions subject to Pre-decision Scrutiny**

- 5.1 The Working Group considered whether all executive decisions should be scrutinised before executive decisions were made as in Wandsworth. The Working Group agreed that this model would not work for Peterborough; if all executive decisions were pre-scrutinised, Scrutiny Committees would be overloaded, would involve them in unnecessary detail and result in delays in executive decision making. Unlike Wandsworth, they would prefer not to see further delegation of executive decisions or increased use of urgency powers by officers. Instead, Members would like to be more selective about the decisions that come to scrutiny before the decision is made. They recommend that the relevant Chairman of a scrutiny committee in consultation with the Cabinet Member should decide which decisions should be subject to pre-scrutiny.
- 5.2 At the time of publication of the forward plan (twice a month), the Chairman and Cabinet Member would review the plan to identify which decisions should come under scrutiny before the executive decision is made, those that do not require pre-scrutiny or to identify

particularly contentious or difficult decisions which need early scrutiny. It would be for the Chairman to decide how they involved other members of the committee.

- 5.3 Members also favoured the use of informal networks such as the Group Leaders' meetings to resolve issues. There was no proposed changes to the Group Representative meetings under the Member/Officer Protocols in Part 5, Section 3 of the Constitution. They recommended that the Group Representative meetings should still continue to meet at various points in the year to enable the Scrutiny Chairman to consult with the Committee or Group Representatives as set out in the Member/Officer Protocol.

#### **DIG 2 Recommendation**

- (a) The relevant Chairman of a Scrutiny Committee in consultation with a Cabinet Member should decide which decisions should be subject to pre-scrutiny at a meeting at which Officers can provide advice and guidance.
- (b) All planned executive decisions should be included in the forward plan for 28 days, where possible.

## **6. Implications for Scrutiny Work Programme**

- 6.1 The Working Group noted the scrutiny workshop's views that Members wanted to manage their work programme differently. They wanted to provide a positive input into decision-making at an early stage; both at the policy development stage and prior to decision making. In order to undertake pre decision scrutiny and to develop ideas and generate policy, this work would need to take priority over post decision scrutiny which they saw as lacking influence and negative. The workshop agreed they would use prioritisation to manage their workload:

- (a) Any matters relating to pre-decision scrutiny would need to take priority.
- (b) Being selective in choosing items for scrutiny for example, choosing two or three themes a year to inform their work programming rather than considering a wide range of issues.
- (c) The agenda and programme should be member led.
- (d) Once the work programme is set, they should avoid adding other items throughout the year unless absolutely necessary.
- (e) Rather than monitoring a myriad of performance indicators for every function, scrutiny should receive performance indicators on key areas of importance and follow a dashboard/ traffic light system; green for on target; red for target not achieved etc.
- (f) Eliminating from the agenda "items for information" which should be circulated outside of the committee.

- 6.2 The Working Group noted that the Scrutiny Workshop had requested more assistance in deciding their work programme, in identifying priorities and their information needs and resources so that they were equipped to add value in a much more focused way. This would be progressed as part of the member induction programme after the elections and as part of the scrutiny work planning at their first meetings after the Annual Meeting. It would be a key role of the Chairman to lead this work.

## **7. Scrutiny Structure and Size**

### **Structure**

- 7.1 Having consulted Scrutiny Members, the Working Group agreed the current scrutiny structure was not fit for purpose.
- 7.2 It recognised the current scrutiny structure would not work under a hybrid model for a number of reasons; any future structures needed to be aligned with Cabinet and Director portfolios to ensure the correct matters were referred to scrutiny committees. Decision making needed to be timely and avoid Cabinet Members and Directors attending numerous scrutiny meetings prior to Cabinet. It specifically needed to be designed to fit with a hybrid model.
- 7.3 The Design and Implementation Group proposed the establishment of the following three committees:
- (a) Children and Education Scrutiny Committee
  - (b) Adults, Communities and Health Scrutiny Committee
  - (c) Growth, Environment & Resources Scrutiny Committee
- 7.4 The proposed structure addressed the following:
- 1) The terms of reference of each committee was evenly balanced in terms of its size and area of responsibilities.
  - 2) The structure is aligned to Cabinet Member roles, to Directors' portfolios to build the officer support role for scrutiny and to the Council's work which falls into two main categories: the family, and the wider environment (including economic development and resources). In other words people and place. This would assist with ensuring the correct matters were added to the scrutiny agendas.
  - 3) As now, there needed to be one committee with overall responsibility for the budget. This would be the Growth, Environment and Resources Scrutiny Committee. There are separate arrangements for the budget process set out in a flowchart at Appendix 1(b) to the report.
  - 4) Specific statutory responsibilities of scrutiny have been taken into account:
    - (a) The Adults, Health & Community Scrutiny would undertake scrutiny:
      - 1) the Council's statutory functions under section 19 of the Police and Justice Act 2006 relating to the scrutiny of crime and disorder matters;

- 2) the Council's statutory functions under section 244 of the National Health Service Act 2006 to review and scrutinise matters relating to the Health Service within the Council's area and to make reports and recommendations to local NHS bodies or providers.

These committees should continue to undertake their statutory responsibilities as they do at present.

- (b) The Growth, Environment and Resources Scrutiny Committee would undertake the Council's statutory duty to review and scrutinise flood risk management functions which may affect the local authority's area under section 21F of the Local Government Act 2000 (as amended by the Flood and Water Management Act 2010).
  - (c) The Children & Education Scrutiny Committee would include the statutory requirement to have church and parent governor representatives on the Scrutiny Committee considering matters related to education.
- 5) There is no separate rural committee. Councillors from rural areas were represented on all committees so rural as well as urban matters were represented. If the interests of rural areas were particularly important this could be dealt with by other means, such as having a heading in the report template entitled "Rural Implications", or using Parish Council Liaison Committees to consult on rural issues etc. Scrutiny Members on committees could be designated specialist roles, such as rural spokesperson.
  - 6) The overriding priority was to enhance the ability to add value at the appropriate stage in decision making. Cabinet meets 10 times a year and under the current structure, four of the five Scrutiny Committees would need to meet the week before Cabinet. This would substantially increase the number of meetings and levels of bureaucracy which does not align with the principles for the new model. Under a hybrid model, the Design and Implementation Group decided Cabinet Members and Directors should not be shadowing more than one committee, although, some overlap could not be avoided. It should also avoid having to attend numerous scrutiny meetings leading up to Cabinet meetings. This suggested that a maximum of three committees was the optimum number.
  - 7) Fewer committees did not mean less involvement of a wider range of councillors as the committees could be quite large; where necessary committees could make use of task and finish groups to consider matters in more detail when feeding into policy development, as now. Where it was proposed that informal discussions take place, it would be important that the nature and products of those discussions were fed back through a formal, public forum in the interests of transparency.
  - 8) Cross cutting issues should be dealt with by making provision in reports to highlight these, or where necessary the committees might set up cross cutting task and finish groups, or meet jointly to provide a single set of recommendations.

7.5 The second scrutiny workshop was concerned that three committees might be insufficient in view of the workload of the current committees and discussed splitting the Adults and Health, or Growth and Resources Committees. It was emphasised that workload could be managed through work programming and prioritisation. In accepting the proposal for three

Scrutiny Committees, the workshop requested that the structure be reviewed a year after implementation.

### **Size of Scrutiny Committees**

- 7.6 The Working Group also considered the future size of Scrutiny Committees. The existing committees were between 7 and 10 members (total 38 members). CfPS research demonstrated that committee size, in itself, had no direct bearing on the effectiveness of scrutiny work.
- 7.7 The Group recognised that a balance needed to be struck between having sufficient Members for a broad range of views but not too large for effective debate and efficient decision making. The Design and Implementation Group recommended that each committee had 10 members. They considered that a committee of larger than 10 would be too large, taking into account co-opted members.
- 7.8 As now, there would be statutory education co-opted members on the Children and Education Scrutiny Committee with voting and call-in rights on education matters only. In addition, committees may co-opt up to four non-voting members or partners on to their committees.
- 7.9 The Working Group also noted that the current constitution provided for a non-voting representative of other faiths without voting rights to sit on any scrutiny committee considering educational issues. This position had never been filled despite attempts to do so. It also provided for any committee acting as the Crime and Disorder Committee to include a representative of Cambridgeshire and a Peterborough Fire Authority with full voting rights. However, the Fire Authority had never taken up the position. As these positions had not been filled and there was provision to appoint four non-voting co-opted members under the new arrangements, they recommended these positions be removed.

#### **DIG 3 Recommendation**

- (a) That three Scrutiny Committees be established.
- (i) Children and Education Scrutiny Committee
  - (ii) Adults, Communities and Health Scrutiny Committee
  - (iii) Growth, Environment & Resources Scrutiny Committee
- (b) Each committee consists of 10 members together with any co-opted members.
- (c) That a review be undertaken prior to May 2017 to ensure that the proposed structure is effective.
- (d) For the reasons set out in 7.9, and as all scrutiny committees may co-op up to four voting members, the following co-opted member positions be removed from the constitution:
- (i) A representative of Cambridgeshire and a Peterborough Fire Authority on any Scrutiny Committee acting as the Crime and Disorder Committee with full voting rights on these matters only.
  - (ii) A representative of other faiths without voting rights on any committee considering educational issues.

## **8. Chairman of Scrutiny Committees**

### **Charter on Role of Chairman:**

- 8.1 The Working Group recognised that the Chairman would have a much stronger role in managing the agenda, particularly in working with the relevant Cabinet Member on agreeing items for pre-decision scrutiny and ensuring that the Committee had a manageable work programme. They recommended that there should be a Chairman's charter outlining their rights and responsibilities under the new hybrid model. From previous discussions, Members saw the role as:
- (a) Providing leadership to the Committee and managing the business through setting its agenda and work programmes
  - (b) Managing the agenda in consultation with committee members to ensure the work of the Committee is member led, and is in accordance with member priorities
  - (c) Ensuring that its work primarily focused on pre-decision scrutiny, and adding value
  - (d) Leading on the development of the work programme to ensure it is focused
  - (e) Working with the relevant Cabinet Members to review the forward plan to identify key issues for pre-decision scrutiny both at the policy development stage or prior to decision making liaising with members of the committee and taking the views of Group Representatives as necessary
  - (f) When making recommendations to the executive, ensure there is consensus that members take account of officer advice and where the Committee do not agree with the officer or Cabinet Member recommendations, clear reasons are given
  - (g) Ensuring the Committees' input to executive decision making is efficient and effective
  - (h) To represent the Committee at Cabinet meetings
  - (i) To foster relationships founded on mutual respect and open communications between Directors, the Executive and Scrutiny members.

### **Appointment of Chairman of a Scrutiny Committee**

- 8.2. There had been discussion at the Scrutiny Workshop about whether the Chairman should come from an opposition group. The Design and Implementation Working Group also discussed whether the Council should appoint the Chairman of a scrutiny committee, whether it should be the Committee itself following the Annual meeting and whether the constitution should state that the Chairman should come from an opposition group.

Members were split and no firm decision was agreed. The various views were:

- (a) Some Members felt that a further separation between the majority group and scrutiny was necessary to ensure scrutiny was seen as strong. They noted that perception



was important, and having a chairman who was a member of the majority group might lead to questions about the strength of scrutiny.

- (b) Others argued that there should not be a presumption that the Chairman should come from any particular group, but rather the best person should be chosen for the job and this could be undertaken by the Committee, rather than by nominations from political groups at the Council meeting. A committee would not want to be put in the position of appointing a member with no experience of chairing or who had just been appointed to the Council just because that person was from a minority group. The Chairman might be a member of the Administration but that did not mean opposition groups would not have their view heard.

#### **DIG 4 Recommendation**

- i. That the Chairman of Scrutiny Committees should have a charter to set out the rights and responsibilities of the Chairman
- ii. Having considered the arguments for and against, the Working Group made no recommendations regarding the appointment of the Chairman of Scrutiny Committees.

### **9. Process, Timetable and Frequency of Meetings**

- 9.1 Whilst not all decisions would be pre-scrutinised, in order to carry out the form of pre-decision scrutiny that members prefer, scrutiny committee meetings would need to be aligned to Cabinet to ensure there was no delay in decision making.
- 9.2 Under the Wandsworth model, five scrutiny committees met 4 times a year, and Cabinet met (8 meetings) in between scrutiny meetings to ratify recommendations of scrutiny. Special meetings were arranged as necessary. In Wandsworth it was the delegation and urgency elements which made the system logistically workable. As stated above, unlike Wandsworth, the Working Group would prefer not to see further delegation or increased use of urgency powers.
- 9.3 Currently, Cabinet had 10 meetings a year, including two in February which tended to be budget focused, and each of the five Scrutiny Committees met six times a year (30 scrutiny meetings a year.) In future, each Scrutiny Committee would need to meet prior to Cabinet, which would increase the number of times the Committees should meet (30 meetings a year i.e. the same number as at present.)
- 9.4 The Working Group proposed that each committee met eight times a year to shadow Cabinet<sup>2</sup> with a caveat that meetings may be cancelled if there were no matters to discuss. Any identified individual cabinet member decisions would need to be scheduled in around the scrutiny calendar. The agenda would require careful forward planning, and the early identification of those decisions identified as “key” where scrutiny’s input would be of value.

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<sup>2</sup> On average two of the ten meetings discuss the budget for which there will be a separate process

- 9.5 In order to undertake pre decision scrutiny and to ensure timely decision making, the Group agreed that the most efficient option would be to have one report with officer recommendations which would go jointly to scrutiny and to Cabinet. Therefore the Cabinet agenda could be printed in 2 parts, those reports that are subject to pre decision scrutiny will be published at the same time as the agenda for scrutiny meetings (approximately 9-12 clear working days before the Cabinet meeting instead of 5 clear working days before the meeting).
- 9.6 In order to undertake pre decision scrutiny and to ensure timely decision making, meetings would need to be aligned to Cabinet meetings. For example, if Cabinet meets on a Monday, Scrutiny Committees would meet the week before i.e. Monday to Wednesday before the Monday Cabinet meeting. Following each meeting of scrutiny, a schedule would be published stating whether the Committee agreed with the officer recommendation and details of any specific amendments (the Wandsworth model). These would be published as a supplementary item to the Cabinet report. The timetable below is for illustrative purposes only

**Timetable (illustrative only)**

<b>Week No</b>	<b>Mon</b>	<b>Tues</b>	<b>Wed</b>	<b>Thurs</b>	<b>Friday</b>
1			Forward Plan Published (At least 28 clear days of the Cabinet meeting or Cabinet Member Decisions)		
2		Chairman of Scrutiny & relevant Cabinet Members meet to discuss items for pre-scrutiny with officers present			
3			Forward Plan		
4					Cabinet agenda (part 1) & CMDNs published & included on the agenda of relevant Scrutiny Committee
5					Statutory deadline for publication of Cabinet agenda (part 2)
6	Scrutiny Committee meeting	Scrutiny Committee meeting	Scrutiny Committee meeting		
7	Cabinet				

## **DIG 5 Recommendation**

That each Scrutiny Committee meets eight times a year prior to shadow Cabinet with a caveat that meetings may be cancelled if there were no matters to discuss

### **10. Cabinet Member Decisions, Minority Reporting, and other safeguards**

- 10.1 The Group discussed having safeguard mechanisms in certain circumstances:
- 10.2 **Cabinet Member Decisions (CMDN):** The Working Group considered that CMDNs were beneficial to ensure efficient decisions making. However, they would like to see certain safeguards. If the Cabinet Member were inclined to take a decision that went against the recommendation of the Scrutiny Committee, then the CMDN should automatically be referred to Cabinet and be taken in the public arena. The Leader of the Council who had responsibility for executive decisions, confirmed he had no objection to this proposal.
- 10.3 **Cabinet Decisions:** It was recognised that reports from Officers were based on professional judgement. If the Scrutiny Committee did not agree with officer recommendations, then they needed to give reasons for that decision. If Cabinet did not agree with Scrutiny Committee recommendations, then Members of the Council had the ability to call in decisions under the existing call in arrangements
- 10.4 **Minority Reports:** Where a Scrutiny Committee makes recommendations which other members do not agree, opposing members on the committee should have an opportunity to submit a minority report to Cabinet. The Working Group recommended that the minority report including the alternative recommendations would be submitted to Cabinet at the same time as they receive the Scrutiny Committee's recommendation.
- 10.5 For individual Member Decisions, the Cabinet Member would refer the recommendation and minority report to Cabinet, rather than take the decision themselves.
- 10.6 The Group considered the above proposals would ensure there was public debate at Cabinet before the decision was made and was preferable to the Wandsworth model where Members may refer the recommendations to Council should an alternative recommendation be deemed more appropriate. The Wandsworth model could considerably delay decision making and it did not give the opportunity for Cabinet to consider the Scrutiny Committee's recommendations and any minority report before it made its decision. In addition, the Council met infrequently and the matter would have to be reported back to Cabinet after the Council meeting as Council cannot overturn executive decisions. Under the proposed model, Cabinet would consider both sets of recommendations, and make their decision. If members were not satisfied after that, they could call in the decision. Disputes could also be discussed informally at Group Leaders meetings.
- 10.7 **Speaking rights at Cabinet meetings:** The Working Group was concerned that scrutiny members, particularly the Chair, would need specific rights to speak at Cabinet. The Leader agreed to review the Executive Procedure Rules to accommodate this.
- 10.8 **Amendments to Call in:** The Working Group noted that under the existing call in arrangements set out in Part 4 Section 8 of the Scrutiny Procedure Rules, the relevant

Scrutiny Committee discusses any requests for call-in and may refer it back to the decision making body for reconsideration.

- 10.9 The Working Party discussed whether it was appropriate for a scrutiny committee to consider a call in where it had been involved in the original decision and had made recommendations to the Cabinet. They recommended that the Scrutiny Procedure Rules should be amended to state that any request to call-in a decision cannot be considered by the Scrutiny Committee that made the original recommendations to Cabinet. The call in must be considered by another Scrutiny Committee to provide independence.
- 10.10 **Urgency:** Current standing orders provide for urgent decisions. The Working Group considered whether any processes should be put in place where there was no time to go through the “pre-scrutiny decision” process. They considered an informal process was more appropriate, and recommended that the Cabinet Member and Chairman of the Scrutiny Committee should agree informally to exemptions to pre-scrutiny of decisions for reasons of urgency as part of their review of the forward plan or where a decision becomes urgent as it goes through the process.
- 10.11 They also recommended that where an individual cabinet member decision (CMDN) had been identified for pre-scrutiny but could not be scheduled for a Scrutiny Committee, the Cabinet Member could take the decision in consultation with the Chairman. The decision would be subject to the existing call in procedure.

#### **DIG 6 Recommendation**

**That the Constitution, Executive and Scrutiny Procedure Rules be amended to include the safeguards in paragraph 10.1. to 10.11 above.**

## **11. Budget Process**

- 11.1 The Working Group considered options for the budget process under a hybrid model. A summary of the proposed arrangements is set out in Appendix 1 b. The Budget & Policy Framework rules in the Constitution would need to be amended and would be reported to a future Council meeting as part of the necessary constitutional changes that are required, once Council had agreed the proposed hybrid model.

## **ALTERNATIVE GOVERNANCE: DESIGN & IMPLEMENTATION GROUP**

### **TERMS OF REFERENCE**

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#### **Objective**

A cross party working group of members to design and implement the structure of the proposed governance of the Council. The working group will report to Council in December 2015 with detailed proposals for implementation of the new proposals for the civic year 2016/17.

The objective of the working group is to provide a personalised set of governance arrangements for Peterborough City Council based upon a hybrid model of executive decision making with a greater involvement of pre-scrutiny decision making.

#### **Purpose**

To design and plan the implementation the new governance arrangements to include:

- The role of Cabinet
- Individual Cabinet Member decision making
- Executive decisions by officers
- Forward Plan and the corporate work programme
- Budget process
- Urgent decisions
- The new role of Scrutiny Committees
- The call-in process
- Senior officer engagement and the role of CMT
- Consultation processes
- Changes to the constitution
- Alteration of the civic calendar
- Resourcing the changes

#### **Consultation and communication**

To undertake consultations with senior officers, partner organisations, businesses and other stakeholders on the proposed future governance arrangements

To report into Group Leaders meetings and CMT on a monthly basis regarding proposals being considered

To report back to Council by December 2015 outlining the detailed proposals for the new governance system

#### **Constitution & powers**

The working group shall comprise up to ten members. The working group shall be a cross party working group.

Group Leaders will attend/nominate to the Working Group. Substitution arrangements will apply.

Working Group meetings will be held monthly commencing in July. Meetings may be held more frequently as the Group sees fit.

The Working Group is an informal meeting of members to which the Access to Information rules shall not apply

The Working Group shall appoint a Chairman and Vice-Chairman at its first meeting

The quorum of the Working Group shall be 3 members

Meetings of the Working Group will be supported and administered by a senior officer within the Governance team and at least one other senior officer to represent the service delivery function, a research officer and administrative support. Briefing papers will be issued in advance of the meeting.

## ALTERNATIVE GOVERNANCE: DESIGN & IMPLEMENTATION GROUP BUDGET PROCESS

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### 1. Introduction and background

As part of the review of political management arrangements, it is necessary to consider how the budget setting process within the council will operate. The Design and Implementation Group meeting on 26<sup>th</sup> October considered an outline of the process that operates within Wandsworth.

The emerging view from that discussion was that the Wandsworth model was not suitable for Peterborough, but rather that elements of that process could be combined with the elements of the current PCC process to develop a new Peterborough model.

Options were presented and discussed at the Design and Implementation Group meeting on 25<sup>th</sup> November.

### 2. Proposed PCC process

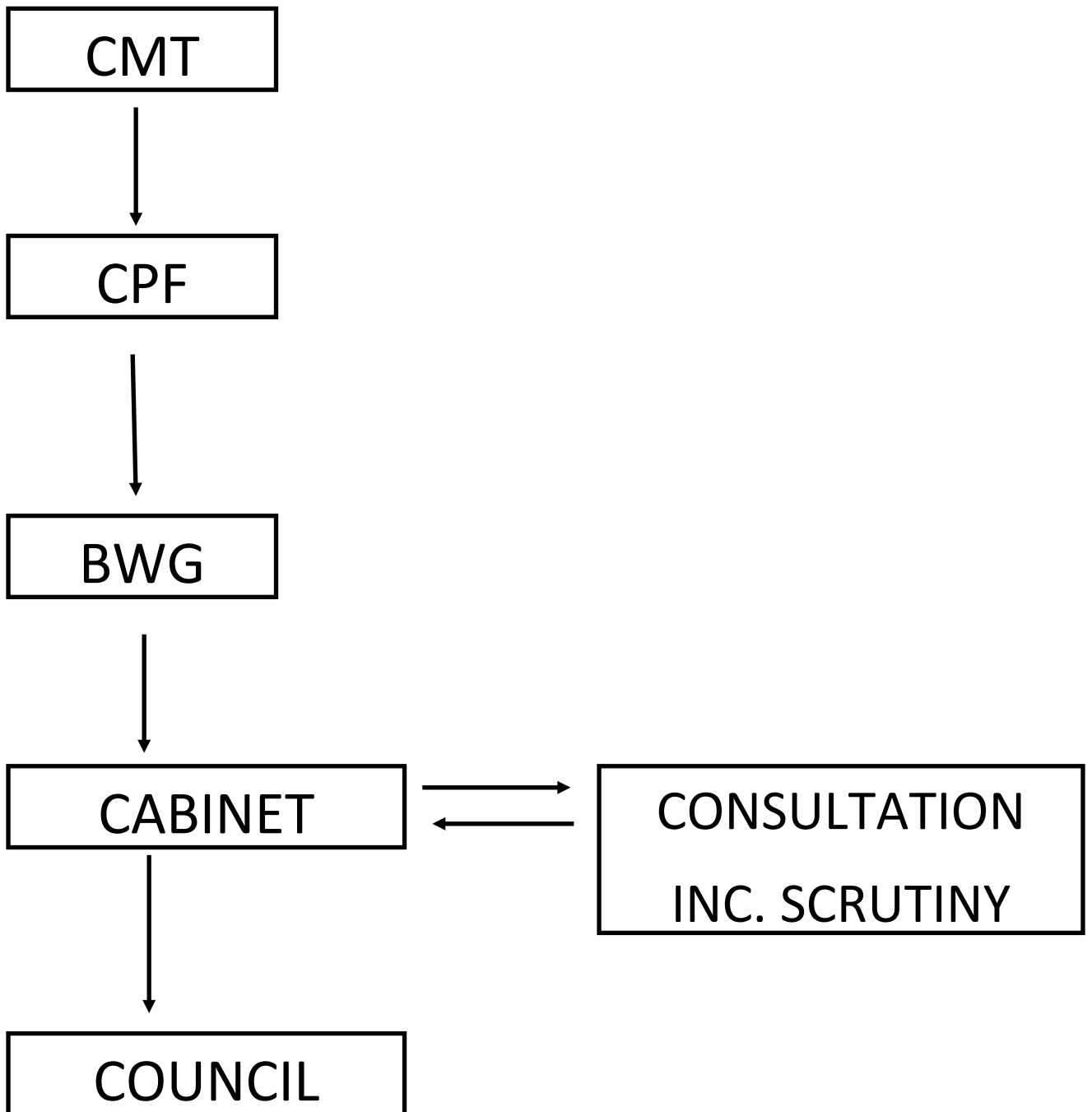
Following the discussion and feedback from Design and Implementation Group on 25<sup>th</sup> November, a proposed process was agreed. A flowchart of the proposed process can be seen in the appendix.

Essentially the process is similar to the process that has been followed in recent years, but has a number of key features:

- Formalises the two phase budget process, enabling scrutiny review of savings proposals earlier than if a single phase process after the financial settlement was followed
- The Group felt that the Budget Working Group has a helpful role and should be retained
- Scrutiny Committees would be consulted on Cabinet budget proposals at each phase
- Alongside this, the Committees have the ability to develop their own proposals as part of themes they are reviewing
- One Scrutiny Committee (Growth, Environment & Resources Scrutiny Committee) will have overall oversight of the Budget and finance issues (and corporate issues such as Council Tax and the Treasury Management Strategy); The Scrutiny Committee with responsibility for Budget did not need to sit 'above' all other Scrutiny Committees
- However following this approach may mean proposals scrutinised on an individual basis, when a collective approach may more appropriate. A joint budget scrutiny meeting could be called for if it was felt necessary. This could be a decision left to the Chairman of each Committee;

**APPENDIX – PROPOSED BUDGET PROCESS**

Note – will be repeated for each of the two phases





<b>CONSTITUTION AND ETHICS COMMITTEE</b>	AGENDA ITEM No. 5
<b>6 OCTOBER 2022</b>	<b>PUBLIC REPORT</b>

Report of:	Fiona McMillan, Director of Law and Governance and Monitoring Officer	
Cabinet Member(s) responsible:	Councillor Coles, Cabinet Member for Finance and Corporate Governance	
Contact Officer(s):	Fiona McMillan, Director of Law and Governance and Monitoring Officer	Tel.

## CONSTITUTION UPDATES

RECOMMENDATIONS	
<b>FROM:</b> <i>Fiona McMillan, Director of Law and Governance and Monitoring Officer</i>	<b>Deadline date:</b> N/A
<p>It is recommended that the Constitution and Ethics Committee:</p> <p><b>Council Agenda Structure and Questions on Notice</b></p> <p>1. Consider any changes to the Council Standing Orders it wishes to recommend to Full Council in relation to the order of Council business.</p> <p>2. Consider any changes to the Council Standing Orders it wishes to recommend to Full Council in relation to the process for submitting, asking and answering Questions on Notice.</p> <p><b>Motions with Significant Implications</b></p> <p>3. Consider any changes to the Council Standing Orders it wishes to recommend to Full Council in relation to Motions with Significant Implications.</p> <p><b>Constitution Naming Conventions</b></p> <p>4. Consider the recommendation of the Task and Finish Group to promote equality and diversity amongst Councillors with regards to naming conventions and make any recommendations to Full Council</p> <p><b>Officer Employment Rules</b></p> <p>5. Consider and recommend to Full Council updating the Officer Employment Rules as set out in section 4.9 of the report</p>	

### 1. ORIGIN OF REPORT

1.1 This report is submitted to the Constitution and Ethics Committee following a request from the Monitoring Officer and as part of the Committee's work programme.

### 2. PURPOSE AND REASON FOR REPORT

2.1 The purpose of this report is to review and update the constitution and recommend to Full Council any changes to the constitution as agreed by the Committee.

2.2 This report is for Constitution and Ethics Committee to consider under its Terms of Reference No. 2.7.2.1

Authority to oversee the operation of the Council's Constitution and authority to make recommendations to Full Council as to amendments and improvements to the Council's Constitution (including the codes and protocols) subject to the receipt and consideration of a report prepared by the Monitoring Officer, with the exception of those matters under the remit of the Executive.

### 3. **TIMESCALES**

Is this a Major Policy Item/Statutory Plan?	<b>NO</b>	If yes, date for Cabinet meeting	<b>N/A</b>
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### 4. **BACKGROUND AND KEY ISSUES**

#### **COUNCIL AGENDA STRUCTURE AND QUESTIONS ON NOTICE**

4.1 At the Constitution and Ethics Committee meeting in March 2022 the Committee debated 'Ward Specific' questions and agreed to leave the process as it was, with a more general consideration of Questions on Notice to be brought to a future meeting, as well as consideration of the overall Council agenda structure.

The order of business for normal business meetings of Council is set out within Council Standing Orders (at paragraph 2.1). An example of what a typical Council agenda currently looks like is set out at **Appendix 1**.

Council Standing Orders 16 and 18 relate to Questions on Notice from the public and Members respectively.

Questions on Notice from the public are heard first, with a 30-minute overall time limit. Any petitions from the public or Members are then received, prior to taking any questions from Members. Question on Notice from Members have a separate time limit of 30-minute for questions to Cabinet Members and Chairs, and an additional 15-minutes for questions to Combined Authority Representatives.

Currently, the public are limited to two questions each, with Members also being limited to two questions each to the Cabinet and Chairs, with one additional question available for Combined Authority Representatives.

Possible alterations that could be considered to the process are:

- Amending the number of questions permitted for each member of the public or Council Member.
- Introducing a limit on the total number of questions permitted at each meeting.
- Amending the various time limits for asking Questions on Notice.

#### **MOTIONS WITH SIGNIFICANT IMPLICATIONS**

4.2 At the Full Council meeting held on 3 March 2021 the further criteria of 'Motions with Major Implications' was added to Council Standing Orders. This required motions with significant resource implications (the equivalent of £100,000 or more) or a significant impact on Council policy or procedures, the Council's strategic/contractual partners, or the city as a whole be received in draft form 14 clear days before the meeting. Nine clear days before the meeting such motions will be published alongside a briefing note from the relevant Director.

This was considered by the Committee at its meeting in November 2021, where it was agreed to continue with the revised process and review it again in six-months' time.

The Committee may wish to change this process in some manner, including definitions, deadlines, or reverting to the previous process which made no distinction between 'significant' implications or 'non-significant' implications.

### **CONSTITUTION NAMING CONVENTIONS**

- 4.3 The Task and Finish Group to promote equality and diversity amongst Councillors recommended that the constitution should be amended to update the use of any "Chairman" title to "Chair" and that it should be at the Mayor's discretion whether they are addressed as "Mr Mayor", "Madam Mayor" or in the same format as Councillors, for example "Mayor" and then surname.
- 4.4 The Committee may wish to consider further options with regards to the naming conventions, which could include allowing those members appointed to chair a committee to decide individually their preference.

### **OFFICER EMPLOYMENT RULES**

- 4.5 The Officer Employment rules set out the rules that govern the way that officers are appointed and dismissed and focus in particular on the role that elected members have in officer appointments and dismissals.
- 4.6 Within the Officer Employment rules it sets out the period within which objection from a member of the executive to the appointment or dismissal is to be made to the Leader is at least 2 clear days.
- 4.7 The regulations set out in the Local Authorities (Standing Orders) (England) Regulations 2001, as amended, sets out the parameters for notifying members of the Executive on the appointment that the Employment Committee wishes to make:
- (b) the proper officer has notified every member of the executive of the authority of—
    - (i) the name of the person to whom the appointor wishes to make the offer;
    - (ii) any other particulars relevant to the appointment which the appointor has notified to the proper officer; and
    - (iii) the period within which any objection to the making of the offer is to be made by the executive leader on behalf of the executive to the proper officer; and
  - (c) either—
    - (i) the executive leader has, within the period specified in the notice under sub-paragraph (b)(iii), notified the appointor that neither he nor any other member of the executive has any objection to the making of the offer;
    - (ii) the proper officer has notified the appointor that no objection was received by him within that period from the executive leader; or
    - (iii) the appointor is satisfied that any objection received from the executive leader within that period is not material or is not well-founded.
- 4.8 There is no legal specified time period for which well-founded objections need to be given to the Leader. It is therefore suggested that the Officer Employment rules are updated to modify this given the Leader sits on the Employment Committee.
- 4.9 The Chief Executive and Assistant Director of Human Resources have also requested that the Officer Employment Rules, along with the terms of reference of the Employment Committee, are amended to remove the requirement for the Employment Committee to appoint Deputy Chief Officers, as this makes the process overly onerous in terms of timescales. There is no legal requirement for this to happen and it is not a usual approach for a council to take, as most focus solely on Chief Officer appointments only in order to fulfil legal requirements. It is proposed that

this requirement is removed so appointment is the responsibility of the Chief Executive as Head of Paid Service.

Proposed amendments to Officer Employment Rules are attached at Appendix 2 and if agreed, amendments will also be made to the terms of reference of Employment Committee.

## **5. CONSULTATION**

- 5.1 Members of the Constitution and Ethics Committee are consulted and agree any recommendations before being presented to Full Council
- 5.2 With regards to the Officer Employment Rules, consultation has taken place with the Chief Executive and Assistant Director HR and Organisational Development.

## **6. ANTICIPATED OUTCOMES OR IMPACT**

- 6.1 If any of the changes to the constitution are agreed they will be presented to Full Council.

## **7. REASON FOR THE RECOMMENDATION**

- 7.1 These recommendations are presented to Committee to strengthen the constitution and streamline some of the processes and procedure where appropriate.

## **8. ALTERNATIVE OPTIONS CONSIDERED**

- 8.1 The Committee may decide to not agree to any further changes and keep the status quo.

## **9. IMPLICATIONS**

### **Financial Implications**

- 9.1 There are none.

### **Legal Implications**

- 9.2 There are none.

### **Equalities Implications**

- 9.3 There are none.

## **10. BACKGROUND DOCUMENTS**

Used to prepare this report, in accordance with the Local Government (Access to Information) Act 1985

- 10.1 [Officer Employment Rules Part 4 Section 9](#)  
Council Standing Orders  
Recommendations and reports from the Task and Finish Group to promote equality and diversity amongst Councillors

## **11. APPENDICES**

- 11.1 Appendix 1 – Example Council Agenda Frontsheet  
Appendix 2 – Officer Employment Rules – Track Changes



## **PETERBOROUGH CITY COUNCIL SUMMONS TO A MEETING**

You are invited to attend a meeting of the Peterborough City Council, which will be held in the Council Chamber, Town Hall on:

**WEDNESDAY 22 JUNE 2022 at 6.00 pm**

### **AGENDA**

**Page No.**

- 1. Apologies for Absence**
- 2. Declarations of Interest**
- 3. Minutes of the Meetings Held on 23 May 2022**

#### **COMMUNICATIONS**

- 4. Mayor's Announcements**
- 5. Leader's Announcements**

#### **QUESTIONS AND PETITIONS**

- 6. Questions from Members of the Public**
- 7. Petitions**
  - (a) Presented by Members of the Public
  - (b) Presented by Members

- 8. Questions on Notice**
  - (a) To the Mayor
  - (b) To the Leader or Member of the Cabinet
  - (c) To the Chair of any Committee or Sub-Committee
  - (d) To the Combined Authority Representatives

#### **RECOMMENDATIONS AND REPORTS**

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**9. Executive and Committee Recommendations to Council**

**(a) Cabinet Recommendation – Carbon Management Action Plan**

**10. Questions on the Executive Decisions Made Since the Last Meeting**

**11. Questions on the Combined Authority Decisions Made Since the Last Meeting**

**COUNCIL BUSINESS**

**12. Motions on Notice**

**13. Reports to Council**

**(a) Revised Elections Process**

**(b) First Report of the Independent Improvement and Assurance Panel**

**(c) Revised Health and Wellbeing Board Terms of Reference**

**(d) Political Proportionality**

**(e) Notification of Revised Executive Delegations**



Chief Executive

14 June 2022  
Sand Martin House  
Fletton Quays  
Peterborough

**Observers may also view the meeting online at Peterborough City Council's YouTube Page**

For more information about this meeting, please contact Pippa Turvey in the City Council's Democratic Services team on Peterborough 01733 452460 or by email at [democraticservices@peterborough.gov.uk](mailto:democraticservices@peterborough.gov.uk)

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## Section 9 - Officer Employment Procedure Rules

### 1. INTRODUCTION

- 1.1. The Council has people working for it (called 'officers') to give advice, implement decisions and manage the day-to-day delivery of its services. Some officers have a specific duty to ensure that the Council acts within the law and uses its resources wisely. These rules govern the way that officers are appointed and dismissed and focus in particular on the role that elected members have in officer appointments and dismissals.

### 2. DEFINITIONS

- 2.1. In these rules:
- "Chief Officer" means a statutory chief officer or a non-statutory chief officer who, as respects all or most of the duties of his/her post, reports directly to the Head of Paid Service
  - ~~"Deputy Chief Officer" means a Service Director or Assistant Director who as respects all or most of the duties of his/her post, reports directly to a chief officer~~
  - ~~A Head of Service or position of an equivalent level or below shall not be regarded as a Chief Officer or Deputy Chief Officer even though they may report directly to a Chief Officer or the Head of Paid Service.~~
  - Proper Officer means the Head of Paid Service, Monitoring Officer, Assistant Director HR & Development or their delegated officer.

### ~~3. RECRUITMENT OF HEAD OF PAID SERVICE AND, CHIEF OFFICERS AND DEPUTY CHIEF OFFICERS~~

- ~~3.1.2.2.~~ Where the Council proposes to appoint a Head of Paid Service or, Chief Officer or Deputy Chief Officer the Council will draw up a statement specifying:
- (a) the duties of the officer concerned; and
  - (b) any qualifications or qualities to be sought in the person to be appointed.
- 3.2 Where it is proposed that the appointment will not be made exclusively from among their existing officers the Council will make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it;
- 3.3 The Council will make arrangements for a copy of the statement mentioned above to be sent to any person on request.

### ~~4.3.~~ APPOINTMENT OF HEAD OF PAID SERVICE

- ~~4.1.3.1.~~ The full Council will approve the appointment of the Head of Paid Service following the recommendation of such an appointment by the Employment Committee (or such other Committee as the Council shall determine), provided that the Committee includes at least one Cabinet Member
- ~~4.2.3.2.~~ Before any recommendation is made by the Committee to Council, every Cabinet Member must be notified of:
- (a) the name of the person to be appointed;
  - (b) any other particulars relevant to the appointment;
  - (c) the period within which objection to the appointment or dismissal is to be made; which shall be at ~~least 2 clear days~~ the point the Leader has confirmed no objection to the proper officer.
- ~~4.3.3.3.~~ The full Council may only approve the appointment where no material or well-founded objection has been made by the Leader or Cabinet Member.

### ~~5.~~ APPOINTMENT OF CHIEF OFFICERS & DEPUTY CHIEF OFFICERS

- 5.1 The Employment Committee will approve the appointment of Chief Officers and Deputy Chief Officers provided that the Committee includes at least one Cabinet Member. For the

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- appointment of a Chief ~~or Deputy Chief~~ Officer, the relevant Cabinet Member is invited and entitled to attend the Employment Committee meeting in its entirety
- 5.2 Before any decision is made by the Committee every Cabinet Member must be notified of:
- (a) the name of the person to be appointed;
  - (b) any other particulars relevant to the appointment;
  - (c) the period within which objection to the appointment is to be made; which shall be at least 2 clear days the point the Leader has confirmed no objection to the proper officer.
- 5.3 The Committee may only approve the appointment of a Chief Officer ~~or Deputy Chief Officer~~ where no material or well-founded objection has been made by the Leader on behalf of himself or other Cabinet Member.

#### **6.4. DISCIPLINARY ACTION & DISMISSAL OF THE HEAD OF PAID SERVICE, CHIEF FINANCE OFFICER AND MONITORING OFFICER**

- 6.1 The full Council will approve the dismissal of the Head of Paid Service, Chief Finance Officer and Monitoring Office following a Recommendation of dismissal by the Independent Panel.
- 6.2 Independent persons would be invited to be appointed to the panel in the following order of priority:
- An independent person who has been appointed by the council and who is a local government elector
  - Any other independent person who has been appointed by the council
  - An independent person who has been appointed by another council or councils
- 6.3 The Council will pay remuneration to the Independent Panel Members which shall be limited to the level of remuneration paid to independent persons who are members of the Standards Committee.
- 6.4 Before any recommendation is made by the Independent Panel to Council, every Cabinet Member must be notified of:
- (a) the name of the person to be dismissed;
  - (b) any other particulars relevant to the dismissal;
  - (c) the period within which objection to the dismissal is to be made; which shall be at least 2 clear days the point the Leader has confirmed no objection to the proper officer.
- ~~6.5~~ The full Council may only approve the dismissal where no material or well-founded objection has been made by the Leader or other Cabinet Member.

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#### **~~7. DISMISSAL OF OTHER CHIEF OFFICERS AND DEPUTY CHIEF OFFICERS~~**

- ~~7.1.4.1.~~ The Employment Committee will approve the dismissal of all other Chief Officers ~~and Deputy Chief Officers~~ provided that the Committee includes at least one Cabinet Member
- ~~7.2.4.2.~~ Before any decision is made by the Committee every Cabinet Member must be notified of:
- (a) the name of the person to be dismissed;
  - (b) any other particulars relevant to the dismissal;
  - (c) the period within which objection to the appointment or dismissal is to be made; which shall be at least 2 clear days the point the Leader has confirmed no objection to the proper officer.
- ~~7.3.4.3.~~ The Committee may only approve the dismissal of a Chief Officer ~~or Deputy Chief Officer~~ where no material or well-founded objection has been made by the Leader on behalf of himself or other Cabinet Member.

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#### **8.5. APPOINTMENT AND DISMISSAL OF OTHER OFFICERS**

- ~~8.4.5.1.~~ Appointment of officers other than Chief Officer, ~~Deputy Chief Officer~~, assistants to political groups and an assistant to the Mayor is the responsibility of the Head of Paid Service or his/her nominee, and may not be made by Members.
- ~~8.2.5.2.~~ Appointment of an assistant to a political group shall be made in accordance with the wishes of that political group.
- ~~8.3.5.3.~~ The Council will draw up a statement requiring any candidate for appointment as an officer to state in writing whether they are the parent, grandparent, partner, child, stepchild, adopted



child, grandchild, brother, sister, uncle, aunt, nephew or niece of an existing Member or officer of the Council or of the partner of such persons.

8-4-5.4. No candidate related to a Member or an officer will be appointed without the authority of the relevant chief officer or an officer nominated by him or her.

8-5-5.5. Any candidate who fails to disclose such a relationship will be disqualified from appointment. The content of this paragraph will be included in any recruitment information.

8-6-5.6. The Council will disqualify any applicant who directly or indirectly seeks the support of any Member for any appointment with the Council. The content of this paragraph will be included in any recruitment information.

8-7-5.7. No Member will seek support for any person for any appointment with the Council.

8-8-5.8. This does not preclude a Member or the Mayor from giving a written reference for a candidate for submission with an application for appointment.

8-9-5.9. Members will not be involved in the dismissal of any officer below ~~Deputy~~ Chief Officer except where such involvement is necessary for any investigation or inquiry into alleged misconduct, though the Council's disciplinary, procedures, as adopted from time to time which may allow a right of appeal to Members in respect of dismissals.

## **9. PUBLICATION OF SALARIES AND EXPENSES OF THE CHIEF EXECUTIVE, AND CHIEF OFFICERS**

9.1 The Council will publish the salaries and expense claims of its Chief Executive, and Chief Officers on an annual basis at the same time as the allowances and expense claims of its elected Members are published. This information will be published on the Council's website in accordance with the Transparency Code.

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<b>CONSTITUTION AND ETHICS COMMITTEE</b>	AGENDA ITEM No. 6
<b>6 OCTOBER 2022</b>	<b>PUBLIC REPORT</b>

Report of:	Fiona McMillan, Director of Law and Governance and Monitoring Officer	
Cabinet Member(s) responsible:	Councillor Coles, Cabinet Member for Finance and Corporate Governance	
Contact Officer(s):	Fiona McMillan, Director of Law and Governance and Monitoring Officer	Tel. 452409

<b>APPOINTMENT TO OUTSIDE BODIES AND APPOINTMENT TO COUNCIL CHAMPIONS</b>
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<b>RECOMMENDATIONS</b>	
<b>FROM:</b> Director of Law and Governance	<b>Deadline date:</b> N/A
<p>It is recommended that the Constitution and Ethics Committee:</p> <p><b>Appointments to Outside Bodies</b></p> <p>1. Consider whether to recommend to Full Council any changes in the process for appointing Members to outside bodies.</p> <p><b>Appointments to Council Champions</b></p> <p>2. Recommend to Full Council the inclusion in Council Standing Orders for Annual Council to note the Leader's appointment of Council Champions as appropriate, to ensure there is no duplication with Cabinet portfolios</p> <p>3. To agree to the inclusion of the definition of a Council Champion in the Constitution</p> <p><b>Appointment to the Combined Authority Board</b></p> <p>4. Recommend to Full Council the clarification of the Constitution that the Leader of the Council will be the Council's representative, <i>ex officio</i>, on the CPCA Board, by virtue of holding the office as Leader and that the Deputy Leader will, <i>ex officio</i>, be the substitute representative on the CPCA Board, by virtue of holding the office of deputy leader.</p>	

**1. ORIGIN OF REPORT**

1.1 This report is submitted to the Constitution and Ethics Committee following a request from the Committee Chair and as part of the Committee's work programme.

**2. PURPOSE AND REASON FOR REPORT**

2.1 The purpose of this report is for the Constitution and Ethics Committee to review the current process for the appointment to outside bodies, to review the issue of Council Champions, who would represent the Council within certain fields that could be appointed at Annual Council if appropriate, and to clarify the Council's appointment to the Board of the Cambridgeshire & Peterborough Combined Authority "CPCA").

- 2.2 This report is for the Constitution and Ethics Committee to consider under its Terms of Reference No. 2.7.2.1

*Authority to oversee the operation of the Council's Constitution and authority to make recommendations to Full Council as to amendments and improvements to the Council's Constitution (including the codes and protocols) subject to the receipt and consideration of a report prepared by the Monitoring Officer, with the exception of those matters under the remit of the Executive.*

### 3. **TIMESCALES**

Is this a Major Policy Item/Statutory Plan?	<b>NO</b>	If yes, date for Cabinet meeting	<b>N/A</b>
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### 4. **BACKGROUND AND KEY ISSUES**

#### **APPOINTMENTS TO OUTSIDE BODIES**

- 4.1 The process for appointments to outside bodies (also known as external organisations) is set out in the Council's constitution at 'Part 3, Delegations Section 5 - Appointments to External Organisations'.

The current process is, in summary, the political proportionality for year is determined and set around to Group Secretaries. Each Group will then feedback to officers their proposals for their group seats.

If there are any disputes between groups in relation to which seats they want, then these disputed seats will be put to the Leader to determine. The Leader must take into consideration proportionality rules when making his determination.

It is local choice to have this decision rest with the Leader. Previous versions of this process have had this decision rest with Full Council. The Committee may wish to propose that the process remain as current with the Leader or amend the process to have Full Council make this decision at its Annual Meeting.

#### **APPOINTMENTS TO COUNCIL CHAMPIONS**

- 4.2 At its meeting on 15 August 2022 the committee agreed to look at what Council Champions could be proposed at Annual Council.
- 4.3 There are no restrictions on each political group from appointing within their groups a spokesperson or a group representative on certain issues. This is an informal arrangement that each group can carry out if it wishes.
- 4.4 Members are reminded that Cabinet Members cover a number of different portfolios and service areas within the Council and act as the representative for those areas when making decisions which affect the Council.
- 4.5 An example of a Council Champion is the Armed Forces Champion, which has been agreed in the past, which includes the role of being the point of contact for queries from ex-Forces personnel who need help and assistance, signposting people to relevant support and helping unblock any problems that people have accessing services. The purpose of the Committee looking at the issue of Council Champions is to formalise, as part of the appointments process at Annual Council, those Councillors who could be seen to champion a specific cause on behalf of the Council.

- 4.6 There may be other opportunities to appoint to Council Champions and this could include suggested champion roles around Trees & Woodland, Vulnerable People, Cost of Living, or Equalities. Group Leaders have been asked to forward any further areas that they may wish to see include as a Council Champion and this can be updated up to Annual Council.
- 4.7 It is important that Council notes the role of a Council Champion and that this has a defined description of the what the role will entail. Below is a suggested definition. Members can adjust the wording as necessary.

### **What are Member Champions?**

Member Champions exist to provide a voice on the Council or to ensure particular issues are kept at the forefront of council business.

Member Champions are elected members who in addition to their other council responsibilities make sure that the issue or group that they are championing are taken into account and/or promoted.

### **What do they do?**

Typically, the Member Champion will:

- Make sure that their area of interest is taken into account or promoted when liaising with the Executive, relevant Scrutiny Committees and key officers.
- Raise the profile of the area and make the authority aware of good practice.
- Engage with external bodies who work in the area
- Engage with other officers and members in relation to the role.
- Engage with community groups with an interest/stake in the area
- Report action to the Cabinet, relevant Scrutiny Committee or Full Council as appropriate.

- 4.8 If members agree to appoint a certain number of Council Champions, the constitution will need to be updated accordingly to outline how this was done. This will form part of the business meeting at Annual Council outlined in section 1.1.2 of the Council Standing Orders. A suggested inclusion is outlined below in red:

#### *1.1.2 The Business Meeting*

*The Meeting will:*

- i. approve the minutes of the last meeting;*
- ii. receive any announcements from the Mayor;*
- iii. consider urgent petitions in accordance with the Council's petition scheme;*
- iv. receive a report from the Returning Officer on the outcome of City Elections;*
- v. upon retirement of the previous Leader, which shall be at least once every four years, elect the Leader of the executive (the Cabinet)*
- vi. be notified by the Leader of the number of members to be appointed to the Cabinet, those Members' names and their intended portfolio of responsibilities; **Council Champions as appropriate including Armed Forces Champion, xxx***
- vii. appoint a licensing committee, a health and wellbeing board, at least one overview and scrutiny committee and such other committees as are required or the Council considers appropriate to deal with matters that are neither reserved to the Council nor are executive functions (as set out or will be set out in Part 3(2) of this Constitution). No member of the Executive will be allowed to be a member of a Scrutiny Committee or Commission;*

viii. receive the Leader's scheme of delegation of executive functions (as set out at Part 3(3) of this Constitution);

x. approve a programme of ordinary meetings of the Council for the year; and

xi. consider any business set out in the notice convening the meeting.

## **APPOINTMENT TO THE COMBINED AUTHORITY BOARD**

4.9 The current process for appointment to the Combined Authority Board is for the appointment to be agreed at the Annual Council meeting, as per standing order 1.2.1:

*"iv. receive nominations of councillors to serve on each committee and other authorities;*

*v. appoint to those committees, standing sub-committees and other authorities except where appointment to those bodies has been delegated by the Council or is exercisable only by the executive; and"*

The Combined Authority's constitution states that:

### **"2. Constituent Councils**

*2.1. Each of the Constituent Councils shall appoint a Member (usually its Leader) to be a Member of the Combined Authority and another Member to act in the absence of the appointed Member (the Substitute Member). All appointments shall be for a one-year term."*

Therefore, it is not a requirement of the Combined Authority that the representative of the Council be the Leader, however, it would be anticipated that this would be the case.

However, the current Peterborough City Council Executive Delegations sets out that the Leader shall:

*"Be the Council's Lead Representative and member on the Cambridgeshire and Peterborough Combined Authority."*

Reading all three of these together, it is clear that there is an apparent inconsistency in the Council's approach, or its anticipated approach, to the appointment of the Council Combined Authority Board representative. Therefore, it is proposed to amend the above referenced standing order and executive delegation, to clarify that the Leader of the Council will, *ex officio*, be the Council's appointment to the Combined Authority Board and the Deputy Leader, *ex officio*, be the substitute representative, for however long they hold those offices.

This appointment would be then presented to the Annual Council meeting for noting only.

The Annual Council meeting would retain authority to appoint representatives to the Combined Authority Audit and Governance Committee and the Overview and Scrutiny Committee.

The revised executive delegation would read:

*"Be the Council's Lead Representative and member on the Cambridgeshire and Peterborough Combined Authority, ex officio, by virtue of holding the office of Leader of the Council."*

*Appoint the Substitute Representative Member on the Cambridgeshire and Peterborough Combined Authority, ex officio, by virtue of holding the office as Deputy Leader."*

The revised standing order would read:

*"iv. receive nominations of councillors to serve on each committee and other authorities;*

*v. appoint to those committees, standing sub-committees and other authorities except where appointment to those bodies has been delegated by the Council, or is exercisable only by the executive, or has been reserved to the executive; and”*

## **5. CONSULTATION**

- 5.1 Group Leaders have been consulted on any suggestions for Council Champions that they feel would be appropriate and could be recommended to be appointed at Annual Council each year.

## **6. ANTICIPATED OUTCOMES OR IMPACT**

- 6.1 That the Council Constitution will be amended to formalise the appointments of any Council Champions and to clarify the appointment of the Council’s representative on the Combined Authority Board.

## **7. REASON FOR THE RECOMMENDATION**

- 7.1 To formalise the process of appointing Council Champions if appropriate and to clarify the Constitution.

## **8. ALTERNATIVE OPTIONS CONSIDERED**

- 8.1 That the constitution is not amended. There is currently nothing stopping groups from appointing a champion or spokesperson to represent their groups views on aspects for which the Council have a lead on.

## **9. IMPLICATIONS**

### **Financial Implications**

- 9.1 There are no financial implications arising from the report.

### **Legal Implications**

- 9.2 If any recommendations are agreed this may involve updates to the Councils constitution.

### **Equalities Implications**

- 9.3 There are none.

## **10. BACKGROUND DOCUMENTS**

Used to prepare this report, in accordance with the Local Government (Access to Information) Act 1985

- 10.1 None.

## **11. APPENDICES**

- 11.1 None.

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<b>CONSTITUTION AND ETHICS COMMITTEE</b>	<b>AGENDA ITEM No. 7</b>
<b>6 OCTOBER 2022</b>	<b>PUBLIC REPORT</b>

Report of:	Fiona McMillan, Director of Law and Governance and Monitoring Officer	
Cabinet Member(s) responsible:	Councillor Coles, Cabinet Member for Finance and Corporate Governance	
Contact Officer(s):	Fiona McMillan, Director of Law and Governance and Monitoring Officer	Tel. 452409

**CIVIC PROTOCOL – DECLARATION BY MAYOR**

<b>RECOMMENDATIONS</b>	
<b>FROM:</b> Director of Law and Governance	<b>Deadline date:</b> N/A
<p>It is recommended that the Constitution and Ethics Committee:</p> <ol style="list-style-type: none"> <li>1. Review the proposal to add to the declaration of acceptance of office for the next incoming Mayor of the City of Peterborough (from May 2023) that they agree to abide by the Council's Civic Protocol.</li> <li>2. If (1) above is agreed, to recommend to Full Council that the Civic Protocol, as set out in the Appendix, is updated to include the amended wording of the declaration of acceptance of office of Mayor.</li> </ol>	

**1. ORIGIN OF REPORT**

1.1 This report is submitted to the Constitution and Ethics Committee following a request from the Leader of the Council.

The Committee has previously considered allowing the Mayor discretion as to what items of the civic regalia/insignia for each occasion. The Committee, at the meeting in March 2022, agreed to keep the civic protocol requirements as they were.

**2. PURPOSE AND REASON FOR REPORT**

2.1 The purpose of this report is for the Constitution and Ethics Committee to review the declaration an incoming Mayor signs in order to clarify that the postholder is agreeing to abide by the Council's Civic Protocol, which sets out the expectations for official civic and ceremonial events.

2.2 This report is for the Constitution and Ethics Committee to consider under its Terms of Reference No. 2.7.2.1

*Authority to oversee the operation of the Council's Constitution and authority to make recommendations to Full Council as to amendments and improvements to the Council's Constitution (including the codes and protocols) subject to the receipt and consideration of a report prepared by the Monitoring Officer, with the exception of those matters under the remit of the Executive.*

### 3. TIMESCALES

Is this a Major Policy Item/Statutory Plan?	NO	If yes, date for Cabinet meeting	
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### 4. BACKGROUND AND KEY ISSUES

- 4.1 As Peterborough’s ‘first citizen’, the Mayor acts as ambassador for the City Council, and also for Peterborough itself. The role of the Mayor is to be an impartial figure who can represent the community at large.
- 4.2 The Mayor plays a key role at civic and ceremonial events and leads the City during key events to ensure historic traditions and values across the City and the country as a whole are upheld, respecting the institution and role the Council plays in such events.
- 4.3 It is important that an incoming Mayor is aware of the Council’s expectations in relation to the role and the role of the Civic Protocol in setting out these expectations, in particular in relation to the wearing of civic insignia, when deciding whether to accept the nomination. Officers currently go through the wording of the Civic Protocol with the Mayor Elect from February, prior to the election for Mayor in May each year. It is therefore suggested that the Mayor makes an extended declaration (suggested wording in 4.4) in order to clarify expectations.

Section 8.1 of the Civic Protocol outlines what the civic insignia entails:

*As Mayors in Peterborough wear a robe of office, together with a chain of office on all formal ceremonial occasions. If the ceremony is out of doors, the Mayor will wear a hat, which in the case of a man is a black cocked hat and for a lady a black tri-corn hat. On normal day to day civic occasions, the Mayor and Mayoress will wear only the chain of office. The Mayor is expected to wear the robe and chain of office for Council meetings, but if it is particularly hot, the Mayor can adjourn the meeting and remove the robe.*

- 4.4 It is therefore suggested additional wording, as set out below, be included in the Declaration of Acceptance of Officer, from the next Municipal Year from May 2023, and that this declaration is itself specifically included within the Civic Protocol itself to avoid any confusion and add clarity.

Current wording of declaration:

“I, XX, having been elected Mayor of the City of Peterborough, do hereby declare that I take the said office upon myself and will duly and faithfully fulfil the duties thereof according to the best of my judgement and ability”

Proposed wording of declaration:

**““I, XX, having been elected Mayor of the City of Peterborough, do hereby declare that I take the said office upon myself and will duly and faithfully fulfil the duties thereof according to the best of my judgement and ability. In doing so, I agree to abide by the Council’s Civic Protocol, which includes wearing the full civic insignia at all formal civic and ceremonial events in the City”.**

### 5. CONSULTATION

- 5.1 Group Leaders have been consulted on the proposals to specifically make reference to any incoming Mayor agreeing to abide by the Council’s Civic Protocol when they make their declaration of acceptance of office.

**6. ANTICIPATED OUTCOMES OR IMPACT**

- 6.1 That the Civic Protocol in the Council Constitution will be amended to include reference to the wording of the declaration by the Mayor, which is made before they take office at the beginning of each Municipal Year.

**7. REASON FOR THE RECOMMENDATION**

- 7.1 To ensure the Mayor and First Citizen of Peterborough is aware and accepting of the role before taking office

**8. ALTERNATIVE OPTIONS CONSIDERED**

- 8.1 To do nothing and leave the Civic Protocol as currently written.

**9. IMPLICATIONS**

**Financial Implications**

- 9.1 There are no financial implications arising from the report.

**Legal Implications**

- 9.2 If any recommendations are agreed this may involve updates to the Councils constitution.

**Equalities Implications**

- 9.3 There are none.

**10. BACKGROUND DOCUMENTS**

Used to prepare this report, in accordance with the Local Government (Access to Information) Act 1985

- 10.1 None.

**11. APPENDICES**

- 11.1 Appendix 1 – Civic Protocol track changes

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**Peterborough City Council**  
**Civic Protocol**

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4	How the Mayor is appointed
5	The Mayoress or Consort
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## Civic Protocol

### 1. The importance of the Council's mayoralty and civic service

- 1.1 Peterborough City Council plays an important part in providing community leadership. The City Council recognises two key aspects to this: political leadership is provided through the Leader of the Council and other Cabinet Members who together form the Executive; while civic leadership is focussed upon the mayoralty, provided through the Council's civic service.
- 1.2 As Peterborough's 'first citizen', the Mayor acts as ambassador for the City Council, and also for Peterborough itself on the wider regional, national, and international stage. By being an impartial figure, they can represent the whole community, regardless of differences. The Mayor can visit communities and business interests both in Peterborough and farther afield, representing the Council and the City, and they can also welcome delegates and visitors to the City Council on the community's behalf.
- 1.3 The civic function provides an element of continuity in the community, even though the incumbent of the mayoralty may change annually. It can act as a focal point for community celebrations and pride and also commemorations and shared sorrow. Civic events and hospitality are an important part of community life, enhancing its social fabric and helping to attract confidence in the City which brings benefits in terms of inward investment. The Council's civic programme is reviewed annually by the Head of Constitutional Services and the Executive and Members Services Manager with the Mayor to ensure that it retains its important traditions and continuity, while also adapting where appropriate so that it remains attractive and relevant to the community.

### 2 The Mayor's statutory role

- 2.1 The primary duty of the Mayor is to act as chair of Peterborough City Council and thus preside over meetings of the Council, in accordance with the Local Government Act 1972 which states:  
  
s3(i) - "The chair (mayor) of a principal council shall be elected annually by the Council from among the councillors";  
  
s4(i) - "The election of the chair (mayor) shall be the first business transacted at the annual meeting of a principal council".
- 2.2 As chair of Council, the Mayor's role is to ensure proper conduct of the Council meeting in compliance with the law and the Council's procedural rules for meetings. They are also required to:
  - o determine whether urgent items may be considered at a Council meeting without prior notice;
  - o determine whether or not to call an extraordinary meeting of Council; and exercise, if they wish to, a second or 'casting vote' at Council in the event of an equal vote upon any issue.
- 2.3 The Mayor is advised, in this function, by the Chief Executive or Director of Law and Governance and the Head of Constitutional Services.
- 2.4 The Mayor is expected during their term of office to remain politically impartial. Councillors will support the Mayor in this and respect their neutral position.

### 3 The Mayor's civic role

- 3.1 The Mayor will make a declaration of acceptance of office following the election of the Mayor as follows:

**“I, XX, having been elected Mayor of the City of Peterborough, do hereby declare that I take the said office upon myself and will duly and faithfully fulfil the duties thereof according to the best of my judgement and ability. In doing so, I agree to abide by the Council's Civic Protocol, which includes wearing the full civic insignia at all formal civic and ceremonial events in the City”.**

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**3.2** In fulfilling the role of Peterborough's first citizen, the Mayor is expected to speak and act for all the diverse communities represented in Peterborough.

**3.32** The Mayor will usually lead each of the civic events in the Council's annual programme. They also attend all events, wherever possible, to which the Council has been invited to send a civic representative. In particular, priority will be given to events involving the Lord-Lieutenant to which the Council is invited to send a civic representative and to the Council's key priorities on supporting communities and promoting the City rather than merely attending other authorities' events. Where it is not possible for the Mayor to attend such an event, the Deputy Mayor will attend in their place. When considering attendance, the Mayor and Executive and Members Services Manager will balance civic priorities against the need to honour prior engagements where possible.

**3.43** When the Council requires a leading figure to be present at an event which it has organised in connection with the services which it delivers within the community – such as to open a new service or a festival – the Mayor will usually be invited to fulfil that role. If this is not possible, the Deputy Mayor will be invited. Where events are community-based, the officers arranging the event will usually invite ward councillors to attend. This would typically be undertaken by the organisers of the event not the Executive and Members Services team.

**3.54** If the Mayor accepts an invitation to attend a function in another local authority, it is courtesy to seek the consent of the Mayor or Chair of that local authority if the invitation did not come from their civic office and to request permission for the wearing of chains at the event.

**3.65** The Mayor is frequently invited to attend events in the community, such as openings and fund-raising events organised by voluntary organisations. There are also invitations to attend lectures, social events and so forth. Where possible the Mayor or Deputy will attend. However, the mayoral calendar is busy and this will not always be possible. The Mayor will, in deciding whether or not to accept an invitation, give priority to events described at section 3.2 above, and to those which promote Peterborough. They will also have regard to advice from the Executive and Members Services Manager and to the date order in which invitations are received into the Office.

**3.76** Once the Mayor is elected, they will discuss with the Executive and Members Services Manager and Head of Constitutional Services the coming year to plan ahead for civic events and will take officers' advice about any issues or events arising that year which would particularly benefit from the Mayor's involvement, and it is usual for the Mayor to select one or more themes which they would like to focus upon during their mayoral year. These discussions will guide officers in identifying those events which the Mayor should participate in and help the Mayor and Executive and Members Services Manager to assess which external invitations the Mayor should accept.

**3.87** In addition to the Mayor or Deputy Mayor attending an event, it is also noted that other Cabinet Members, Chief Officers, Leader of the Council, Chief Executive or other members may have been invited by the organisers of the event, and in some cases, may be asked to deliver speeches.

**3.98** The Council's role in extending civic hospitality is described at section 11 below.

#### **4. How the Mayor is appointed**

**4.1** The procedural rules set out in the Council's Constitution, governing the conduct of Council business, describe the procedure for identifying a 'Mayor-Elect' each year, to allow the person selected sufficient time to make adequate preparations for the year of office well in advance of

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actual election at the Annual Council Meeting. Councillors remain after the closure of a Council meeting early each New Year, for a private meeting of all members. The usual practice is for the Chief Executive to facilitate the meeting by inviting councillors to propose a candidate. This is usually done with a short speech, and duly seconded. Any further nominations are made in the same manner. The Chief Executive then invites councillors to vote for each candidate in turn. Thus, the candidate most likely to receive Council's formal support at the Annual Council Meeting is identified, but the resulting nomination has no official status, no minutes are taken, and the result is not binding upon the Annual Meeting.

4.2 Peterborough City Council appoints Mayors on the basis of their length of service with the Council. The Council may take into account factors such as experience at chairing meetings, the need for the Mayor to have time to attend many day-time as well as evening appointments, and the range of duties which the Mayor will be required to undertake. It is also usual for the Mayor and Deputy Mayor to represent two different political parties, although this is not obligatory. Mayors serve a one-year term of office.

4.3 A Mayor's Induction pack is provided by Executive and Members Services Team which explains the full range of issues with which the Mayor will become involved.

#### **5. The Mayoress or Consort**

5.1 It is usual for the Mayor to identify the person who will accompany them to all or most of the civic and social activities which they attend in their official capacity as Mayor. The choice of companion is entirely at the Mayor's discretion. A female companion is designated Mayoress, while a male companion is designated the Mayor's Consort.

5.2 The position of Mayoress or Consort is not provided for in law and therefore has no legal status. The Mayoress or Consort cannot represent the Mayor at city events; their role is to accompany and assist the Mayor. In the absence of the Mayor, this duty would fall to the Deputy Mayor.

#### **6. The Deputy Mayor and Deputy Mayoress or Consort**

6.1 The Deputy Mayor will deputise whenever the Mayor is unable to carry out a mayoral duty. In particular, if the Mayor is not able to present at a Council meeting, the Deputy Mayor will take the chair. When the Mayor is present at Council, the Deputy Mayor will sit to the Mayor's side upon the dais in order to help the Mayor in chairing the meeting (for example, identifying councillors who wish to speak about an item under discussion).

6.2 The Deputy Mayor will also be invited to attend each of the events in the Council's annual civic events programme, forming part of the mayoral party. They will deputise for the Mayor at such events, in the Mayor's absence.

6.3 The Deputy Mayor will attend council-run or external events where possible, if the Mayor is unable to do so. In deciding whether or not to accept such invitations, the Deputy Mayor will have regard to the same advice and priorities as are indicated for the Mayor at paragraph 3.4 above.

6.4 Like the Mayor, the Deputy Mayor usually identifies a companion to accompany them to civic and social events attended in their official capacity as Deputy Mayor. A female companion is designated Deputy Mayoress, while a male companion is designated the Deputy Mayor's Consort.

#### **7. The Mayor's Chaplain and Cadet, and the Town Crier**

7.1 It is custom and practice for the Mayor to appoint a Chaplain. The appointment is honorary, is at the Mayor's discretion and has no official status. The Chaplain acts as spiritual adviser to the Mayor, says prayers before each Council meeting and attends major civic functions and dinners where they will be expected to say grace. The Chaplain will also make arrangements for the Mayor's Civic Service, held each year in the Mayor's own ward.

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- 7.2 The Mayor may also consider appointing a Mayor’s Cadet for their term of office. This will be young person from the army, naval, air force or police cadets, selected by the Mayor. Like the Chaplain, the position of Mayor’s Cadet is honorary, at the Mayor’s discretion and has no official status. The Cadet, where appointed, will accompany and assist the Mayor at official functions, enabling a young representative to be present at civic events and also providing good opportunities for personal development for the cadet.
- 7.3 Peterborough’s Town Crier is an honorary position. The Crier is chosen from candidates who come forward after public advertisement or notice and is selected by the Leader of the Council usually after a public ‘crying’ competition. The appointment is generally continued from year to year, until the current incumbent stands down. The Crier is expected to uphold the dignity of their office but may also engage in other crying activities, provided that these do not bring the office of Town Crier into disrepute.
8. **The civic insignia**
- 8.1 Mayors in Peterborough wear a robe of office, together with a chain of office on all formal ceremonial occasions. If the ceremony is out of doors, the Mayor will wear a hat, which in the case of a man is a black cocked hat and for a lady a black tri-corn hat. On normal day to day civic occasions, the Mayor and Mayoress will wear only the chain of office. The Mayor is expected to wear the robe and chain of office for Council meetings, but if it is particularly hot, the Mayor can adjourn the meeting and remove the robe.
- 8.2 If the Mayor accepts an invitation to attend a function in another local authority, it is courtesy to seek the consent of the Mayor or Chairman of that local authority to wear the chain of office if this is required.
9. **Formal address and orders of precedence**
- 9.1 In writing, and on formal occasions, the Mayor should be addressed as ‘The Right Worshipful the Mayor of the City of Peterborough’. At all other times the correct form of address is ‘Mr Mayor’ if the holder of office is a man or ‘Madam Mayor’ if the holder of office is a woman (the use of Madam Mayor is at the Mayor’s choice).
- 9.2 The precedence of the Mayor is set down under Section 3(4) of the Local Government Act 1972 which states “The Chair of the District Council shall have precedence in the District, but not so as prejudicially to affect Her Majesty’s royal prerogative.”
- 9.3 The Lord Lieutenant, when present at a civic procession or royal occasion, takes precedence over the Mayor as the monarch’s representative. The Deputy Lord Lieutenant of the County does not take precedence over the Mayor, unless he is deputising for the Lord Lieutenant. There are no clear rules in respect of the precedence of the High Sheriff, but general advice is that the High Sheriff’s duties are largely restricted to judicial functions, so they do not represent the monarch in the same way as does the Lord Lieutenant. Therefore, if the High Sheriff is present at a city occasion, they should yield precedence to the Mayor. The precedence of other office holders is very much based upon guidance available in books of etiquette, together with local tradition.
- 9.4 Where possible a Police Representative or the Mayor’s Support Officer will lead the Mayoral Party processions and the order of precedence for the City of Peterborough for civic processions and royal occasions is as follows (see also paragraph 9.6 below):

The Lord Lieutenant The Mayor and Mayoress/Consort The Chief Executive and Leader of the Council The Deputy Mayor and Mayoress/Consort Any Minister of the Crown present*	(This group forms the mayoral party)
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The High Sheriff Members of Parliament (Privy Councillors have precedence)** Elected Mayor	
Serving Military Representatives Police & Crime Commissioner Police and Fire Honorary Freemen of the City (representatives of organisations which have received this honour will follow individual freemen) Honorary Alderman Past Mayors Chief Constable and Chief Fire Officer Visiting Chairs Visiting Mayors (these may come later in the procession, after city councillors, in cases where a large number of visitors are present) Leader of the Council Cabinet Members Group Leaders Other city councillors and city council officers Other guests	

\* Where it is customary to include local Members of Parliament (MPs) in the order of precedence for a civic procession, most local authorities place them between the mayoral party and councillors. This is the case in Peterborough. However, if an MP is a Minister of the Crown, they are included in the mayoral party.

\*\* Where an MP is a Privy Councillor, they take precedence over other MPs.

- 9.5 Any civic procession is led by the Mayor's Support Officer carrying the mace, preceded by a police representative where necessary.
- 9.6 During a royal visit to Peterborough, the order of presentation to the royal visitors by the Lord Lieutenant shall be determined by Her Majesty the Queen. The City Council will usually be consulted by the Lord Lieutenant's office prior to the visit in order to advise Her Majesty. The City Council will usually recommend the following:

Lord Lieutenant and guest High Sheriff and guest Mayor and Mayoress/Consort Chief Executive Deputy Mayor and Mayoress/Consort MPs (Privy Councillors have precedence)	(This group forms the mayoral party)
Leader of the Council Chief Constable Chief Fire Officer (After these presentations, the Lord Lieutenant will present the principal organiser of the event)	

Apart from the lead from the Lord Lieutenant and High Sheriff – other order to be same as above. On the occasion of a royal visit to Cambridgeshire, which includes Peterborough, then the Cambridgeshire County Council chair will also be presented.

**10. The Council's programme of civic events**

- 10.1 The Council organises or participates in a series of major civic events which occur each municipal year. These are indicated below:

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<b>Annual programme of civic events</b>	<b>Usual time of year</b>	<b>Principal organisation(s)</b>
<u>Mayor Making and Annual Council Meeting</u> (This includes the ceremonial investiture of the Mayor, and an event in honour of the retiring Mayoral Party and new Mayors).	May	Peterborough City Council Executive and Members Services liaising with Democratic and Constitutional Services
<u>Cathedral Civic Service</u> (To install the Mayor in their seat in the Cathedral. Also an opportunity to formally seek spiritual blessing and guidance for the new Mayor throughout their term of office.)	June	Peterborough City Council Executive and Members Services liaising with Cathedral
<u>Town Hall 'Open Day'</u>  (An opportunity for any member of the public to visit the Town Hall or Sand Martin House, meet the Mayor and see displays about the Council's role and services. Light refreshments are served, where possible by pupils from a senior school in the Mayor's ward.)	June	Peterborough City Council Executive and Members Services
<u>The Mayor's Civic Service</u>  (A service at a place of worship in the Mayor's own ward.)	Timing is at the Mayor's discretion	Peterborough City Council/the Mayor's selected place of worship Executive and Members Services in liaison with nominated Church
<u>Traditional opening of Bridge Fair</u>  (The Mayor opens the fair at The Embankment, and the fair master takes the mayoral party and guests – including mayors from other local authorities in the area - on a tour of the fair; afterwards, guests are traditionally invited to join a 'sausage supper' at the Town Hall or Sand Martin House, the proceeds of the tickets for which go to the Mayor's charity fund.)	First Tuesday in October	Peterborough City Council Executive and Members Services
<u>Remembrance Sunday Service and Parade</u>  (The service is preceded by a military and civic procession from the Town Hall to the cathedral, where wreaths are laid at the war memorial prior to the service and followed by a military parade with a march past the Town Hall at which the mayoral party takes	November	The wreath laying service and civic procession is organised by the Executive and Members Services Team in liaison with the Royal British

a salute outside the Town Hall. The civic procession follows back to the Town Hall, and a wreath above the Town Hall front door is unveiled.		Legion and the Cathedral.
<u>Two Minutes' Silence</u>  (A short service takes place at 11am on Armistice Day at the War Memorial. It is preceded and followed by a civic procession to and from the Town Hall. The vicar of St John's Church presides at the service and is joined by the mayoral party and the President of the Royal British Legion.)	November	Organised by the Executive and Members Services Team in liaison with Royal British Legion representatives
<u>Holocaust Memorial Day</u>  (A local event linked to this national day, often comprising a museum exhibition and an outdoor service representing as many of Peterborough's communities as possible. Remembering past tragedies and promoting harmony and tolerance.)	January	Peterborough City Council, in partnership with community representatives and Executive and Members Services
<u>The Mayor's Ball</u>  (This is the Council's major civic social event of the year, open to anyone upon purchase of a ticket. The proceeds go to the Mayor's charity fund. Fundraising activities associated with the Ball are the responsibility of the Mayor's voluntary Charity Committee, but the Mayoral Services Team organises the Ball itself.)	May Now generally scheduled as the Mayor's Finale Ball	Organised by Executive and Members Services and supported by the Mayor's Charities.

- 10.2 Other civic events may be arranged during the year and include Fly the Flag events for the Commonwealth, Armed Forces, Red Ensign (Navy), 999 Emergency Services Day and Windrush Day. This can include, for example, parades or civic receptions for visitors or events of major significance (such as a visit from the civic party representing one of the Council's twinned authorities) or associated with the opening of a major festival. Executive and Members Services Team will ensure that the Mayor and guests are invited and will also arrange any reception required at the Town Hall or Sand Martin House.
- 10.3 A Freedom Parade may be requested by a military organisation which holds the freedom of the city of Peterborough, when it wishes to exercise its right to march through the city. Such a parade would be organised by the organisation but hosted by the Peterborough City Council which will join in the planning of the event. If the City Council decides to award the honorary freedom of the city or alderman status to a person or organisation, this will involve a special Council meeting to determine whether or not to award the honour, followed later by a ceremony to make the award which will be arranged by the Council's Executive and Members Services Team in conjunction with the recipient of the honour.

**11. Civic hospitality**

- 11.1 Civic hospitality, such as light refreshments, may be offered to civic events, and when the Mayor receives visitors in the Mayor's Parlour. This would usually arise on occasions such as those

which promote Peterborough, or which reciprocate civic hospitality extended to Peterborough's representatives upon an earlier visit elsewhere, or which recognise important voluntary work for the benefit of Peterborough's citizens.

- 11.2 Such hospitality will usually be organised and funded by the Council's Executive and Members Services budget, but significant commitments instigated by a service department would require support and contributions from the lead service department. The Mayoral hospitality budget and programme are managed by the Head of Constitutional Services and Executive and Members Services Manager, in consultation with the Leader of the Council and the Chief Executive, who may be requested to approve funding for special events over and above the civic hospitality cash limited budget when this would be in the best interests of Peterborough. Any other civic hospitality commitments that the Mayor wishes to incur will be met by the Mayor personally.
- 11.3 Members of the public are able to write and request a tour of the Town Hall public rooms. The Executive and Members Services Team will accommodate such requests wherever reasonably possible. Upon such occasions, the Mayoral Support Officer will accompany the visitors and explaining the history of the public rooms and the Council's civic procedures. This activity is often associated with educational visits, by students or younger children. A small charge may be levied, to cover the Council's reasonable costs.

## 12. Civic dinners

- 12.1 At formal civic dinners, guests are received at an opening reception by the Mayor and their consort, accompanied by the Deputy Mayor and their consort.
- 12.2 After the reception, guests are invited to the dining room. A seating plan will be pre-arranged by the Executive and Members Services Team. At the top table, the principal guest will be seated at the Mayor's right while the Mayoress/Consort is placed at the Mayor's left. The principal guest's partner takes the seat next to the Mayoress/Consort.
- 12.3 If the Mayor and Deputy Mayor are robed, while guests are moving from the reception to their seats the Mayor and Deputy Mayor may remove their robes. They will retain their chains of office, as will the Mayoress/Consort and Deputy Mayoress/Consort. When the Mayor and Mayoress/Consort are ready, the Mayoral Support Officer will announce their arrival to the assembled guests, and they will then be 'clapped' to their places.
- 12.4 Prior to the guests being invited to sit down, the Mayor's Support Officer will announce that the Mayor's Chaplain or other designated person will say grace. Guests will then sit, and dinner will be served. Following the meal, toasts will be called. The first will be the 'Loyal Toast' to the monarch, proposed by the Mayor or the Leader of the Council. All present should be asked to stand and the Mayor/Leader will say "The Queen". No other names or persons are added to the 'Loyal Toast'. Other toasts will follow as listed in the printed menu.

## 13. Civic gifts

- 13.1 It is common practice for the Mayor and Deputy Mayor to be given gifts when attending external functions in their official capacity. Gifts are also often exchanged when delegates visit Peterborough. It is custom and practice that the Mayor or Deputy Mayor receives such gifts on behalf of the City Council, and they are forwarded to the Mayor's Support Officers for entry on the civic inventory and displayed as appropriate.
- 13.2 Small gifts, such as badges or pens which are clearly indicated as a personal gift for the Mayor or Deputy Mayor, may of course be kept. They Mayor and Deputy should have regard to the Code of Conduct for Councillors when deciding whether to receive and keep such gifts and should ensure that they are recorded in the hospitality register as required by the code (currently, this requires as a minimum that all gifts valued at £50 or over should be recorded). Gifts which the Mayor or

Deputy receive in their official capacity are recorded in a register held by the Executive and Members Services Manager; any gifts received in their capacity as an elected councillor are recorded in the register applicable to all councillors, held by the Director of Law and Governance.

- 13.3 The Executive and Members Services Manager obtains civic gifts, as required, with agreement from the Head of Constitutional Services. These are used upon the following types of occasion:

Gift purpose	Typical example of a gift which may be given (this list is for guidance only)
To recognise the contribution of retired and non-elected councillors who have served for a considerable length of time or have served as Mayor;	Possibly a glass paperweight, crystal glasses, china plate or a crystal bowl bearing an inscription such as "For services to Peterborough City Council". The type of gift will reflect the length of service. For a particularly long-serving councillor, a specific gift with a personal engraving might be appropriate.
Ambassadors and other visiting dignitaries representing a city elsewhere and gifts taken to the City Council's twinned and friendship cities during official visits	Possibly a clock or other suitable item, engraved with the Peterborough crest.
Small gifts for visitors such as volunteer organisations, youth organisations, etc.	Mayors Badges

- 13.4 The list above is not exhaustive. The Head of Constitutional Services and Executive and Members Services Manager ensure that expenditure is controlled carefully, while ensuring that the dignity of the occasion and/or the contribution of the recipient is properly reflected.

#### 14. European and overseas links

- 14.1 Peterborough has official 'twinning' (partnership) links with Bourges in France, Viersen in Germany, Alcalá de Henares in Spain, Forlì in Italy and Vinnitsa in the Ukraine. The Council also has a number of friendship links.
- 14.2 The Mayor, as the representative of the City, is often invited to attend civic ceremonial functions, business conventions, events and exhibitions in Peterborough's partner cities. The Mayor may be offered the opportunity to undertake a visit to one of the twinning Towns, which is determined by budget constraints. This is to be discussed with the Head of Constitutional Services and Executive and Members Services Manager. The Mayor may accept additional invitations to visit Peterborough's twin towns if they incur the costs personally.
- 14.3 In the event that the Mayor is unable to attend a civic/partnership invitation, reference should be made to Part 3 – paragraph 3.7: The Mayor's Civic Role, for the procedure to be followed.
- 14.4 If an invitation to visit Peterborough is extended to a Mayor or other delegates from any of Peterborough's partner cities, on behalf of the Council, the general expenses of the visit will be funded from both the Executive and Members Services Budget and other partner organisations. On occasions, the Mayor may host a civic reception for the visitors, the Executive and Members Services budget may provide the funding - subject to budget constraints and approval from the Head of Constitutional Services and Executive and Members Services Manager.

#### 15 Council Honours

- 15.1 One of the roles of the Constitution & Ethics Committee is to [receive and consider nominations for Council honours](#), including Freedom of the City, Honorary Alderman, Civic Awards and National

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Honours, [and make recommendations to Full Council](#) or to other relevant bodies on behalf of Full Council. ~~All decisions on Council honours will be taken at an extraordinary meeting of Full Council.~~

#### **Civic Awards**

- 15.2 All group nominations must be endorsed by two supporters, who must not be involved in running the group, or be a partner or relative of anyone in running it. A volunteer with the group or a beneficiary of its services may act as a supporter, but if they do, the other supporter must be completely independent of the group. The criteria for a group nomination is: -
- provide a high-quality service to benefit individuals or groups in the community
  - operate and provide a service in [Peterborough](#)
  - must have been operating for a minimum of 3 years (exceptions may be made for short-term projects), and
  - must be made up entirely of volunteers (including trustees), or it includes some paid staff, but they must be in the minority of those involved.
- 15.3 All individual nominations must be endorsed by one supporter, who must not be a partner or relative to that individual. The individual must show extraordinary achievements and contributions. Some examples of categories for an individual nomination are: -
- Public service nurses, doctors, teachers, civil servants, police officers
  - Exceptional service to the local community
  - Involvement in business and industry
  - Scientists
  - Arts practitioners and administrators – artists, actors, musicians, writers etc.
  - Involvement in sport
  - Journalists and broadcasters
- 15.4 The Constitution & Ethics Committee will consider nominations and make recommendations to an extraordinary meeting of Full Council.
- 16 Freedom of the City of Peterborough**
- 16.1 Freedom of the City may be offered in accordance with the provisions of section 249 (5) of the Local Government Act 1972 (as amended by section 180 of the Local Government Planning and Land Act 1980). Nominations will be considered by the Constitution & Ethics Committee with recommendations made at an extraordinary meeting of Full Council.
- 16.2 The freedom may be awarded to an individual or an organisation such as a local branch of a military organisation or a locally based volunteer emergency service. It is awarded where the person or organisation has made a significant contribution to the social fabric or well-being of the citizens and city of Peterborough.
- 16.3 Persons awarded the freedom, including leading representatives of organisations so honoured, are invited to all civic events organised by the Council and also to Mayor's charity events. They are invited to participate in civic processions, in the order of precedence indicated earlier in this protocol.
- 16.4 In order to award the freedom, the Council must hold an extraordinary meeting convened for that purpose only. The decision to award the freedom must, as a legal requirement, be supported by not less than two-thirds of those present and voting at the special convened meeting. Once the decision has been made by Council, a separate ceremony will be arranged later to mark the



presentation of the honour. This may include a freedom march, in the case of a military honour. All recipients are noted on the plaque outside of the Council Chamber.

- 16.5 Military organisations awarded the freedom may exercise the right to march through Peterborough. On such occasions, the Council will offer civic hospitality – referred to earlier in this protocol.

## **17 Honorary Alderman**

- 17.1 Honorary Alderman may be offered in accordance with the provision of section 249 of the Local Government Act 1972. Nominations should be made by Group Leaders on behalf of their groups to the Constitution & Ethics Committee, who will make recommendations to an extraordinary meeting of Full Council.
- 17.2 Alderman status may be awarded to a past Councillor, who has served a minimum of three terms or 11 years of office and that are considered to have rendered eminent services to the Council.
- 17.3 Past Councillors awarded Alderman Status are invited to attend all civic events organised by the Council and also to Mayor's charity events. They are invited to participate in civic processions, in the order of precedence indicated earlier in this protocol.
- 17.4 In order to award Alderman Status to past members of the Council, the Council must hold an extraordinary meeting convened for that purpose only. The decision to award Alderman Status must, as a legal requirement, be supported by not less than two-thirds of those present and voting at the special convened meeting. Once the decision has been made by Council, a separate ceremony will be arranged later to mark the presentation of the honour.

## **18 The Mayor's charities and the Charity Committee**

- 18.1 At the Annual Council Meeting, the Mayor will announce the charity or charities for which they will support and promote fundraising activities during the year. It is usual for these to be locally based charities which are able to supply a small number of dedicated volunteers who can form the Charity Committee during that mayoral year together with a larger number of volunteers who can devote time to running fundraising events. The Mayor of Peterborough Charities is now registered as a charity with the Charity Commission and Trustees need to be identified from the Committee and registered with the Commission.
- 18.2 It is the Mayor's responsibility to convene their Charity Committee at the start the mayoral year – preferably, the committee members will have been identified earlier, once the Mayor-Elect is identified in January. At the inaugural meeting, the committee will appoint its chairman and secretary. The Head of Constitutional Services will give guidelines as to what is expected of the charity members and the Executive and Members Services Team during the mayoral year.
- 18.3 The Executive and Members Services Manager will be appointed as treasurer at the AGM Charity meeting, along with Chair and Secretary. The Executive and Members Services Team can provide assistance with printing of posters and tickets for charity event. However, the Mayor's Ball, the Sausage Supper and the Proms Concert, all of which are civic events planned, organised and co-ordinated by the Executive and Members Services Team, even though the proceeds of them go to the Mayor's charities. The Head of Constitutional Services act as a trustee for this committee.
- 18.4 The Charity Committee will organise and run their events; collect tombola and raffle prizes; and actively help to promote, sell tickets and seek sponsorship.
- 18.5 The Executive and Members Services Manager records and receipts all monies from fundraising events in the charity bank account, reports a statement of the account at each committee meeting

and presents cheques to the Mayor's chosen charities at the end of the Mayoral Municipal year, usually at an informal presentation in the Mayor's Parlour. At the end of each Mayoral year, PCC's internal audit team review the accounts for that year.

## **19 The Mayor's and Deputy Mayor's allowances**

- 19.1 Sections 3(5) and Sections 3(4) of the Local Government Act 1972 provide for the Council to pay to the Mayor and Deputy Mayor respectively an allowance to help with the expenses incurred in fulfilling their office. The allowance is determined by Council, and the amount currently in force is stated in the Members' Allowances Scheme. Although not required by law, the Council may consult its independent Remuneration Panel as to the level of payment which is appropriate in each case.
- 19.2 The types of expenditure which Peterborough City Council expects its mayor's allowance, which is retained by the Executive and Members Services Manager to cover are the provision of any tickets purchased for the Mayor and their consort as part of functions attended in the capacity of mayor (such as for a dinner); the Mayor's tickets to their own charity events and the Mayor's Ball; the cost of their ward civic service and refreshments. Any unused balance in this account at the year-end is returned to the Council's general fund and offered as a saving to this budget area.
- 19.3 The Deputy Mayor's allowance is to cover their personal expenses, and those of their consort, similarly to the Mayor's allowance.
- 19.4 An element of the allowance to the Mayor and Deputy Mayor is paid to them directly via their members' allowance, and this is intended to cover expenditure (such as clothing, dry cleaning, travel, telephone, postage and purchase of items (i.e. raffle tickets when attending events)
- 19.5 The Mayor's and Deputy Mayor's Allowances are identified at Part 6, paragraph 4, of the Constitution (Members' Allowances Scheme).

## **20 Administration and funding of the mayoralty and civic service**

- 20.1 The Head of Constitutional Services and Executive and Members Services Manager are responsible for civic and ceremonial matters, with the Chief Executive retaining an important leading role as Council's most senior officer.
- 20.2 Executive and Members Services runs the Mayor's office. This includes arranging civic and ceremonial events, keeping the Mayor's diary and accounts, assisting with the organisation of the Mayor's Charities, liaising with organisations and individuals on the Mayor's behalf and generally briefing, advising and supporting the Mayor and Deputy Mayor in carrying out their duties.
- 20.3 The Mayor is also assisted by the Mayoral Support Officer who acts as City Mace Bearer. They also accompany the Mayor at Council meetings and civic events, and when guests are received in the Mayor's Parlour. The Mayor's Attendants are responsible for civic regalia, assists the Executive and Members Services Team in providing civic hospitality and also hosts visitors such as students who visit the Town Hall or Sand Martin House on educational visits to learn about its history and the Council's civic procedures.
- 20.4 The Mayor's Support Officers are responsible for transporting the Mayor in the mayoral car for official duties. Every effort is made to make maximum use of the vehicle so, as far as is possible, the mayoral car is also used for transporting the Deputy Mayor upon official business - although the Mayor's use takes precedence and alternative transport is sometimes necessary for the Deputy Mayor. The car is not used by the Mayor or Deputy Mayor's consorts, except when associated with accompanying the Mayor or Deputy on official business. Wherever possible, the mayoral party travels together in order to avoid the need for several separate journeys to and from events. It is the Executive and Members Services Manager's responsibility to schedule the use of the car. The Chief Executive is authorised to replace the vehicle every five years, or in

accordance with the leasing arrangements and this should be the most cost-effective option for the Council. The following guidelines will be applied in respect of procuring a replacement:

- a) The vehicle will be at the lower end of the emissions scale for cars
- b) The vehicle will, if possible, be generally regarded as 'British' or with British connections
- c) The vehicle will, if possible, be electric, in accordance with the Carbon Management Plan

- 20.5 At major events, assistance is also provided by the Beadles. In particular they assist with security and also civic hospitality.
- 20.6 The Council's corporate civic budget is controlled by the Head of Constitutional Services and managed on a daily basis by the Executive and Members Services Manager. The account covers civic hospitality as described at section 11 above, the Mayor's and Mayor's Office expenses, funding of civic events, civic gifts, maintenance of civic insignia and other such civic expenses.
- 20.7 In order that expenditure upon civic matters is clearly identifiable, the costs of other support will be charged to the civic account as necessary such as car parking and road closures. In order to minimise such costs, use of car parking permits will be restricted to major civic events.
- 20.8 At the close of each mayoral year, the Executive and Members Services Manager will arrange for the Mayor's name to be engraved on the plaque upon the wall outside the Mayor's Parlour. A portrait photograph of the Mayor, and their consort at the Mayor's discretion, will also be obtained and hung in the Parlour.
- 20.9 Every year a full Council photograph will be taken prior to the Annual Council meeting. The current photograph will be displayed in the Town Hall and on the Council's website, and a selection of past photographs will also be displayed where space allows.

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<b>CONSTITUTION AND ETHICS COMMITTEE</b>	AGENDA ITEM No. 8
<b>6 OCTOBER 2022</b>	<b>PUBLIC REPORT</b>

Report of:	Fiona McMillan, Director of Law and Governance	
Cabinet Member(s) responsible:	Councillor Andy Coles, Cabinet Member for Finance and Corporate Governance	
Contact Officer(s):	Cecilie Booth, Corporate Director Resources, s151 Officer Patricia Phillipson, Deputy s151 Officer	Tel. 452520 <a href="mailto:Patricia.Phillipson@peterborough.gov.uk">Patricia.Phillipson@peterborough.gov.uk</a>

## AMENDMENTS TO THE CONTRACT RULES

RECOMMENDATIONS	
<b>FROM:</b> Fiona McMillan, Director of Law and Governance	<b>Deadline date:</b>
<p>It is recommended that Constitution and Ethics Committee:</p> <p>APPROVES the amendments to the Contract Rules as set out in Appendix A of this report and RECOMMENDS to Council for approval.</p>	

### 1. ORIGIN OF REPORT

- 1.1 This report is submitted to Constitution and Ethics Committee following referral from the Monitoring Officer, the Director of Law and Governance.

### 2. PURPOSE AND REASON FOR REPORT

- 2.1 The purpose of this report is to provide the Constitution and Ethics Committee the opportunity to review and approve amendments to the Contract Rules set out in Part 4, Section 10 of the Council's constitution, under the Committee's Terms of Reference at paragraph 2.7.2.1 of Part 3, Section 2 of the constitution.

### 3. TIMESCALES

Is this a Major Policy Item/Statutory Plan?	<b>NO</b>	If yes, date for Cabinet meeting	N/a.
Date for relevant Council meeting	7 December 2022	Date for submission to Government Dept. <i>(Please specify which Government Dept.)</i>	N/a.

### 4. BACKGROUND AND KEY ISSUES

- 4.1 Currently, the Council's Contract Rules require that, for contracts and procurements with a value of £5,000 or over, officers must carry out a form of competitive process by obtaining quotes from

potential suppliers. The precise competitive process required depends on the value involved. In circumstances where it is not possible to carry out a competitive process, the officer must obtain an exemption from this process and submit an exemption report for approval by the Corporate Director Resources in that regard.

- 4.2 The exemption report process involves the officer writing the report, obtaining approval from finance, legal and procurement and eventually from the Corporate Director Resources, and is therefore quite labour intensive, involving time spent by various officers. This process takes time and can create delays in putting the relevant contracts in place, and additionally removes responsibility and accountability away from budget holders, effectively transferring budgetary control to the Corporate Director Resources.
- 4.3 It is proposed that the Contract Rules be amended to change the £5,000 figure to £25,000, so that a competitive process is required for contracts and procurements with an estimated value of £25,000 or more, and those below that value can be awarded by obtaining just one quote. This change was proposed by the Corporate Director Resources and is supported by the Director of Law and Governance.
- 4.4 It is envisaged that this change will reduce the number of exemption reports and will also give budget holders more responsibility and ownership over the budgets they manage.
- 4.5 In addition to the proposed change detailed above, it is also proposed to delete some out of date contract details within the Contract Rules and make the following minor updates and changes simultaneously:
  - a) Note that the valuation of contracts and procurements must now be inclusive of any VAT to reflect recent changes in law in this regard;
  - b) To update the EU thresholds stated in the Contract Rules to reflect the new levels contained within legislation;
  - c) To clarify that the exemption grounds for contract extensions also apply to contract renewals;
  - d) To delete the flowchart at the end of the Contract Rules which refers to out of date terminology and practices.
- 4.6 It is intended that, in due course, a full review and update of the Contract Rules will be carried out to coincide with the new procurement legislation that is expected to come into force in 2023. The current changes requested streamline the Council's processes for low value contracts in the interim, to seek to ensure efficiency.

## **5. CONSULTATION**

- 5.1 There are no consultation requirements as the proposals are to make amendments to the Contract Rules.

## **6. ANTICIPATED OUTCOMES OR IMPACT**

- 6.1 Following approval by the Constitution and Ethics Committee and subsequent approval by full Council on 7 December 2022, the Contract Rules will be amended, forming part of the Council's Constitution.

## **7. REASON FOR THE RECOMMENDATION**

- 7.1 The reason for the changes is to ensure that budget holders take responsibility and manage their budgets. This will assist in the process when goods, services or works are purchased and avoid unnecessary delays and excessive officer time being spent in relation to reasonably low value contracts.

## **8. ALTERNATIVE OPTIONS CONSIDERED**

- 8.1 Do Nothing/The Contract Rules are not amended: This was rejected, as the existing control process in authorising contract awards by exemption is not effective and requires changes for the reasons detailed above. The cost of purchases has increased in value over this period and there is a need to make amendments.

## **9. IMPLICATIONS**

### **Financial Implications**

- 9.1 None.

### **Legal Implications**

- 9.2 Section 135 of the Local Government Act 1972 requires a local authority to make standing orders setting out its rules in relation to contracts made by it for the supply of goods or materials or for the execution of works, including securing competition in relation such contracts and regulating the manner in which tenders are to be invited.
- 9.3 Section 135 permits a local authority to specify that contracts below a price detailed in its standing orders, do not need to meet the requirement for competition. The proposed change to the Contract Rules will be altering the Council's price specified in this regard from £5,000 to £25,000.

### **Equalities Implications**

- 9.4 None.

## **10. BACKGROUND DOCUMENTS**

Used to prepare this report, in accordance with the Local Government (Access to Information) Act 1985

- 10.1 Contract Rules, Part 4, Section 10 of the Constitution.

## **11. APPENDICES**

- 11.1 Appendix A – Revised Contract Rules, Clean copy  
Appendix B – Revised Contract Rules with Tracked Changes

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# **Peterborough City Council**

# **Contract Rules**

*Under Section 135, Local Government Act 1972*

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## Introduction to Contract Rules

These Contract Rules are made pursuant to the power under section 135 of the Local Government Act 1972 to make standing orders with respect to the making of contracts for or on behalf of the Authority, which is a power reserved to Council as a function that may not be exercised by the Cabinet (executive) by virtue of schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000.

Where a decision to procure goods or services or the decision to award a contract is an executive (Cabinet) function, who may or may not make that decision and up to what financial limits is to be determined in accordance with the Leader's Scheme of Delegation in operation at that time. The Leader's Scheme of Delegation can be found at Section 3 (Executive Functions) of Part 3 (Delegations) of the Constitution

These Rules apply to contracts or agreements with external organisations where the Council pays for:

- goods and/or services;
- works of any kind;
- hire, rental or lease of equipment.

The Rules also apply to any contracts made using:

- framework agreements,
- Constructionline (the UK register of pre-qualified construction services), recognised pre-qualified lists (Select Credit),
- or any contracts to be awarded on behalf of schools which are part of the LEA.

For high value contracts, officers must comply with national and European legislation and guidance issued by the Cabinet Office, Crown Commercial Services which will **override** these Rules. You must seek advice from Legal Services and the Procurement Team about that process.

## Which contracts are NOT covered?

These Rules do **not** apply to:

- Arrangements between different parts of the Council. Such arrangements are covered by service level agreements (**SLA**). For example, an agreement for Legal Services to provide legal advice to the Strategic Property team;
- Employment contracts between an individual and the Council;

- Buying or leasing land or buildings. These are covered by the Land Disposal Rules within the Financial Regulations;
- Grants of money. Grants cannot be contracts as they do not deliver services to the Council. Any grants of money must be in accordance with the Constitution and prior advice should be sought from Legal Services in relation to the governance process for award of grants and the legal documentation that will be required to be put in place. These Rules are not a guide to purchasing. These are the fundamental rules designed to ensure ethical processes around contracting.
- Certain collaborative arrangements between local authorities eg section 75 agreements.
- Public body to Public body co-operation - Contracts with other public bodies where the parties come together to deliver a public service, under the following conditions;
  - (i) achieve objectives which are common to both parties; and
  - (ii) the arrangement is solely for the public interest; and
  - (iii) the parties perform less than 20% of the services covered by the arrangement on the open market.
- In-house awards (this is where the Council awards a contract to an entity it controls. This exemption will only apply if **all** of the following conditions are met;
  - (i) The Council exercises a similar control on the entity as it does with its own departments;
  - (ii) The entity carries out more than 80% of its activities for the Council;
  - (iii) There is no private sector money in the entity.

**Note that contracts for healthcare services covered by the NHS (Procurement, Patient Choice and Competition (No.2) (Regulations) 2013 will be governed by the Public Contracts Regulations 2006 until 18 April 2016, after which date the Public Contracts Regulations 2015 will apply.**

## **Officer responsibilities**

All officers must:

- Comply with the Council's Financial Regulations and, in particular, declare any conflicts of interest in a potential contract or with bidders;

- Declare any gifts or hospitality received either before, during or after the procurement;
- Report any gifts or hospitality which may have improper motive to the Internal Audit team;
- Not disclose any confidential information to unauthorised persons;
- Ensure they have authorisation for the contract from an appropriate officer or member;
- Conduct the procurement process in a open and transparent manner;
- Enter all consultancy and interim manager contracts and certain higher value (above £50,000), or high risk contracts onto the POWA management system;
- Ensure the Serco procurement team are engaged to support the process as necessary
- Achieve the best value for money achievable;
- Be fair to all bidders;
- Ensure that all equality issues are addressed (carrying out an equality impact assessment where required).

## Chief Officer Responsibilities

The Constitution states:

*“The Chief Executive, Directors and the Deputy Chief Executive are authorised to deal with contractual matters in accordance with the contract rules” (Part 3)*

Therefore Directors must:

- Ensure that their Officers comply with these Rules and the Financial Regulations;
- Ensure their Officers inform the Serco Procurement team of all procurement exercises, including contracts awarded so that it can maintain an accurate and up-to date register of all Council contracts;
- Check that they have an appropriate authorisation, or have put in place an appropriate delegated authorisation, before any contract is awarded and commenced.

By following the Rules, officers will:

- ensure the Council’s procurement is legal;
- deter corruption;
- achieve value for money;

- show that the Council is accountable for its expenditure;

## **Advice and assistance**

Officers can also contact the following people for advice and assistance:

Contracts and Procurement Team

Project Delivery

Legal Services

Israr Ahmed Tel: 452326

Alex Maxey Tel: 452325

Serco Procurement Team

[buyingsupport@peterborough.gov.uk](mailto:buyingsupport@peterborough.gov.uk)

1. [Richard McCarthy Tel : 384606](#)

## Quick Reference Guide

VALUE (Including VAT)	PROCESS	EXEMPTION FROM RULES BY	DECISION TO AWARD	FORMALITIES	AUTHORITY TO SIGN OR SEAL CONTRACT	OTHER
<b>Contracts under £25K</b>	1 quotation	Exemption report signed by Corporate Director Resources	Contract award notice signed by relevant Director or CEX or their delegates	Purchase order (Financial system)	CEX or relevant Director (if written contact exists) or delegated authority	
<b>Contracts between £25K &amp; £50K</b>	3 quotations For Contracts over £25,000, also place advert on Contracts Finder.	Exemption report signed by Corporate Director Resources in consultation with the Head of Legal Services	Contract award notice signed by relevant Director or CEX or their delegates	Purchase order (Financial system) and correspondence	Authorised signatory or relevant Director or delegated authority	Enter contract onto contract register
<b>Contracts between £50K and EU threshold</b> <b>(£213,477 for goods and services or £5,336,937 for works or £663,540 for services falling under Sch 3 of the Public Contracts Regulations 2015)</b>	Tender with 4 bidders  For Contracts over £25,000, also place advert on Contracts Finder.	Exemption report signed by Corporate Director Resources in consultation with the Head of Legal Services	Contract award notice signed by relevant Director or CEX or their delegates	Formal contract approved by Legal Services	Authorised signatory (CEX or Corporate Director Resources or Head of Legal Services) or delegated authority  All contracts over £100k are to be sealed under the Council's seal.	Seek advice on bonds or parent company guarantee  Enter project on POWA  Notify risks to risk register  Written approval of Director and Head of Legal Services to terminate or assign

						Extension to be agreed by Director (if contract provides for extension) and subject to approval by Legal Services and Procurement.
<p><b>Contracts over EU threshold</b>  <b>(£213,477 for goods and services, £5,336,937 for works or £663,540 for services falling under Sch 3 of the Public Contracts Regulations 2015)</b></p>	<p>EU process (seek procurement and legal advice including advice on social improvements for services contracts)</p>	<p>Only statutory exemptions from the EU process are permitted</p> <p>Officers cannot provide exemption from the statutory rules</p>	<p>Contract award notice signed by relevant Director or CEX or their delegates</p> <p>Key decisions must be on the Forward Plan at least 28 days in advance</p>	<p>Formal contract approved by Legal Services</p>	<p>Contract sealed</p> <p>Authorised signatory (CEX or Corporate Director Resources or Head of Legal Services) or delegated authority</p>	<p>Seek advice on bonds or parent company guarantee</p> <p>Enter project on POWA</p> <p>Notify risks to risk register</p> <p>Written approval of Director and Head of Legal Services to terminate or assign</p> <p>Extension agreed by Director (if contract provides for extension) and subject to approval by Legal Services and Procurement.</p>
<p><b>Contracts subject to EU process and over £500K</b>  <b>(Applies to goods, services and works contracts over £500K)</b></p>	<p>Apply the relevant process above</p>	<p>For goods and services: Only statutory exemptions from the EU process are permitted. Officers cannot provide an exemption</p>	<p>Key Cabinet Member Decision Notice (CMDN) signed by the Cabinet member</p> <p>Decision on Forward Plan</p>	<p>Formal contract approved by Solicitor to Council</p>	<p>Contract sealed</p> <p>Authorised signatory (CEX or Corporate Director Resources or Head of Legal Services) or delegated authority</p>	<p>Seek advice on bonds or parent company guarantee</p> <p>Enter project on POWA</p> <p>Notify risks to risk register</p>



		For works contracts: The Executive Director, Resources can approve exemptions up to the EU threshold	at least 28 days in advance			Written approval of Cabinet member to terminate or assign  Extension agreed by Director (if contract provides for extension) and subject to approval by Legal Services and Procurement.
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NOTE FIGURES ABOVE EU THRESHOLDS ARE SUBJECT TO CHANGE AND YOU SHOULD CHECK WITH LEGAL SERVICES AND SERCO PROCUREMENT

## Section 1 – Beginning the Process

Before beginning any purchase you have to go through each of the steps in this section. It will help you determine how to apply the remainder of these rules.

### Before contracting

Before any purchase you must take the following essential steps to ensure that you are getting best value for the Council:

- Calculate the total contract value
- Consider whether any corporate contracts ought to be used
- Research the market
- Discuss with the Serco procurement team
- Consider what other advice/assistance you may need:
  - Does the contract involve land or buildings e.g. is a lease or licence required? If so, contact the *Estates* team and finance team;
  - Are any employees affected by the contract? If so, contact *Human Resources & Legal Services*;
  - Is equipment, plant or machinery to be transferred under the contract? If so, consider *Financial Regulations and seek advice from finance team*;
  - Is there any issue of state aid? If so, contact *Legal Services*;
  - Who has the correct delegated authority to authorise the contract? Contact *Legal Services* if in doubt;
  - Are there any equality issues within the contract, are there any requirements that need to be considered under the Public Sector Equality Duty, is an equality impact assessment required? If assistance is required, contact *Legal Services*;
  - Contract value issue?
  - Is the contract really a SLA or a Grant Agreement? If assistance is required, contact *Legal Services*;

Does the contract involve services above the EU threshold? If so, consider what social improvements might be secured and if consultation is required (under the Public Services (Social Value) Act 2012. Contact *Legal Services* if in doubt;

- Prepare a Business Case (POWA) for any contract using consultants or interim managers of any value or other contracts above £50K

## Calculate the total contract value

The contract value determines the process you must follow under these Rules. The valuation must be inclusive of any VAT payable.

You can calculate the total estimated value of the contract according to a simple formula

$$\text{Annual value} \times (\text{number of years} + \text{extension period}) = \text{total value}$$

The calculation may be subject to the following variances:

- where the contract is for a fixed period, the value is the total price to be paid or which might be paid during the whole of the contract period, including any possible extensions to the contract period;
- where a number of goods or services contracts are to be entered into, the estimated value of each contract shall be the total value of the payment which the Council expects to pay under each of those contracts;
- where a number of works contracts are to be entered into, the estimated value for carrying out the works shall be total value of the payment which the Council expects to give under all the contracts for carrying out the works;
- where the contract is for services has been provided over an indefinite period the value is obtained by multiplying the monthly payment under the contract by 48;
- where a service contract includes one or more options the estimated value of the contract shall be determined by calculating the highest possible payment which could be given under the contract;
- where the contract is a single contract comprising services, supplies or works in combination, the value is calculated according to the price of the largest element of the contract.

Some contracts may not be for a cash value. Where this is the case please contact Legal Services who will assist you in calculating the contract value.

You should not enter into a series of separate lower value contracts with the intention of avoiding these Contract Rules.

## Prepare a business case or mandate

The POWA system has been designed by the Council to monitor projects undertaken by the Council or using Council budgets. You must use POWA if it involves;

- Any purchasing as part of a project which is outside of 'business as usual'.
- Any use of a consultant or interim manager.
- Any purchase over £50,000 in value.
- Any contract carrying high risk.

There are no strict financial limits around the requirement to enter a project on POWA but it is considered best practice for officers to make more comprehensive use of the POWA system.

Information and guidance on POWA can be found on Insite.

Please see the 'Consultant and interim's Policy' on Insite for further information on the use of consultants and interim managers.

## **Corporate contracts**

The Council has entered into a number of partnership arrangements for either;

- direct delivery of internal services (e.g. IT with Serco);
- direct delivery of its services to the public e.g. the refuse collection service provided by Enterprise, leisure and cultural services provided by Vivacity), or
- centralised procurement of other bought in services (e.g. travel and hotel bookings, agency staff etc.).

These contracts create an exclusive arrangement between the Council and our partners for the services those partners provide. This means that you are obliged to use these service providers for the services they deliver. These are referred to throughout these Rules as the corporate contracts.

For all other services which fall outside of those contracts you have to tender any purchasing on the open market. You must also invite our partner to tender for the goods, services or works if they have the ability to provide those services but, within that tendering process, they are treated the same as any other bidder.

Failure to use the corporate contracts may result in the Council being in breach of contract and is likely to incur financial penalties for the Council.

Please contact the Serco Procurement team for advice on our corporate contracts.

## **Contracts reserved for mutuals**

You can limit competition for services such as administrative services in relation to education, healthcare and housing, health and social work services, library and other cultural services to

mutual type organisations. For such contracts the maximum duration is three years. A mutual type organisation must meet all of the following requirements;

1. The organisation's objective must be the pursuit of a public service mission linked to the services set out in the Public Contracts Regulations 2015;
2. The profits of the organisation must be re-invested to achieve the mission;
3. The organisation must be employee owned or require active employee organisation;
4. The organisation must not have been awarded a contract under this process within the last three years.

Contact the Legal Services Team, Serco Procurement Team and Finance Team if you wish to undertake such a process.

## **Research the market**

Researching the market is an important tool in identifying potential cost savings to the Council. The Serco Procurement Team can assist you to identify where you can add value to your tendering process by undertaking proper market research.

You are permitted to consult potential suppliers prior to starting your purchase in general terms about the nature, level and standard of the supply, contract packaging and other relevant matters provided you do not:

- prejudice any potential bidder; or
- favour any potential bidder so as to distort competition.

Where the Council has invited a potential bidder to take part in preliminary discussions then the outcome of any such discussions must be shared with all bidders participating in the procurement process.

You may also seek or accept advice from individual experts/bidders and use the advice in your planning for the procurement process. Ensure that you act fairly with all bidders and do not favour one bidder over the other, also keep a record of all measures taken.

The Serco Procurement Team can assist you with carrying out effective market research.

## **Framework agreements or local market tendering**

The Council's Procurement Strategy will determine whether you should seek to achieve cost efficiencies through use of framework agreements or whether you should tender in smaller lots as

a way to encourage bids from small to medium enterprises (SME's), in particular to target and stimulate local business.

There are numerous framework agreements for pre-tendered goods and services. There is generally no requirement to use a framework agreement but best value is often achieved by procuring through a framework agreement.

Use of a framework agreement may require you to engage in a mini-competition. This will be determined by the terms and conditions relating to the framework.

The Procurement Team can advise you on the various framework agreements available and provide advice on how to structure your tender to take advantage of the competition.

In some cases it may be preferable to tender the contract in smaller lots to allow local businesses the opportunity to tender for the work. Whilst smaller contracts may encourage local businesses to tender, you cannot limit the tendering process to local businesses alone as this would be to breach the requirement to be fair in your tendering process.

## **Other considerations**

Please do consider each of the following before beginning any tendering exercise.

### The need for the purchase

- Is the cost of purchasing outweighed by the benefits received?
- Have you considered other alternatives to your purchase or whether you might co-purchase with other Council Departments and so achieve further economies of scale?
- Are there products or skills within the Council that can be used without the need to source these externally?

### Risks arising

- Consider any risks associated with the purchase and how they are to be managed. Is this something that needs to be addressed on the departmental risk register?
- Have you factored in critical support and maintenance arrangements (i.e. whole life costing) if appropriate to avoid later negotiations? This is particularly important if your purchase involves any land or buildings.
- Have you identified whether there will be any potential conflicts of interest arising in the conduct of the procurement process, which can be seen as unfair and distorting competition?. You need to; (i) identify whether any staff member or other person involved in the procurement process on behalf of the Council has any direct/indirect/financial/personal interest which could be seen as comprising the impartiality and independence of the procurement process;(ii) ensure that the person has no further involvement in the procurement process if there is a potential conflict of interest; and (iii) Complete the conflict of interest form provided by the Procurement Team and ensure it is kept up to date.

### Process

- Make sure you have selected the most suitable procurement method for the purchase e.g.
- Through the use of a corporate contract;
- sourcing through a framework; or
- partnering and collaborative arrangements with other local authorities or public bodies;
- Note you cannot use a Pre-Qualification Questionnaire stage in the selection of bidders, refer to Section 2 of the rules for guidance. It is important to note that you can only ask suitability assessment questions and must give full regard to the guidance from the Cabinet in relation to such suitability questions. Contact the Procurement Team for assistance.

### Governance

- Do you have the available budget?
- Do you have the appropriate approval for the expenditure in line with the Constitution?
- If the purchase requires a Cabinet Member decision, consider whether it is a key decision and has to be included on the Forward Plan in line with the Council's Constitution;
- Have you notified the Procurement Team if the total value of the contract is above the relevant EU threshold?
- Have you involved Serco procurement team in progressing the procurement process to ensure value for money is being achieved if not using a corporate contract or framework contract?

### **Key practical points**

- Factor into your timetable sufficient time to prepare the tender documents especially the evaluation criteria in advance of beginning the tendering process.
- Consider the essential elements of your contract and ensure that these are included in your conditions of contract.
- Ensure that your contract budgets for the whole life costs of the contract.

## Section 2 – Process according to Value

### Part A: Contracts below £25,000

This section sets out the requirements that officers must follow when purchasing works, goods or services where the total value of the contract is below £25,000.

#### Getting a quote

1. For contracts for works, goods, or services with an estimated value below £25,000, you must either:
  - obtain a quote under one of the Council’s corporate contracts, or
  - place an order with a contractor under a framework agreement, or
  - obtain a quote from other relevant suppliers
2. Officers should note that they are required to obtain a quote from a corporate contract where one exists for the supply of those services.

#### Formalities

3. There must be a written record of the quotation, which may be in the form of a letter or email to or from the contractor.
4. You should consider the following information as essential to include in any quote:
  - the specification of the goods, services or works to be supplied;
  - payment provisions in line with Financial Regulations;
  - the Council’s termination rights;
  - the key time or times when the contract is to be performed;
5. You must have a purchase order in line with Financial Regulations. This may require you to set up the supplier on the Council’s accounting system in accordance with Financial Regulations.
6. The decision to award the contract and any written terms must be agreed in writing by your Director (or the Chief Executive) unless they have delegated that authority to you or another senior officer within your team.



## Part B: Contracts between £25,000 and £50,000

This section sets out the requirements that officers must follow when purchasing works, goods or services where the total value of the contract is between £25,000 and £50,000.

### Obtaining quotations

1. In the case of contracts for works, goods or services with an estimated value between £25,000 but not exceeding £50,000 you must first consider:
  - Whether you must procure those services through an existing corporate contract,
  - Whether a corporate contract can supply those services, or
  - Whether you have to source those services on the open market.
2. If a corporate contractor does supply those services or can procure those services on our behalf, you must instruct them directly. If you do not wish to make use of a corporate contract you will need to complete an exemption report (see section 4) prior to tendering to obtain the authority of the Executive Director, Resources not to do so.
3. If you are sourcing those services on the open market, you must obtain at least 3 written quotes and select the provider that offers the best value for money. You should consider whether to ask for assistance from the Procurement Team even for such low value contracts as they may be aware of ways in which you can maximise resources to achieve best value.
4. If 3 quotes cannot be obtained due to lack of suitable contractors, the Officer must complete an exemption report prior to awarding any contract. This is to obtain authority to be exempted from this Rule. For further information please see Section 4 of these Rules.

### Advertising the Contract

5. Although there is no specific requirement to advertise a contract between these values, officers and our corporate partners are positively encouraged to advertise contracts where
  - the contract value is £25,000 or above;
  - competition in the market is strong, or
  - the number of potential suppliers is high.
6. Advertisements can be placed on the Council's website, in the trade press and on websites specifically set up for contract advertisements .  
For contracts estimated to be £25,000 or over and which have been advertised, you must ensure that within 24 hours the advertisement relating to the contract opportunity is also advertised on Contracts Finder. This requirement will not apply where a framework has been set up of pre-selected suppliers and you intend to choose suppliers from the framework. The following details must be included in the advert on Contracts Finder;

- Date and time by which an interested supplier must respond if it wishes to be considered for the contract opportunity;
- How and to whom the supplier must respond;
- Any other requirements for participating in the procurement;
- Internet address where the documents can be accessed from.

You must ensure that unrestricted, free and full direct internet access is given to the documents relating to the procurement. You must also have regard to any guidance issued by the Cabinet Office in relation to the form and manner in which the information is to be published on Contracts Finder.

The Procurement Team can provide assistance with advertising.

## **Framework agreements**

7. Where a suitable framework agreement exists you may use the framework if the Council is mentioned as a potential purchaser under the framework agreement. You must follow the procedure set out in the framework agreement and do not have to obtain 3 quotations. The Procurement Team can assist you in selecting an appropriate framework agreement and advise you on the process for obtaining quotes.

## **Known suppliers**

8. In some cases you may already be aware of suppliers possessing a particular type of goods or service or works expertise that you are seeking. You may seek 3 quotations from any suppliers known to you but you must ensure that:
  - you do not use these suppliers in preference to any corporate contracts;
  - you do not discriminate in your selection of any particular supplier.

## **Invitations to Quote**

9. Although quotations do not require a formal process you must ensure that your request for quotes is made in writing and must set out a simple specification for your purchase. You should also state the basis upon which you will select the successful quote.
10. You must have a purchase order in line with Financial Regulations once you have selected the successful quotation.
11. If you select any supplier who is not the cheapest quote, you must record your reasons for

selection in writing.

## Higher value quotations

12. Where the value of the contract is between £45,000 and £50,000 Officers are encouraged to pursue a more formal quotation process. Officers not following a formal quotation process must record their reasons in writing. Officers should consider drafting an Invitation to Quote comprising of the following:
  - Bidders information about the process being used;
  - Specification of the goods, services or works being purchased;
  - Award criteria and procedure;
  - Tendering and canvassing certificate;
  - Contract terms and conditions.
  
13. The Invitation to Quotation must state that:
  - the Council is not bound to accept a quotation and;
  - late submissions or submissions which do not comply with the Council's award procedure will be rejected.
  
14. The Invitation to Quotation must include the contract terms and conditions that will apply to the contract setting out:
  - details of the goods, services or works to be supplied;
  - payment provisions;
  - the Council's rights to terminate the contract;
  - the key time or times when the contract is to be performed;
  
15. The Officer must consult Legal Services before an Invitation to Quotation is issued where the purchase involves one or more of the following:
  - the transfer of non-land assets.
  - the transfer of staff.
  - the transfer or lease of land.
  - potential state aid issues.
  
16. Your Director can award a contract up to £500,000 in value upon receipt of a contract award report. The contract award report must be completed and submitted to your Director (or delegated officer) for approval. The signed award report must be kept by the department for future reference.

17. You must publish a contract award notice on Contracts Finder within a reasonable time once you have awarded a contract, which must contain the following details;

- Name of the supplier;
- Date of contract;
- Total contract value;
- Whether the supplier is a SME (small, medium size enterprise);
- Whether the supplier is a non-governmental organisation that is value driven and surplus Monies are re-invested to further social, environmental or cultural objectives.

Information does not have to be published where the release would be contrary to the public interest, impede law enforcement, prejudice the legitimate commercial interests of a particular economic operator, might prejudice fair competition between suppliers.

You must also have regard to any guidance issued by the Cabinet Office relating to the form in which such information is to be published.

18. The contract can be signed by the relevant Director.

## Part C: E-tendering

1. Electronic Procurement (e-procurement) is the use of an electronic system to advertise and invite tenders for goods, works and services.
2. E-procurement covers the whole purchasing cycle. This is also known as the 'purchase-to-pay' cycle and includes:
  - electronic requisitioning,
  - electronic tendering,
  - electronic ordering,
  - purchasing cards and
  - electronic Payment/Invoicing.
3. The e-tendering system must be used for any purchase of goods, works or services above £50,000, however officers are encouraged to use the system for contracts below £50,000 where possible. Where contracts are advertised in OJEU, all tender documents must be made available electronically. This means that from the date the OJEU notice is published, you must ensure that all specifications, the descriptive document, proposed conditions of contract and any other documentation are ready for interested suppliers.
4. To use the e-procurement system you should contact the Procurement Team to register yourself as a user on the e-sourcing system. Training and user guides will be provided.
5. The following sections of these Rules anticipate that you will use the e-procurement system for any purchasing. If you do not wish to use the e-procurement system you will need to discuss this with the Procurement Team.

## Part D: Contracts between £50,000 and EU values

Contracts in this range of values are subject to the Council's tendering procedures as set out in this section. E-procurement is the preferred method of tendering and use of framework agreements is likely to be more common. You are therefore very likely to need assistance from the Procurement Team throughout this process and an early request for assistance is recommended.

### Prior considerations

1. In the case of contracts for works, goods or services with an estimated value between £50,000 to the EU threshold you must first consider:
  - Whether you must procure those services through a corporate contract, or
  - Even though procurement through the corporate contract is not necessary, whether a corporate contract can supply those services, or
  - Whether you have to source those services on the open market, or
  - Whether you want to call off those services from a framework agreement.
2. If a corporate contractor can supply or procure those services, you must instruct them directly. Where they are procuring works, goods or services on your behalf they must follow these tendering procedures. If you do not wish to procure through the corporate contract you will be required to complete an exemption report (see section 4) before placing any orders for goods, services or works.
3. If you are sourcing those services on the open market, you must tender for a supplier using the e-procurement system.
4. Where there is a lack of suitable contractors on the market to merit a tendering process, you must complete an exemption report. This is to obtain authority to be exempted from this Rule. For further information please see Section 4 of these Rules.

### Using a framework agreement

5. A framework agreement comprises pre-assessed suppliers. Use of a framework therefore simplifies the tendering process and offers considerable cost reduction. Before opting to use a framework agreement you should also consider whether there is benefit in re-packaging the tender to enable local businesses to compete for the contract.
6. A framework agreement will be suitable where you are contracting for services, goods or works
  - commonly available
  - frequently used

7. A framework agreement may not be suitable for your supply where it involves:
  - particularly complex or risky procurements;
  - one-off procurements where the product or service requires a specialism;
  - procurements which are looking for particularly novel solutions;
  - where the contract length would be longer than four years;
  
8. Before using any framework agreement please ensure that the Council was identified as a potential purchaser in the OJEU notice. Advice on this can be sought from the Procurement Team or Legal Services.

### **Awarding a call-off**

9. Once you decide on a framework agreement you must call off your individual contract under the framework either by;
  - placing a direct order/direct award or
  - holding a mini competition
  
10. The method of call-off will depend on the terms and conditions of the framework. Some larger frameworks are divided into a number of lots, which may have been set up to enable direct ordering whilst others are designed to provide more bespoke solutions with the terms, conditions and solutions being refined through mini competition.
  
11. You cannot make any substantive changes to the specification or the terms and conditions of the framework so you must follow its terms in order to procure under the framework.

### **Tendering process**

12. Officers who have assessed that they do not want to award through a framework agreement are required to carry out a formal tendering process. The Council's preferred method is e-procurement. Note you cannot use a Pre-qualification Questionnaire for contracts within the values mentioned in this section. See Section 1, Other Considerations, Process.

### **Advertising**

13. You are required to advertise any contract you wish to tender whose total value is £25,000 or above.
  
14. You must ensure an appropriate level of advertising having regard to:
  - The subject matter of the contract;
  - The value of the contract;

- The size and structure of the market and common commercial practices in that market;
  - The location where the goods or services will be delivered.
15. The greater the interest of the contract to potential bidders, the wider should be the coverage of the advertisement. Depending on the above criteria, advertisements could be placed on the Council's website, in the trade or local press, on websites specifically set up for contract advertisements or, where the contract borders on the EU threshold, in the Official Journal of the European Union (OJEU).

For contracts estimated to be £25,000 or over and which have been advertised, you must ensure that within 24 hours the advertisement relating to the contract opportunity is also advertised on Contracts Finder. This requirement will not apply where a framework has been set up of pre-selected suppliers and you intend to choose suppliers from the framework. The following details must be included in the advert on Contracts Finder;

- Date and time by which an interested supplier must respond if it wishes to be considered for the contract opportunity;
- How and to whom the supplier must respond;
- Any other requirements for participating in the procurement;
- Internet address where the documents can be accessed from.

You must ensure that unrestricted, free and full direct internet access is given to the documents relating to the procurement. You must also have regard to any guidance issued by the Cabinet Office in relation to the form and manner in which the information is to be published on Contracts Finder.

## **Preparing the tender documents**

16. To complete the tender process you must prepare the following documents:
- An Invitation to Tender including the evaluation criteria;
  - Specification of goods, services or works to be supplied;
  - A tendering and canvassing certificate;
  - Parent company guarantee or performance bond (where appropriate);
  - Standard conditions of contract. You must include provisions stipulating that the Council will pay the supplier no later than 30 days from date of the invoice. You may also include further specific conditions relating to the performance of the contract ie economic, innovation-related, environmental, social or employment related conditions. These conditions must be linked to the subject matter of the contract and set out within the tender documents. Contact Legal Services for advice and preparation of these clauses.



## Preparing the evaluation criteria

17. Before starting the tender process, you must define the evaluation criteria. This details how the bids will be evaluated. It is essential that the methodology for the award is set out in the Invitation to Tender.
18. You must apply the relevant British and any equivalent European or international standards to define the required quality of the goods or services being purchased.
19. The evaluation criteria must be relevant to the services, goods or works being purchased and must be designed to secure value for money for the Council.
20. The evaluation criteria for award of the contract must be based on:
  - the most economically advantageous (MEAT) bid (in other words, where quality, performance or improvements are as important as price); or
  - the lowest price (where price is the only factor).

You can also use a cost-effective approach for the evaluation criteria ie considering environmental and social aspects, qualifications and experience of staff, after sales service, delivery conditions, quality impacting on level of contract performance. These must be linked to the subject matter of the contract.

21. If the most economically advantageous criteria are to be used, they can be further defined by relevant sub-criteria, examples of which are set out as follows:
  - price;
  - quality and performance;
  - running costs;
  - technical merit;
  - economic advantage based on past experience;
  - delivery date;
  - environmental considerations;
  - aesthetic and functional characteristics;
  - safety;
  - after-sales services;
  - technical assistance; and
  - other relevant matters.

22. Where sub-criteria are used, they must also be set out in the Invitation to Tender.

23. The evaluation criteria must not include non-commercial considerations. These are criteria which are not directly relevant to the operation of the contract e.g. the terms and conditions of employment of the bidders' workers or the country of origin of the bidder.
24. The award criteria cannot include matters which discriminate against suppliers from the European Union or signatories to the Government Procurement Agreement.
25. As the evaluation stage is the most likely point at which a challenge may be made to the procurement process you are advised to seek assistance from the Procurement Team regarding evaluation modelling.

### **Defining the evaluation procedure**

26. Bids can be evaluated by using the bidders' written submissions only or you may want to arrange face to face interviews with the bidders and/or ask for bidder presentations to supplement the written submissions.
27. You must choose which process you will use to evaluate the bids and set this out in the Invitation to Tender.

### **Preparing the invitation to tender**

28. The Invitation to Tender sets out the basic rules for the tendering process and you must use the standard template Invitation.
29. The invitation to tender must state that
  - the Council is not bound to accept the tender;
  - late submissions and submissions which do not comply with the Council's e-tendering procedure will be rejected;
  - the e-tendering system does not allow acceptance of tenders via email or post;
  - the date and time for submission of tender and that late tenders may not be accepted;
  - the tender submission closing time is governed by the e-tendering system's clock which automatically records receipt of tenders and retains that information;
  - Where bidders are asked to upload files, you must advise them that single file sizes must not exceed 5mb.
30. The invitation to tender should be accompanied by standard conditions of contract. You need to consider whether there are further conditions relevant to the contract e.g. the time the service is performed, the date on which goods are delivered etc. In some cases standard contracts (e.g. JCT contracts) will be available.
31. Officers must consult Legal Services before a tender is issued for any contract which involves one of the following:
  - the transfer of non-land assets;

- the transfer of staff;
- the transfer or lease of land;
- any form of payment assistance to the bidder (state aid).

## Clarification procedures

32. All clarification and communication during the tender process should be channelled through the e-tendering systems messaging tool. Never email bidders via your email account during the tender exercise as there is no clear audit trail to support your process. When a message is received from a bidder a notification will be emailed to you to respond to the message. Any queries raised by a bidder and clarifications provided should be forwarded to all bidders with anonymity of the bidder raising the query.
33. If an error is identified in the invitation to tender before the closing date for submissions and is significant enough to warrant amendment, all bidders should be informed of the error and invited to adjust their bids.

## Submission, receipt and opening of tenders

34. Tenders will only be available to evaluate following the closing date for submissions .
35. Tender evaluation may be completed within the e-tendering system on line or off line.

## Post tender negotiation

36. If an error is identified in the invitation to tender after the closing date for submissions and is significant enough to warrant amendment, all bidders should be given details of the error and given the opportunity to withdraw their offer or to submit a revised bid within a defined period.
37. Where there is a minor error or discrepancy in the successful tender which would affect the tender figure, the bidder should be given details of the error or discrepancy and given the opportunity to confirm, correct or withdraw its bid. If the bidder withdraws its offer, the next most competitive bid should be assessed.
38. Following receipt of the tenders, you may clarify or negotiate with a preferred bidder to obtain an improvement in terms of price, delivery or service. Any such clarification or negotiation must:
  - not discriminate against other bidders, and
  - not alter the original specification except where Legal Services or Procurement have advised that special circumstances exist that can be substantiated, and

- have the prior authorisation of Legal Services or the Procurement Team, and
- be confirmed in writing by the bidder.

## Evaluation, selection and de-briefing

39. The e-tendering system may be used as a document exchange system where tenders are uploaded to the system and then evaluated off-line or you may use the systems tender questionnaire which will enable you to evaluate the bids online within the e-tendering system.
40. Bids must be evaluated and the successful bidder selected in line with the advertised award criteria and the award procedure.
41. There is no requirement for a standstill period in non-EU tendering but it is considered good practice to debrief unsuccessful bidders before awarding the contract to identify and avoid any potential challenges from an unsuccessful bidder.
42. You may want to include the following matters in any debrief:
  - identifying the bidder to whom the contract will be awarded,
  - the reasons for the decision,
  - the award criteria,
  - a full breakdown of the bidder's scores against each of the criteria and sub-criteria together with an explanation why the successful bidder achieved a higher score,
  - the score of the successful bidder,
  - the reasons (if any) why the bidder did not meet the technical specifications.
43. Apart from the debriefing permitted by this Rule, the confidentiality of tenders and the identity of bidders must be preserved at all times and information about one bidder's response must not be given to another bidder.

## Award report

44. Provided there is no challenge to the decision to award the contract you must prepare a contract award report to authorise the award of the contract which must be sent to Legal Services, Procurement and Finance for approval before your Director signs off the report. The report must be signed by the Director or a senior officer with authority delegated from the Director.
45. Once your contract award notice has been approved, you will need to notify all bidders of the result via the e-tendering system. In addition, you must also publish a contract award notice on Contracts Finder within a reasonable time once you have awarded a contract, which must contain the following details;

- Name of the supplier;
- Date of contract;
- Total contract value;
- Whether the supplier is a SME (small, medium size enterprise);
- Whether the supplier is a non-governmental organisation that is value driven and surplus Monies are re-invested to further social, environmental or cultural objectives.

Information does not have to be published where the release would be contrary to the public interest, impede law enforcement, prejudice the legitimate commercial interests of a particular economic operator, might prejudice fair competition between suppliers.

You must also have regard to any guidance issued by the Cabinet Office relating to the form in which such information is to be published.

### Contract formalities

46. There must be a signed written contract in place between the Council and the contractor before the supply, service or work is started. You must send the following documents to Legal Services to prepare and finalise the formal contract documents:
  - Signed Director's Contract Award Report;
  - Invitation to Tender (including the terms and conditions);
  - Successful Contractor/Service Provider/Consultant tender submission;
  - Any other documents you wish to include in the contract
47. Signed, Sealed contracts will be listed in the Council's contract register and placed in the Council's Deeds Room and you will be forwarded a contract number for future reference. Contracts between £50,000 and £100,000 need to be signed by an Authorised Signatory or sealed in the presence of an Authorised Signatory. All contracts over £100,000 must be sealed in the presence of an Authorised Signatory.
48. If you want the contract to begin before the contract is signed or sealed, you should consult Legal Services. In exceptional circumstances, the Head of Legal Services may permit the contract to begin before the contract is signed.

### Contract register

49. You must give details of the contract to the Procurement Team to be entered into the Contracts Register.

## Part E: Contracts above EU values

If you want to award a contract in this range of values you must consult the Procurement Team and Legal Services. This process is governed by statutory rules and European Directives that are too extensive to set out in these Rules. The following Part is intended as summary guidance only.

It is important to note that the statutory rules supersede these Rules and contain their own exemptions.

No exemption can be granted by officers or members for exemption from the EU process unless the exemption is permitted by the statutory rules.

### Identifying potential candidates

1. Contracts which are covered by the Regulations must be the subject of a 'call for competition' by publishing a contract notice in the Official Journal of the European Union ("OJEU").
2. In most cases the time allowed for responses or tenders must be no less than a set period, although some prescribed periods can be reduced where:
  - A prior information notice (PIN) was published sufficiently far in advance of the procurement or when accelerated procedures are used;
  - If the OJEU notice was submitted electronically in accordance with the requirements set out on the SIMAP website (see above);
  - Where authorities offer full and unrestricted access to tender documents (in accordance with specific requirements set out in the EU procurement regulations).

### Process

3. **The Public Contracts Regulations 2015 (which can be viewed on the Cabinet Office website) set out schedules which include the types of works, services that are covered by the Regulations. These Regulations will apply in the following circumstances;**
  - (i) For a contract relating to works with a total value of £5,336,937 and over;**
  - (ii) For a contract relating to the supply of goods with a total value of £213,477 and over;**
  - (iii) For a contract relating to services with a total value of £213,477 and over. However for services falling within Schedule 3 of the Regulations, the Regulations will apply where the total contract value is £663,540 and over.**

**Important to note that the thresholds stated are subject to changes on an two yearly basis, you must check with Legal Services and the Procurement Team in relation to under which services your proposed contract falls under.**

**Where the contract value of your contract is below the thresholds, this does not mean that you will be totally exempt from the Regulations, contact the Legal Services and Procurement Team for assistance.**

4. **For contracts which are above the thresholds set out in this section, a standardised Pre-Qualification Questionnaire may be used when shortlisting potential bidders and/or assessing their financial and economic standing, technical capacity and ability, previous experience. Contact the Procurement Team or Legal Services for further advice on PQQ's.**

## **Choice of procurement procedure**

5. Four award procedures are provided for under the EU procurement regulations:
- **Open Procedure**  
All those interested may respond to the advertisement in the OJEU by tendering for the contract.
  - **Restricted Procedure**  
A selection is made by use of a pre-qualification questionnaire (PQQ) of those who respond to the advertisement and only those selected are invited to submit a tender for the contract. This allows purchasers to avoid having to deal with an overwhelmingly large number of tenders.
  - **Competitive Dialogue Procedure**  
Following an OJEU notice and a selection process, the Council enters into dialogue meetings with several bidders, to develop one or more suitable solutions for its requirements. During this process bidders are deselected at various stages before final tenders are called for. (A multi-stage and complex process which should not be used where Open or Restricted procedures could have been used).
  - **Negotiated Procedure**  
The Council may select one or more persons with whom to negotiate the terms of the contract. An advertisement in the OJEU is usually required but, in certain circumstances, described in the Regulations, the contract does not have to be advertised in the OJEU. An example is when, for technical or artistic reasons or because of the protection of exclusive rights, only a particular person can carry out the contract. This procedure is used only exceptionally.
  - **Innovation Procedure**  
This procedure can be used where the Council has identified a need for an innovative product, service or works that cannot be met by purchasing these from the market. A partnership can be set up with one or more partners with the aim of developing an innovative product, services or works. The partnership will need to be terminated as the development progresses. The selection of bidders and process for negotiation will be in accordance with the Public Contracts Regulations.

6. Public authorities have a free choice between the open and restricted procedures. The competitive dialogue procedure is available where the contract cannot be awarded under open or restricted procedure. The negotiated procedure may only be used in the limited circumstances described in the EU procurement regulations.
7. Under restricted procedures, competitive dialogue and competitive negotiated procedures (those where a call for competition is required by advertising in the OJEU) there must be a sufficient number of participants in the process to ensure genuine competition, with a minimum of *five* for restricted procedures and *three* for competitive dialogue and negotiated procedures.

### Specification evaluation and award criteria

8. In all other respects the process follows the steps set out in the earlier section on tendering and you are required to complete preparation of your paperwork before the tendering process begins. Whilst some of the paperwork can be standardised it is important that Legal Services and the Procurement Team will work with you to devise award criteria based upon your specification for the services that are being procured.

Where tender bids received appear to be abnormally low, you need to seek an explanation from the bidder or bidders. Once received you need to assess the information and you can only reject the tender where the responses provided do not satisfactorily set out the reasons for the low bid. Contact Legal Services for guidance.

### Standstill and post tender formalities

9. Following the evaluation of the contract and before formally awarding the contract to the successful bidder there will be a mandatory standstill period. This period begins once you have notified the unsuccessful bidders of your decision and the reasons for the differing scores. This is known as the 'Alcatel' or "Standstill" period and is bound by strict rules. See points 11 and 13 below as to when the Alcatel letter must be sent out.
10. The standstill period allows for the unsuccessful bidders to seek any feedback on their bids and to challenge the procurement process. You should therefore have prepared in advance any information about the evaluation process, the reasons for the differing scores and why the bidder was unsuccessful before the award of the contract is notified to the bidders.

### Governance

11. The contract must be awarded by an authorised signatory on behalf of the Council. Your Director can award a contract up to £500,000 in value upon receipt of a contract award report. You must prepare an award report to authorise the award of the contract which must be sent to Legal Services, Procurement and Finance for approval before your Director signs off the report. The report must be signed by the Director or a senior officer with authority



delegated from the Director. The Alcatel letter can be sent out at any time after your Director signs off the contract award report.

12. For contracts above £500,000 you will need to have a Key cabinet member decision notice (CMDN) approved by the relevant Cabinet member before award of the contract. All contracts of this value should also be on the Forward Plan. Contact the Governance team for further guidance.
13. The Key CMDN must be published in advance of being signed by the Cabinet Member. There is separate guidance on this process available from the Legal Services team. The Alcatel letter can only be sent out after the Cabinet Member has signed the Key CMDN. Once the Key CMDN has been published the bidders are likely to become aware of the successful bidder so you should aim to make them informally aware of the tender outcome and intention to issue the Alcatel standstill letter at the same time as the Key CMDN is sent for publication. Confirmation of the award should follow once the call-in period has expired.
14. All contracts above £100,000 must be sealed in the presence of an Authorised Signatory and, once sealed, will be retained by Legal Services within the Deeds Room.

### **Contract formalities**

15. There must be a sealed written contract in place between the Council and the contractor before the supply, service or work is started. If this requirement may cause difficulties, you should consult Legal Services. In exceptional circumstances, Legal Services may permit the contract to begin before the contract is sealed and measures can be put in place to protect the Council's position in the interim.

You must send the following documents to Legal Services to prepare and finalise the formal contract documents:

- Signed Director's Contract Award Report/Key cabinet member decision notice;
- Invitation to Tender (including the terms and conditions);
- Successful Contractor/Service Provider/Consultant tender submission;
- Any other documents you wish to include in the contract

16. Signed, Sealed contracts will be listed in the Council's contract register and placed in the Council's Deeds Room and you will be forwarded a contract number for future reference.

## Section 3 – Getting the Contract in Place

Where contracts are high value or high risk you should consult with your department's senior accountant or senior financial officer as to whether some form of security, such as a bond or parent company guarantee is required from the contractor

### Bonds

1. A performance bond is a written guarantee provided to the Council by a contractor's bank or insurer. It requires the contractor to deposit a sum of money with the bank or the insurer and is therefore usually only suitable for high value or high risk contracts. If the contractor does not do what it has promised under the contract, the Council can claim from the bank or insurer the sum of money which is specified in the performance bond.
2. A performance bond is intended to protect the Council against the costs that arise from the contractor's failure to perform the contract. You must assess the need for the bond by considering the risks to the Council, including the:
  - complexity of the contract relating to delivery;
  - capabilities of suppliers, service providers or contractors;
  - financial standing and security of suppliers, service providers or contractors.
3. In limited circumstances it may be necessary to have an on demand bond (effectively a cash bond), however there is a significant cost to these and they should only be sought in limited circumstances and following legal advice.
4. You should consider whether a performance bond or any other form of security is required where;
  - a contract for works, goods or services is estimated to exceed the EU threshold or
  - where it is proposed to make stage or other payments in advance of receiving the whole of the works, services or supplies
5. Should a performance bond or other form of security be required, you must identify this in the tender documentation. Contact the Contracts and Procurement Team or Legal Services for a template version of the performance bond.
6. You should not allow the contractor to commence the contract for the works, services or supplies until the bond has been provided to the Council.

### Parent company guarantees

7. A parent company guarantee could be requested from the contractor as an alternative form of security to a performance bond but only where the contractor has a parent company.

8. A parent company is a company which owns a number of companies (known as subsidiaries). You should seek advice from the Procurement Team or Legal Services if you intend to request a parent company guarantee in any tender.
  
9. There are other lesser used forms of security that can be requested against the contract, such as cash, title deeds, debentures and legal charges. Please contact the Procurement Team or Legal Services for further advice if you need to consider these.

## **Contract documents**

There are many different forms of standard contract. These are most frequently found in the construction industry (i.e. for works contracts) but others are also available.

The Legal Services team have knowledge of most standard forms of contract and also hold a standard set of terms and conditions which can be tailored to meet any forms of works, goods or services contract. These take account of the specific needs placed upon local government contracts e.g. freedom of information requests for contract documents and auditing obligations.

Requests for standard clauses and to discuss specific contractual requirements can be made by contacting Legal Services.

## Section 4 – Changes to the Contract

This section sets out what you must do if

- you are unable to comply with any of the requirements of these Rules, or
- there is a change to the contract e.g. additional works have been identified after the contract has begun.

It is very important that you follow correct governance processes to authorise any changes to the contract or these Rules. In almost all cases you will require approval from your Director and other senior officers within the Council.

The Head of Legal Services is responsible for monitoring adherence to these Rules. Failure to obtain the correct authorisation at the appropriate time to deviate from these Rules may mean that you are in breach of your employment contract and oblige the Head of Legal Services to report repeated breach of the Rules to the Council.

### Exemptions

1. It is the Council's policy that these Contract Rules should be complied with at all times. However, the Council recognises that circumstances may exist when it is not possible or desirable to comply with these Rules. On those occasions you may apply for an exemption from any or all of these Rules.
2. The fundamental principles of exemptions are that:
  - they should be used only in exceptional circumstances;
  - they are granted entirely at the discretion of the Corporate Director Resources, in consultation with the Head of Legal Services,
  - they should always be sought in advance of any purchasing as there is a general presumption that retrospective applications will not be approved, and
  - there is no automatic right to an exemption.
3. The Corporate Director Resources is accountable for giving appropriate approval to all exemptions and a record is kept of all those granted which is open to public inspection.
4. All exemption requests must be made in writing supported by justification for your application.

5. An exemption under this section **can never** be used where the total value of the contract exceeds the EU threshold. There are specific statutory exemptions which apply to contracts tendered under the EU process and you should always seek legal advice on these.

### When may an exemption be allowed?

6. An Exemption may be allowed when:
  - You want to obtain quotations or tenders from fewer bidders than these Rules require (including a single bidder) because they are the only suppliers which can provide the services or goods or works you want to purchase;
  - You are working in partnership with another public sector body and you are satisfied that their procurement rules have been complied with in the letting of the contract;
  - You want to extend or renew an existing contract which does not have provision for an extension and where a change of supplier would cause:
    - disproportionate technical difficulties;
    - excessive cost; and/or
    - significant disruption to services.
7. In all cases an exemption cannot be approved where the cost of the extension or contract exceeds the EU threshold.

### Exemption procedure

8. To apply for an Exemption, you should complete an Exemption Report.
9. The Exemption Report should set out clearly the grounds on which you are applying for the Exemption and must specify which of the reasons listed above apply.
10. If there is information which you wish to keep confidential and not disclose to the public you should also complete an exempt annex. However, all local authorities are increasingly expected to disclose information to the public on the grounds of transparency and accountability. The Council will be allowed to withhold information only in exceptional circumstances where the interests of the Council or others may be severely damaged or compromised by disclosure.
11. The completed exemption report should be sent to Legal Services, Procurement and Finance for approval.
12. Once the required approvals have been obtained you must send the report to the Head of Legal Services and the Corporate Director Resources for formal approval of the exemption. Electronic approval will be sufficient.

13. The Corporate Director Resources is required to keep a register of approved exemptions.
14. In urgent circumstances, contact must be made with the Head of Legal Services and the Corporate Director Resources **before** taking entering any contract, to obtain an “in principle” decision. This means that, unlike usual procedures, the decision to award will follow after the contract has been awarded. Verbal authority given by the Executive Director, Resources will mean that the correct authority has been given for the contract, even though the paperwork will be retrospective.

### Retrospective exemptions

15. An exemption to any of the Rules should never be sought retrospectively but exceptions to this principle will be allowed where:
  - It has been necessary to act urgently because of an unforeseen emergency which involves immediate risk of injury or damage or to prevent serious disruption to services.
  - it is necessary for an officer in Children’s Services or Adult Social Care to act immediately to secure care for any vulnerable person.
  - it is necessary to act urgently to secure a supply of goods eg Westcombe Engineering, where commercial offers are time limited and represent best value for the Council.
16. In both cases you should seek an ‘in principle’ decision from the Executive Director, Resources and the Head of Legal Services where possible, and the cost of the immediate action should not exceed the EU threshold. An exemption report should be completed as soon as reasonably possible after the contract has begun.

### Assigning/Novating contracts

17. Assignment is the transfer of the benefit of contract to another party. The contract should detail the circumstances in which a contract can be assigned but if it does not you will need to consult Legal services on the process. Novation is the transfer of the rights, obligations and liabilities of an original party to an existing contract to a new party. You should contact Legal services on the form of the contract that should be used for the novation, which is usually in the form of a deed.
18. Where a contract is required to be assigned or novated you must first calculate the total value of the contract to determine the correct process. A contract may be assigned/novated, without the need to carry out a new procurement, where;

(i) There is reference to such a change within the tender documents; or

(ii) The new contractor is replacing the existing contractor following a corporate restructure, takeover, merger, acquisition or insolvency, and as long as the new contractor fulfils the criteria upon which the existing contractor was selected (ie technical, financial capability).

19. Where a contract has a total value between £50,000 and £500,000 the assignment/novation will need to be approved by the following officers:
- Head of Legal Services; and
  - Your Director (or if authorised, the Head of Service / Assistant Director)
20. Where a contract has a total value of more than £500,000 the assignment/novation will need to be approved by the officers listed above and:
- a credit check on the proposed contractor that the contract is to be assigned to have been carried out by Financial Services; and
  - a Cabinet Member Decision Notice authorising the assignment/novation has been obtained; and
  - a formal deed/notice of assignment, to be prepared by Legal Services, has to be entered into by the parties

## **Varying contracts**

21. Variations of contract typically comprise:
- change in price, or
  - change in service delivery or goods or works leading to a change in price
22. If the variation looks as if the original value of the contract is likely to be exceeded, the procedure for obtaining approval to the variation is as follows:
- 22.1 Non-EU procured contracts
- Increase is less than £50,000
- The project/contract manager or officer must obtain approval to the increase in line with the authority listed in the quick reference guide.
- Increase is more than £50,000
- In addition to obtaining the authority listed in the quick reference guide, the project/contract manager or officer must inform the Head of Internal Audit immediately. This means that as long as the contract as varied is still under £500,000, it can be authorised by the relevant officer(s) referred to in the quick

reference guide (subject to having informed Internal Audit). If the variation takes the contract value over £500,000 or if the original contract was over £500,000 and a key cabinet member decision notice was obtained for the contract, a further key cabinet member decision notice need not be obtained for the variation, unless Legal Services consider such a decision should be obtained.

**The above is subject to;**

**(i) The variation not exceeding the EU threshold value for the works, services, supplies (ie accumulated value including the value of the variation) and;**

**(ii) The variation is lower than 10% of the initial contract value for services, supplies or 15% of the initial contract value for works.**

22.1 EU procured contracts

Contact Legal Services for advice on whether the variation is likely to be treated as a new contract, requiring it to be re-tendered. If the advice from Legal Services is that the variation is unlikely to be treated as a new contract, the project project/contract manager or officer must follow the procedure outlined in the second bullet point of paragraph 22 above.



## Section 5 – Ending the Contract

### Terminating contracts

1. Where a contract is required to be terminated, other than by it expiring, seek advice from Legal Services.
2. Where a contract has a total value of between £50,000 and £500,000 the termination will need to be approved by the following officers:
  - Head of Legal Services; and
  - Your Director (or if authorised, the Head of Service / Assistant Director)
3. Where a contract has a total value of more than £500,000 the termination will need to be approved by the officers listed above and additionally
  - a Cabinet Member Decision Notice must authorise the termination and;
  - a termination notice must be issued to the contractor by Legal Services

## Section 6 – Explanations

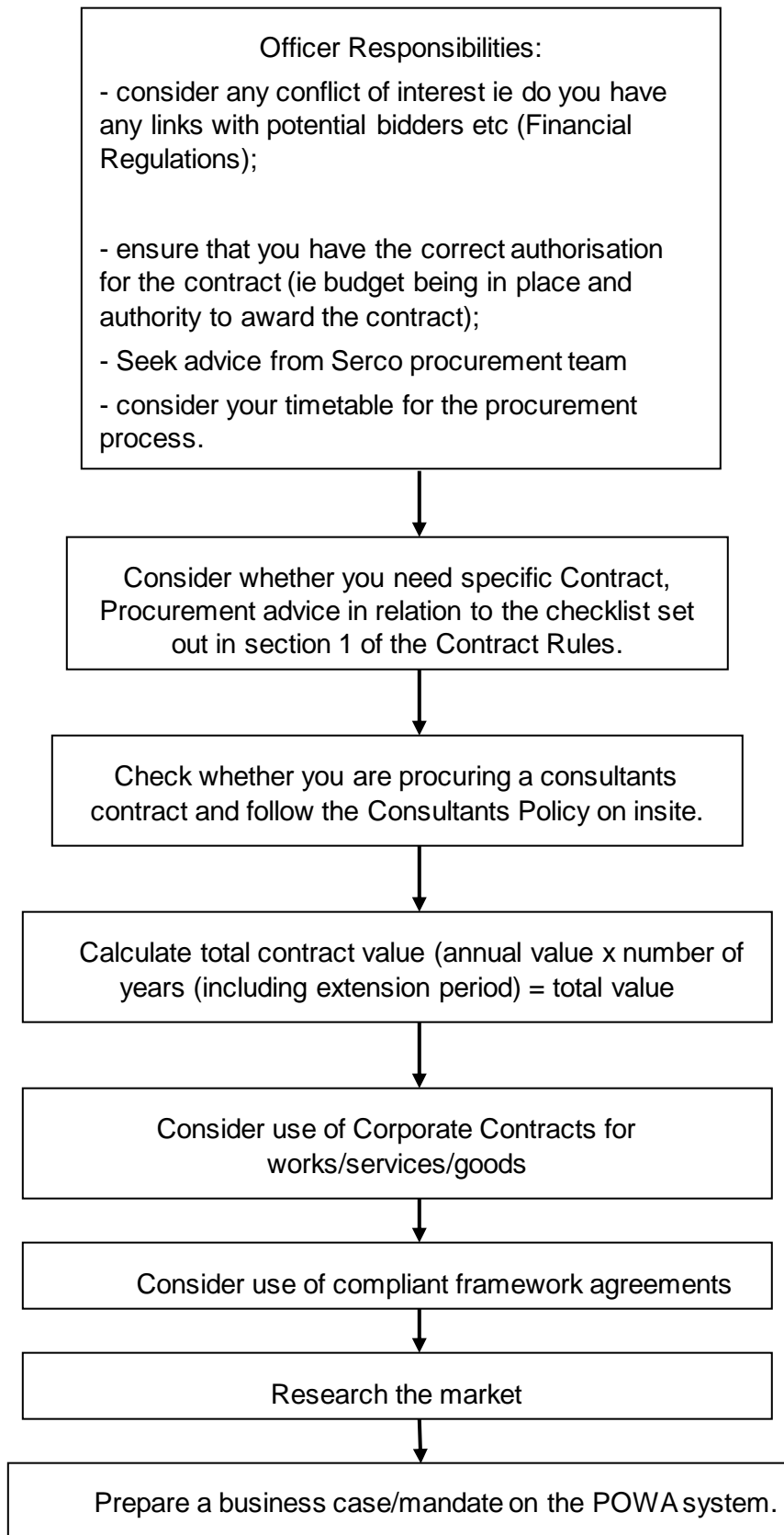
### Glossary

Key terms in this section	Meaning
Authorised Signatory	Means the Chief Executive, Corporate Director Resources, Head of Legal Services (or delegated officers in Legal Services).
Business Case	A document that sets out the rational for undertaking a project and its costs, risks and benefits populated on POWA, the council's project management system.
Constitution	<p>The Council's constitutional document which;</p> <ul style="list-style-type: none"> <li>- allocates powers and responsibility within the Council;</li> <li>- sets out delegations for its Executive including the cabinet members and delegation to officers;</li> <li>-sets out the rules of procedures, codes and protocols.</li> </ul>
Delegated Authority	The process under the Constitution which sets out what senior officers of the Council are entitled to do in the Council's name e.g. to enter contracts. Most Director's will have delegated some of these powers to Heads of Service.
E-Sourcing	The researching and gathering of product or service information by electronic means, mainly by internet or email use.
EU threshold	The financial limit above which all tendering must follow a statutory procedure governed by EU directives. It applies to all public works contracts, public supply contracts and public service contracts which have a value including VAT estimated to be no less than the pre-established thresholds. The thresholds are recalculated every two years. See the Quick Reference Guide for the threshold amounts for the works, goods and services.
Financial Regulations	The regulations outlining the officer's responsibilities relating to financial matters.

<p>Forward Plan</p>	<p>A forward plan is a list of published forthcoming key decisions to be taken during the following three months.</p>
<p>Framework Agreement</p>	<p>A framework is an agreement with suppliers to establish terms governing contracts that may be awarded during the life of the agreement. In other words, it is a general term for agreements that set out terms and conditions for making specific purchases (call-offs).</p>
<p>Key Decision</p>	<p>Any spend over £500k will be a key decision and the procedures for a key decision must be followed.</p>
<p>OJEU</p>	<p>Official Journal of the European Union. Contracts that are above the EU threshold are required to be advertised by placing a notice in the journal.</p>
<p>Procurement Strategy</p>	<p>A strategy document setting out the Council’s approach to procurement and priorities for the next few years.</p>
<p>Purchase order</p>	<p>The order placed on the Council’s financial management software system which commits funds to the contract.</p>
<p>State aid</p>	<p>State aid is a European Commission term which refers to forms of assistance from a public body or publicly-funded body, given to undertakings engaged in economic commercial activity on a selective basis, with the potential to distort competition and affect trade between member states of the European Union.</p>

**Flowchart**

Beginning the process – Flowchart





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# **Peterborough City Council**

# **Contract Rules**

*Under Section 135, Local Government Act 1972*

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## Introduction to Contract Rules

These Contract Rules are made pursuant to the power under section 135 of the Local Government Act 1972 to make standing orders with respect to the making of contracts for or on behalf of the Authority, which is a power reserved to Council as a function that may not be exercised by the Cabinet (executive) by virtue of schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000.

Where a decision to procure goods or services or the decision to award a contract is an executive (Cabinet) function, who may or may not make that decision and up to what financial limits is to be determined in accordance with the Leader's Scheme of Delegation in operation at that time. The Leader's Scheme of Delegation can be found at Section 3 (Executive Functions) of Part 3 (Delegations) of the Constitution

These Rules apply to contracts or agreements with external organisations where the Council pays for:

- goods and/or services;
- works of any kind;
- hire, rental or lease of equipment.

The Rules also apply to any contracts made using:

- framework agreements,
- Constructionline (the UK register of pre-qualified construction services), recognised pre-qualified lists (Select Credit),
- or any contracts to be awarded on behalf of schools which are part of the LEA.

For high value contracts, officers must comply with national and European legislation and guidance issued by the Cabinet Office, Crown Commercial Services which will **override** these Rules. You must seek advice from Legal Services and the Procurement Team about that process.

## Which contracts are NOT covered?

These Rules do **not** apply to:

- Arrangements between different parts of the Council. Such arrangements are covered by service level agreements (**SLA**). For example, an agreement for Legal Services to provide legal advice to the Strategic Property team;
- Employment contracts between an individual and the Council;

- Buying or leasing land or buildings. These are covered by the Land Disposal Rules within the Financial Regulations;
- Grants of money. Grants cannot be contracts as they do not deliver services to the Council. Any grants of money must be in accordance with the Constitution and prior advice should be sought from Legal Services in relation to the governance process for award of grants and the legal documentation that will be required to be put in place. These Rules are not a guide to purchasing. These are the fundamental rules designed to ensure ethical processes around contracting.
- Certain collaborative arrangements between local authorities eg section 75 agreements.
- Public body to Public body co-operation - Contracts with other public bodies where the parties come together to deliver a public service, under the following conditions;
  - (i) achieve objectives which are common to both parties; and
  - (ii) the arrangement is solely for the public interest; and
  - (iii) the parties perform less than 20% of the services covered by the arrangement on the open market.
- In-house awards (this is where the Council awards a contract to an entity it controls. This exemption will only apply if **all** of the following conditions are met;
  - (i) The Council exercises a similar control on the entity as it does with its own departments;
  - (ii) The entity carries out more than 80% of its activities for the Council;
  - (iii) There is no private sector money in the entity.

**Note that contracts for healthcare services covered by the NHS (Procurement, Patient Choice and Competition (No.2) (Regulations) 2013 will be governed by the Public Contracts Regulations 2006 until 18 April 2016, after which date the Public Contracts Regulations 2015 will apply.**

## **Officer responsibilities**

All officers must:

- Comply with the Council's Financial Regulations and, in particular, declare any conflicts of interest in a potential contract or with bidders;

- Declare any gifts or hospitality received either before, during or after the procurement;
- Report any gifts or hospitality which may have improper motive to the Internal Audit team;
- Not disclose any confidential information to unauthorised persons;
- Ensure they have authorisation for the contract from an appropriate officer or member;
- Conduct the procurement process in a open and transparent manner;
- Enter all consultancy and interim manager contracts and certain higher value (above £50,000), or high risk contracts onto the POWA management system;
- Ensure the Serco procurement team are engaged to support the process as necessary
- Achieve the best value for money achievable;
- Be fair to all bidders;
- Ensure that all equality issues are addressed (carrying out an equality impact assessment where required).

## Chief Officer Responsibilities

The Constitution states:

*“The Chief Executive, Directors and the Deputy Chief Executive are authorised to deal with contractual matters in accordance with the contract rules” (Part 3)*

Therefore Directors must:

- Ensure that their Officers comply with these Rules and the Financial Regulations;
- Ensure their Officers inform the Serco Procurement team of all procurement exercises, including contracts awarded so that it can maintain an accurate and up-to date register of all Council contracts;
- Check that they have an appropriate authorisation, or have put in place an appropriate delegated authorisation, before any contract is awarded and commenced.

By following the Rules, officers will:

- ensure the Council’s procurement is legal;
- deter corruption;
- achieve value for money;

- show that the Council is accountable for its expenditure;

## Advice and assistance

Officers can also contact the following people for advice and assistance:

Contracts and Procurement Team

Project Delivery

Legal Services

~~Gurdeep Sembhi Tel: 452323~~

Israr Ahmed Tel: 452326

Alex Maxey Tel: 452325

Serco Procurement Team

~~[buyingsupportcommercialandprocurementunit@peterborough.gov.uk](mailto:buyingsupportcommercialandprocurementunit@peterborough.gov.uk)~~

~~1. Richard McCarthy (People and Communities Directorate) Tel : 384606~~

~~2. Darren Ford (Resources, Governance and Growth and Regeneration) Tel : 384649~~

~~PCC Procurement Andy Cox~~

~~[andy.cox@peterborough.gov.uk](mailto:andy.cox@peterborough.gov.uk)~~

~~Tel: 452465~~

~~Review date – December 2015~~

## Quick Reference Guide

VALUE (Including VAT)	PROCESS	EXEMPTION FROM RULES BY	DECISION TO AWARD	FORMALITIES	AUTHORITY TO SIGN OR SEAL CONTRACT	OTHER
<b>Contracts under £25K</b>	1 quotation	Exemption report signed by Corporate Director Resources	Contract award notice signed by relevant Director or CEX or their delegates	Purchase order (Financial system)	CEX or relevant Director (if written contact exists) or delegated authority	
<b>Contracts between £25K &amp; £50K</b>	3 quotations For Contracts over £25,000, also place advert on Contracts Finder.	Exemption report signed by Corporate Director Resources in consultation with the Head of Legal Services	Contract award notice signed by relevant Director or CEX or their delegates	Purchase order (Financial system) and correspondence	Authorised signatory or relevant Director or delegated authority	Enter contract onto contract register
<b>Contracts between £50K and EU threshold</b> <b>(£213,477,173K for goods and services or £5,336,9374.3M for works or £663,540,750,000 euros for services falling under Sch 3 of the Public Contracts Regulations 2015)</b>	Tender with 4 bidders  For Contracts over £25,000, also place advert on Contracts Finder.	Exemption report signed by Corporate Director Resources in consultation with the Head of Legal Services	Contract award notice signed by relevant Director or CEX or their delegates	Formal contract approved by Legal Services	Authorised signatory (CEX or Corporate Director Resources or Head of Legal Services) or delegated authority  All contracts over £100k are to be sealed under the Council's seal.	Seek advice on bonds or parent company guarantee  Enter project on POWA  Notify risks to risk register  Written approval of Director and Head of Legal Services to terminate or assign

						Extension to be agreed by Director (if contract provides for extension) and subject to approval by Legal Services and Procurement.
<b>Contracts over EU threshold</b> <b>(£213,477,173K for goods and services, £5,336,9374.3M for works or £663,540,750,000 euros for services falling under Sch 3 of the Public Contracts Regulations 2015)</b>	EU process (seek procurement and legal advice including advice on social improvements for services contracts)	<p>Only statutory exemptions from the EU process are permitted</p> <p>Officers cannot provide exemption from the statutory rules</p>	<p>Contract award notice signed by relevant Director or CEX or their delegates</p> <p>Key decisions must be on the Forward Plan at least 28 days in advance</p>	Formal contract approved by Legal Services	<p>Contract sealed</p> <p>Authorised signatory (CEX or Corporate Director Resources or Head of Legal Services) or delegated authority</p>	<p>Seek advice on bonds or parent company guarantee</p> <p>Enter project on POWA</p> <p>Notify risks to risk register</p> <p>Written approval of Director and Head of Legal Services to terminate or assign</p> <p>Extension agreed by Director (if contract provides for extension) and subject to approval by Legal Services and Procurement.</p>
<b>Contracts subject to EU process and over £500K</b> <b>(Applies to goods, services and works contracts over £500K)</b>	Apply the relevant process above	For goods and services: Only statutory exemptions from the EU process are permitted. Officers cannot provide an exemption	<p>Key Cabinet Member Decision Notice (CMDN) signed by the Cabinet member</p> <p>Decision on Forward Plan</p>	Formal contract approved by Solicitor to Council	<p>Contract sealed</p> <p>Authorised signatory (CEX or Corporate Director Resources or Head of Legal Services) or delegated authority</p>	<p>Seek advice on bonds or parent company guarantee</p> <p>Enter project on POWA</p> <p>Notify risks to risk register</p>

		For works contracts: The Executive Director, Resources can approve exemptions up to the EU threshold	at least 28 days in advance			Written approval of Cabinet member to terminate or assign  Extension agreed by Director (if contract provides for extension) and subject to approval by Legal Services and Procurement.
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NOTE FIGURES ABOVE EU THRESHOLDS ARE SUBJECT TO CHANGE AND YOU SHOULD CHECK WITH LEGAL SERVICES AND SERCO PROCUREMENT

## Section 1 – Beginning the Process

Before beginning any purchase you have to go through each of the steps in this section. It will help you determine how to apply the remainder of these rules.

### Before contracting

Before any purchase you must take the following essential steps to ensure that you are getting best value for the Council:

- Calculate the total contract value
- Consider whether any corporate contracts ought to be used
- Research the market
- Discuss with the Serco procurement team
- Consider what other advice/assistance you may need:
  - Does the contract involve land or buildings e.g. is a lease or licence required? If so, contact the *Estates* team and finance team;
  - Are any employees affected by the contract? If so, contact *Human Resources & Legal Services*;
  - Is equipment, plant or machinery to be transferred under the contract? If so, consider *Financial Regulations and seek advice from finance team*;
  - Is there any issue of state aid? If so, contact *Legal Services*;
  - Who has the correct delegated authority to authorise the contract? Contact *Legal Services* if in doubt;
  - Are there any equality issues within the contract, are there any requirements that need to be considered under the Public Sector Equality Duty, is an equality impact assessment required? If assistance is required, contact *Legal Services*;
  - Contract value issue?
  - Is the contract really a SLA or a Grant Agreement? If assistance is required, contact *Legal Services*;

Does the contract involve services above the EU threshold? If so, consider what social improvements might be secured and if consultation is required (under the Public Services (Social Value) Act 2012. Contact *Legal Services* if in doubt;



- Prepare a Business Case (POWA) for any contract using consultants or interim managers of any value or other contracts above £50K

## Calculate the total contract value

The contract value determines the process you must follow under these Rules. The valuation must be inclusive of any VAT payable.

You can calculate the total estimated value of the contract according to a simple formula

$$\text{Annual value} \times (\text{number of years} + \text{extension period}) = \text{total value}$$

The calculation may be subject to the following variances:

- where the contract is for a fixed period, the value is the total price to be paid or which might be paid during the whole of the contract period, including any possible extensions to the contract period;
- where a number of goods or services contracts are to be entered into, the estimated value of each contract shall be the total value of the payment which the Council expects to pay under each of those contracts;
- where a number of works contracts are to be entered into, the estimated value for carrying out the works shall be total value of the payment which the Council expects to give under all the contracts for carrying out the works;
- where the contract is for services has been provided over an indefinite period the value is obtained by multiplying the monthly payment under the contract by 48;
- where a service contract includes one or more options the estimated value of the contract shall be determined by calculating the highest possible payment which could be given under the contract;
- where the contract is a single contract comprising services, supplies or works in combination, the value is calculated according to the price of the largest element of the contract.

Some contracts may not be for a cash value. Where this is the case please contact Legal Services who will assist you in calculating the contract value.

You should not enter into a series of separate lower value contracts with the intention of avoiding these Contract Rules.

## Prepare a business case or mandate

The POWA system has been designed by the Council to monitor projects undertaken by the Council or using Council budgets. You must use POWA if it involves;

- Any purchasing as part of a project which is outside of 'business as usual'.
- Any use of a consultant or interim manager.
- Any purchase over £50,000 in value.
- Any contract carrying high risk.

There are no strict financial limits around the requirement to enter a project on POWA but it is considered best practice for officers to make more comprehensive use of the POWA system.

Information and guidance on POWA can be found on Insite.

Please see the 'Consultant and interim's Policy' on Insite for further information on the use of consultants and interim managers.

## Corporate contracts

The Council has entered into a number of partnership arrangements for either;

- direct delivery of internal services (e.g. IT with Serco);
- direct delivery of its services to the public e.g. the refuse collection service provided by Enterprise, leisure and cultural services provided by Vivacity), or
- centralised procurement of other bought in services (e.g. travel and hotel bookings, agency staff etc.).

These contracts create an exclusive arrangement between the Council and our partners for the services those partners provide. This means that you are obliged to use these service providers for the services they deliver. These are referred to throughout these Rules as the corporate contracts.

For all other services which fall outside of those contracts you have to tender any purchasing on the open market. You must also invite our partner to tender for the goods, services or works if they have the ability to provide those services but, within that tendering process, they are treated the same as any other bidder.

Failure to use the corporate contracts may result in the Council being in breach of contract and is likely to incur financial penalties for the Council.

Please contact the Serco Procurement team for advice on our corporate contracts.

## Contracts reserved for mutuals

You can limit competition for services such as administrative services in relation to education, healthcare and housing, health and social work services, library and other cultural services to

mutual type organisations. For such contracts the maximum duration is three years. A mutual type organisation must meet all of the following requirements;

1. The organisation's objective must be the pursuit of a public service mission linked to the services set out in the Public Contracts Regulations 2015;
2. The profits of the organisation must be re-invested to achieve the mission;
3. The organisation must be employee owned or require active employee organisation;
4. The organisation must not have been awarded a contract under this process within the last three years.

Contact the Legal Services Team, Serco Procurement Team and Finance Team if you wish to undertake such a process.

### Research the market

Researching the market is an important tool in identifying potential cost savings to the Council. The Serco Procurement Team can assist you to identify where you can add value to your tendering process by undertaking proper market research.

You are permitted to consult potential suppliers prior to starting your purchase in general terms about the nature, level and standard of the supply, contract packaging and other relevant matters provided you do not:

- prejudice any potential bidder; or
- favour any potential bidder so as to distort competition.

Where the Council has invited a potential bidder to take part in preliminary discussions then the outcome of any such discussions must be shared with all bidders participating in the procurement process.

You may also seek or accept advice from individual experts/bidders and use the advice in your planning for the procurement process. Ensure that you act fairly with all bidders and do not favour one bidder over the other, also keep a record of all measures taken.

The Serco Procurement Team can assist you with carrying out effective market research.

### Framework agreements or local market tendering

The Council's Procurement Strategy will determine whether you should seek to achieve cost efficiencies through use of framework agreements or whether you should tender in smaller lots as

a way to encourage bids from small to medium enterprises (SME's), in particular to target and stimulate local business.

There are numerous framework agreements for pre-tendered goods and services. There is generally no requirement to use a framework agreement but best value is often achieved by procuring through a framework agreement.

Use of a framework agreement may require you to engage in a mini-competition. This will be determined by the terms and conditions relating to the framework.

The Procurement Team can advise you on the various framework agreements available and provide advice on how to structure your tender to take advantage of the competition.

In some cases it may be preferable to tender the contract in smaller lots to allow local businesses the opportunity to tender for the work. Whilst smaller contracts may encourage local businesses to tender, you cannot limit the tendering process to local businesses alone as this would be to breach the requirement to be fair in your tendering process.

## Other considerations

Please do consider each of the following before beginning any tendering exercise.

### The need for the purchase

- Is the cost of purchasing outweighed by the benefits received?
- Have you considered other alternatives to your purchase or whether you might co-purchase with other Council Departments and so achieve further economies of scale?
- Are there products or skills within the Council that can be used without the need to source these externally?

### Risks arising

- Consider any risks associated with the purchase and how they are to be managed. Is this something that needs to be addressed on the departmental risk register?
- Have you factored in critical support and maintenance arrangements (i.e. whole life costing) if appropriate to avoid later negotiations? This is particularly important if your purchase involves any land or buildings.
- Have you identified whether there will be any potential conflicts of interest arising in the conduct of the procurement process, which can be seen as unfair and distorting competition?. You need to; (i) identify whether any staff member or other person involved in the procurement process on behalf of the Council has any direct/indirect/financial/personal interest which could be seen as comprising the impartiality and independence of the procurement process;(ii) ensure that the person has no further involvement in the procurement process if there is a potential conflict of interest; and (iii) Complete the conflict of interest form provided by the Procurement Team and ensure it is kept up to date.

## Process

- Make sure you have selected the most suitable procurement method for the purchase e.g.
- Through the use of a corporate contract;
- sourcing through a framework; or
- partnering and collaborative arrangements with other local authorities or public bodies;
- Note you cannot use a Pre-Qualification Questionnaire stage in the selection of bidders, refer to Section 2 of the rules for guidance. It is important to note that you can only ask suitability assessment questions and must give full regard to the guidance from the Cabinet in relation to such suitability questions. Contact the Procurement Team for assistance.

## Governance

- Do you have the available budget?
- Do you have the appropriate approval for the expenditure in line with the Constitution?
- If the purchase requires a Cabinet Member decision, consider whether it is a key decision and has to be included on the Forward Plan in line with the Council's Constitution;
- Have you notified the Procurement Team if the total value of the contract is above the relevant EU threshold?
- Have you involved Serco procurement team in progressing the procurement process to ensure value for money is being achieved if not using a corporate contract or framework contract ~~and the procurement is in excess of £5k?~~

## **Key practical points**

- Factor into your timetable sufficient time to prepare the tender documents especially the evaluation criteria in advance of beginning the tendering process.
- Consider the essential elements of your contract and ensure that these are included in your conditions of contract.
- Ensure that your contract budgets for the whole life costs of the contract.

## Section 2 – Process according to Value

### Part A: Contracts below £25,000

This section sets out the requirements that officers must follow when purchasing works, goods or services where the total value of the contract is below £25,000.

#### Getting a quote

1. For contracts for works, goods, or services with an estimated value ~~not exceeding~~below £25,000, you must either:
  - obtain a quote under one of the Council’s corporate contracts, or
  - place an order with a contractor under a framework agreement, or
  - obtain a quote from other relevant suppliers
2. Officers should note that they are required to obtain a quote from a corporate contract where one exists for the supply of those services.

#### Formalities

3. There must be a written record of the quotation, which may be in the form of a letter or email to or from the contractor.
4. You should consider the following information as essential to include in any quote:
  - the specification of the goods, services or works to be supplied;
  - payment provisions in line with Financial Regulations;
  - the Council’s termination rights;
  - the key time or times when the contract is to be performed;
5. You must have a purchase order in line with Financial Regulations. This may require you to set up the supplier on the Council’s accounting system in accordance with Financial Regulations.
6. The decision to award the contract and any written terms must be agreed in writing by your Director (or the Chief Executive) unless they have delegated that authority to you or another senior officer within your team.

## Part B: Contracts between £25,000 and £50,000

This section sets out the requirements that officers must follow when purchasing works, goods or services where the total value of the contract is between £25,000 and £50,000.

### Obtaining quotations

1. In the case of contracts for works, goods or services with an estimated value between £25,000 but not exceeding £50,000 you must first consider:
  - Whether you must procure those services through an existing corporate contract,
  - Whether a corporate contract can supply those services, or
  - Whether you have to source those services on the open market.
2. If a corporate contractor does supply those services or can procure those services on our behalf, you must instruct them directly. If you do not wish to make use of a corporate contract you will need to complete an exemption report (see section 4) prior to tendering to obtain the authority of the Executive Director, Resources not to do so.
3. If you are sourcing those services on the open market, you must obtain at least 3 written quotes and select the provider that offers the best value for money. You should consider whether to ask for assistance from the Procurement Team even for such low value contracts as they may be aware of ways in which you can maximise resources to achieve best value.
4. If 3 quotes cannot be obtained due to lack of suitable contractors, the Officer must complete an exemption report prior to awarding any contract. This is to obtain authority to be exempted from this Rule. For further information please see Section 4 of these Rules.

### Advertising the Contract

5. Although there is no specific requirement to advertise a contract between these values, officers and our corporate partners are positively encouraged to advertise contracts where
  - the contract value is ~~above~~ £25,000 or above;
  - competition in the market is strong, or
  - the number of potential suppliers is high.
6. Advertisements can be placed on the Council's website, in the trade press and on websites specifically set up for contract advertisements .  
For contracts estimated to be ~~over~~ £25,000 or over and which have been advertised, you must ensure that within 24 hours the advertisement relating to the contract opportunity is also advertised on Contracts Finder. This requirement will not apply where a framework has been set up of pre-selected suppliers and you intend to choose suppliers from the framework. The following details must be included in the advert on Contracts Finder;

- Date and time by which an interested supplier must respond if it wishes to be considered for the contract opportunity;
- How and to whom the supplier must respond;
- Any other requirements for participating in the procurement;
- Internet address where the documents can be accessed from.

You must ensure that unrestricted, free and full direct internet access is given to the documents relating to the procurement. You must also have regard to any guidance issued by the Cabinet Office in relation to the form and manner in which the information is to be published on Contracts Finder.

The Procurement Team can provide assistance with advertising.

### Framework agreements

7. Where a suitable framework agreement exists you may use the framework if the Council is mentioned as a potential purchaser under the framework agreement. You must follow the procedure set out in the framework agreement and do not have to obtain 3 quotations. The Procurement Team can assist you in selecting an appropriate framework agreement and advise you on the process for obtaining quotes.

### Known suppliers

8. In some cases you may already be aware of suppliers possessing a particular type of goods or service or works expertise that you are seeking. You may seek 3 quotations from any suppliers known to you but you must ensure that:
  - you do not use these suppliers in preference to any corporate contracts;
  - you do not discriminate in your selection of any particular supplier.

### Invitations to Quote

9. Although quotations do not require a formal process you must ensure that your request for quotes is made in writing and must set out a simple specification for your purchase. You should also state the basis upon which you will select the successful quote.
10. You must have a purchase order in line with Financial Regulations once you have selected the successful quotation.
11. If you select any supplier who is not the cheapest quote, you must record your reasons for



selection in writing.

## Higher value quotations

12. Where the value of the contract is between £45,000 and £50,000 Officers are encouraged to pursue a more formal quotation process. Officers not following a formal quotation process must record their reasons in writing. Officers should consider drafting an Invitation to Quote comprising of the following:
  - Bidders information about the process being used;
  - Specification of the goods, services or works being purchased;
  - Award criteria and procedure;
  - Tendering and canvassing certificate;
  - Contract terms and conditions.
  
13. The Invitation to Quotation must state that:
  - the Council is not bound to accept a quotation and;
  - late submissions or submissions which do not comply with the Council's award procedure will be rejected.
  
14. The Invitation to Quotation must include the contract terms and conditions that will apply to the contract setting out:
  - details of the goods, services or works to be supplied;
  - payment provisions;
  - the Council's rights to terminate the contract;
  - the key time or times when the contract is to be performed;
  
15. The Officer must consult Legal Services before an Invitation to Quotation is issued where the purchase involves one or more of the following:
  - the transfer of non-land assets.
  - the transfer of staff.
  - the transfer or lease of land.
  - potential state aid issues.
  
16. Your Director can award a contract up to £500,000 in value upon receipt of a contract award report. The contract award report must be completed and submitted to your Director (or delegated officer) for approval. The signed award report must be kept by the department for future reference.

17. You must publish a contract award notice on Contracts Finder within a reasonable time once you have awarded a contract, which must contain the following details;

- Name of the supplier;
- Date of contract;
- Total contract value;
- Whether the supplier is a SME (small, medium size enterprise);
- Whether the supplier is a non-governmental organisation that is value driven and surplus Monies are re-invested to further social, environmental or cultural objectives.

Information does not have to be published where the release would be contrary to the public interest, impede law enforcement, prejudice the legitimate commercial interests of a particular economic operator, might prejudice fair competition between suppliers.

You must also have regard to any guidance issued by the Cabinet Office relating to the form in which such information is to be published.

18. The contract can be signed by the relevant Director.

## Part C: E-tendering

1. Electronic Procurement (e-procurement) is the use of an electronic system to advertise and invite tenders for goods, works and services.
2. E-procurement covers the whole purchasing cycle. This is also known as the 'purchase-to-pay' cycle and includes:
  - electronic requisitioning,
  - electronic tendering,
  - electronic ordering,
  - purchasing cards and
  - electronic Payment/Invoicing.
3. The e-tendering system must be used for any purchase of goods, works or services above £50,000, however officers are encouraged to use the system for contracts below £50,000 where possible. Where contracts are advertised in OJEU, all tender documents must be made available electronically. This means that from the date the OJEU notice is published, you must ensure that all specifications, the descriptive document, proposed conditions of contract and any other documentation are ready for interested suppliers.
4. To use the e-procurement system you should contact the Procurement Team to register yourself as a user on the e-sourcing system. Training and user guides will be provided.
5. The following sections of these Rules anticipate that you will use the e-procurement system for any purchasing. If you do not wish to use the e-procurement system you will need to discuss this with the Procurement Team.

## Part D: Contracts between £50,000 and EU values

Contracts in this range of values are subject to the Council's tendering procedures as set out in this section. E-procurement is the preferred method of tendering and use of framework agreements is likely to be more common. You are therefore very likely to need assistance from the Procurement Team throughout this process and an early request for assistance is recommended.

### Prior considerations

1. In the case of contracts for works, goods or services with an estimated value between £50,000 to the EU threshold you must first consider:
  - Whether you must procure those services through a corporate contract, or
  - Even though procurement through the corporate contract is not necessary, whether a corporate contract can supply those services, or
  - Whether you have to source those services on the open market, or
  - Whether you want to call off those services from a framework agreement.
2. If a corporate contractor can supply or procure those services, you must instruct them directly. Where they are procuring works, goods or services on your behalf they must follow these tendering procedures. If you do not wish to procure through the corporate contract you will be required to complete an exemption report (see section 4) before placing any orders for goods, services or works.
3. If you are sourcing those services on the open market, you must tender for a supplier using the e-procurement system.
4. Where there is a lack of suitable contractors on the market to merit a tendering process, you must complete an exemption report. This is to obtain authority to be exempted from this Rule. For further information please see Section 4 of these Rules.

### Using a framework agreement

5. A framework agreement comprises pre-assessed suppliers. Use of a framework therefore simplifies the tendering process and offers considerable cost reduction. Before opting to use a framework agreement you should also consider whether there is benefit in re-packaging the tender to enable local businesses to compete for the contract.
6. A framework agreement will be suitable where you are contracting for services, goods or works
  - commonly available
  - frequently used

7. A framework agreement may not be suitable for your supply where it involves:
  - particularly complex or risky procurements;
  - one-off procurements where the product or service requires a specialism;
  - procurements which are looking for particularly novel solutions;
  - where the contract length would be longer than four years;
8. Before using any framework agreement please ensure that the Council was identified as a potential purchaser in the OJEU notice. Advice on this can be sought from the Procurement Team or Legal Services.

### Awarding a call-off

9. Once you decide on a framework agreement you must call off your individual contract under the framework either by;
  - placing a direct order/direct award or
  - holding a mini competition
10. The method of call-off will depend on the terms and conditions of the framework. Some larger frameworks are divided into a number of lots, which may have been set up to enable direct ordering whilst others are designed to provide more bespoke solutions with the terms, conditions and solutions being refined through mini competition.
11. You cannot make any substantive changes to the specification or the terms and conditions of the framework so you must follow its terms in order to procure under the framework.

### Tendering process

12. Officers who have assessed that they do not want to award through a framework agreement are required to carry out a formal tendering process. The Council's preferred method is e-procurement. Note you cannot use a Pre-qualification Questionnaire for contracts within the values mentioned in this section. See Section 1, Other Considerations, Process.

### Advertising

13. You are required to advertise any contract you wish to tender whose total value is ~~over~~ £25,000 or above.
14. You must ensure an appropriate level of advertising having regard to:
  - The subject matter of the contract;
  - The value of the contract;

- The size and structure of the market and common commercial practices in that market;
  - The location where the goods or services will be delivered.
15. The greater the interest of the contract to potential bidders, the wider should be the coverage of the advertisement. Depending on the above criteria, advertisements could be placed on the Council's website, in the trade or local press, on websites specifically set up for contract advertisements or, where the contract borders on the EU threshold, in the Official Journal of the European Union (OJEU).

For contracts estimated to be ~~over~~ £25,000 or over and which have been advertised, you must ensure that within 24 hours the advertisement relating to the contract opportunity is also advertised on Contracts Finder. This requirement will not apply where a framework has been set up of pre-selected suppliers and you intend to choose suppliers from the framework. The following details must be included in the advert on Contracts Finder;

- Date and time by which an interested supplier must respond if it wishes to be considered for the contract opportunity;
- How and to whom the supplier must respond;
- Any other requirements for participating in the procurement;
- Internet address where the documents can be accessed from.

You must ensure that unrestricted, free and full direct internet access is given to the documents relating to the procurement. You must also have regard to any guidance issued by the Cabinet Office in relation to the form and manner in which the information is to be published on Contracts Finder.

## Preparing the tender documents

16. To complete the tender process you must prepare the following documents:
- An Invitation to Tender including the evaluation criteria;
  - Specification of goods, services or works to be supplied;
  - A tendering and canvassing certificate;
  - Parent company guarantee or performance bond (where appropriate);
  - Standard conditions of contract. You must include provisions stipulating that the Council will pay the supplier no later than 30 days from date of the invoice. You may also include further specific conditions relating to the performance of the contract ie economic, innovation-related, environmental, social or employment related conditions. These conditions must be linked to the subject matter of the contract and set out within the tender documents. Contact Legal Services for advice and preparation of these clauses.

## Preparing the evaluation criteria

17. Before starting the tender process, you must define the evaluation criteria. This details how the bids will be evaluated. It is essential that the methodology for the award is set out in the Invitation to Tender.
18. You must apply the relevant British and any equivalent European or international standards to define the required quality of the goods or services being purchased.
19. The evaluation criteria must be relevant to the services, goods or works being purchased and must be designed to secure value for money for the Council.
20. The evaluation criteria for award of the contract must be based on:
  - the most economically advantageous (MEAT) bid (in other words, where quality, performance or improvements are as important as price); or
  - the lowest price (where price is the only factor).

You can also use a cost-effective approach for the evaluation criteria ie considering environmental and social aspects, qualifications and experience of staff, after sales service, delivery conditions, quality impacting on level of contract performance. These must be linked to the subject matter of the contract.

21. If the most economically advantageous criteria are to be used, they can be further defined by relevant sub-criteria, examples of which are set out as follows:
  - price;
  - quality and performance;
  - running costs;
  - technical merit;
  - economic advantage based on past experience;
  - delivery date;
  - environmental considerations;
  - aesthetic and functional characteristics;
  - safety;
  - after-sales services;
  - technical assistance; and
  - other relevant matters.

22. Where sub-criteria are used, they must also be set out in the Invitation to Tender.

23. The evaluation criteria must not include non-commercial considerations. These are criteria which are not directly relevant to the operation of the contract e.g. the terms and conditions of employment of the bidders' workers or the country of origin of the bidder.
24. The award criteria cannot include matters which discriminate against suppliers from the European Union or signatories to the Government Procurement Agreement.
25. As the evaluation stage is the most likely point at which a challenge may be made to the procurement process you are advised to seek assistance from the Procurement Team regarding evaluation modelling.

### Defining the evaluation procedure

26. Bids can be evaluated by using the bidders' written submissions only or you may want to arrange face to face interviews with the bidders and/or ask for bidder presentations to supplement the written submissions.
27. You must choose which process you will use to evaluate the bids and set this out in the Invitation to Tender.

### Preparing the invitation to tender

28. The Invitation to Tender sets out the basic rules for the tendering process and you must use the standard template Invitation.
29. The invitation to tender must state that
  - the Council is not bound to accept the tender;
  - late submissions and submissions which do not comply with the Council's e-tendering procedure will be rejected;
  - the e-tendering system does not allow acceptance of tenders via email or post;
  - the date and time for submission of tender and that late tenders may not be accepted;
  - the tender submission closing time is governed by the e-tendering system's clock which automatically records receipt of tenders and retains that information;
  - Where bidders are asked to upload files, you must advise them that single file sizes must not exceed 5mb.
30. The invitation to tender should be accompanied by standard conditions of contract. You need to consider whether there are further conditions relevant to the contract e.g. the time the service is performed, the date on which goods are delivered etc. In some cases standard contracts (e.g. JCT contracts) will be available.
31. Officers must consult Legal Services before a tender is issued for any contract which involves one of the following:
  - the transfer of non-land assets;



- the transfer of staff;
- the transfer or lease of land;
- any form of payment assistance to the bidder (state aid).

## Clarification procedures

32. All clarification and communication during the tender process should be channelled through the e-tendering systems messaging tool. Never email bidders via your email account during the tender exercise as there is no clear audit trail to support your process. When a message is received from a bidder a notification will be emailed to you to respond to the message. Any queries raised by a bidder and clarifications provided should be forwarded to all bidders with anonymity of the bidder raising the query.
33. If an error is identified in the invitation to tender before the closing date for submissions and is significant enough to warrant amendment, all bidders should be informed of the error and invited to adjust their bids.

## Submission, receipt and opening of tenders

34. Tenders will only be available to evaluate following the closing date for submissions.
35. Tender evaluation may be completed within the e-tendering system on line or off line.

## Post tender negotiation

36. If an error is identified in the invitation to tender after the closing date for submissions and is significant enough to warrant amendment, all bidders should be given details of the error and given the opportunity to withdraw their offer or to submit a revised bid within a defined period.
37. Where there is a minor error or discrepancy in the successful tender which would affect the tender figure, the bidder should be given details of the error or discrepancy and given the opportunity to confirm, correct or withdraw its bid. If the bidder withdraws its offer, the next most competitive bid should be assessed.
38. Following receipt of the tenders, you may clarify or negotiate with a preferred bidder to obtain an improvement in terms of price, delivery or service. Any such clarification or negotiation must:
  - not discriminate against other bidders, and
  - not alter the original specification except where Legal Services or Procurement have advised that special circumstances exist that can be substantiated, and

- have the prior authorisation of Legal Services or the Procurement Team, and
- be confirmed in writing by the bidder.

### Evaluation, selection and de-briefing

39. The e-tendering system may be used as a document exchange system where tenders are uploaded to the system and then evaluated off-line or you may use the systems tender questionnaire which will enable you to evaluate the bids online within the e-tendering system.
40. Bids must be evaluated and the successful bidder selected in line with the advertised award criteria and the award procedure.
41. There is no requirement for a standstill period in non-EU tendering but it is considered good practice to debrief unsuccessful bidders before awarding the contract to identify and avoid any potential challenges from an unsuccessful bidder.
42. You may want to include the following matters in any debrief:
  - identifying the bidder to whom the contract will be awarded,
  - the reasons for the decision,
  - the award criteria,
  - a full breakdown of the bidder's scores against each of the criteria and sub-criteria together with an explanation why the successful bidder achieved a higher score,
  - the score of the successful bidder,
  - the reasons (if any) why the bidder did not meet the technical specifications.
43. Apart from the debriefing permitted by this Rule, the confidentiality of tenders and the identity of bidders must be preserved at all times and information about one bidder's response must not be given to another bidder.

### Award report

44. Provided there is no challenge to the decision to award the contract you must prepare a contract award report to authorise the award of the contract which must be sent to Legal Services, Procurement and Finance for approval before your Director signs off the report. The report must be signed by the Director or a senior officer with authority delegated from the Director.
45. Once your contract award notice has been approved, you will need to notify all bidders of the result via the e-tendering system. In addition, you must also publish a contract award notice on Contracts Finder within a reasonable time once you have awarded a contract, which must contain the following details;

- Name of the supplier;
- Date of contract;
- Total contract value;
- Whether the supplier is a SME (small, medium size enterprise);
- Whether the supplier is a non-governmental organisation that is value driven and surplus Monies are re-invested to further social, environmental or cultural objectives.

Information does not have to be published where the release would be contrary to the public interest, impede law enforcement, prejudice the legitimate commercial interests of a particular economic operator, might prejudice fair competition between suppliers.

You must also have regard to any guidance issued by the Cabinet Office relating to the form in which such information is to be published.

## Contract formalities

46. There must be a signed written contract in place between the Council and the contractor before the supply, service or work is started. You must send the following documents to Legal Services to prepare and finalise the formal contract documents:
  - Signed Director’s Contract Award Report;
  - Invitation to Tender (including the terms and conditions);
  - Successful Contractor/Service Provider/Consultant tender submission;
  - Any other documents you wish to include in the contract
47. Signed, Sealed contracts will be listed in the Council’s contract register and placed in the Council’s Deeds Room and you will be forwarded a contract number for future reference. Contracts between £50,000 and £100,000 need to be signed by an Authorised Signatory or sealed in the presence of an Authorised Signatory. All contracts over £100,000 must be sealed in the presence of an Authorised Signatory.
48. If you want the contract to begin before the contract is signed or sealed, you should consult Legal Services. In exceptional circumstances, the Head of Legal Services may permit the contract to begin before the contract is signed.

## Contract register

49. You must give details of the contract to the Procurement Team to be entered into the Contracts Register.

## Part E: Contracts above EU values

If you want to award a contract in this range of values you must consult the Procurement Team and Legal Services. This process is governed by statutory rules and European Directives that are too extensive to set out in these Rules. The following Part is intended as summary guidance only.

It is important to note that the statutory rules supersede these Rules and contain their own exemptions.

No exemption can be granted by officers or members for exemption from the EU process unless the exemption is permitted by the statutory rules.

### Identifying potential candidates

1. Contracts which are covered by the Regulations must be the subject of a 'call for competition' by publishing a contract notice in the Official Journal of the European Union ("OJEU").
2. In most cases the time allowed for responses or tenders must be no less than a set period, although some prescribed periods can be reduced where:
  - A prior information notice (PIN) was published sufficiently far in advance of the procurement or when accelerated procedures are used;
  - If the OJEU notice was submitted electronically in accordance with the requirements set out on the SIMAP website (see above);
  - Where authorities offer full and unrestricted access to tender documents (in accordance with specific requirements set out in the EU procurement regulations).

### Process

3. **The Public Contracts Regulations 2015 (which can be viewed on the Cabinet Office website) set out schedules which include the types of works, services that are covered by the Regulations. These Regulations will apply in the following circumstances;**
  - (i) For a contract relating to works with a total value of £5,336,937,322,012 and over;**
  - (ii) For a contract relating to the supply of goods with a total value of £213,477,172,514 and over;**
  - (iii) For a contract relating to services with a total value of £213,477,172,514 and over. However for services falling within Schedule 3 of the Regulations, the ~~full~~ Regulations will apply where the total contract value is £663,540 and over ~~750,000 euros (£625,050).~~**

Important to note that the thresholds stated are subject to changes on an two yearly basis, you must check with Legal Services and the Procurement Team in relation to under which services your proposed contract falls under.

Where the contract value of your contract is below the thresholds, this does not mean that you will be totally exempt from the Regulations, contact the Legal Services and Procurement Team for assistance.

4. For contracts which are above the thresholds set out in this section, a standardised Pre-Qualification Questionnaire may be used when shortlisting potential bidders and/or assessing their financial and economic standing, technical capacity and ability, previous experience. Contact the Procurement Team or Legal Services for further advice on PQQ's.

## Choice of procurement procedure

5. Four award procedures are provided for under the EU procurement regulations:
  - **Open Procedure**  
All those interested may respond to the advertisement in the OJEU by tendering for the contract.
  - **Restricted Procedure**  
A selection is made by use of a pre-qualification questionnaire (PQQ) of those who respond to the advertisement and only those selected are invited to submit a tender for the contract. This allows purchasers to avoid having to deal with an overwhelmingly large number of tenders.
  - **Competitive Dialogue Procedure**  
Following an OJEU notice and a selection process, the Council enters into dialogue meetings with several bidders, to develop one or more suitable solutions for its requirements. During this process bidders are deselected at various stages before final tenders are called for. (A multi-stage and complex process which should not be used where Open or Restricted procedures could have been used).
  - **Negotiated Procedure**  
The Council may select one or more persons with whom to negotiate the terms of the contract. An advertisement in the OJEU is usually required but, in certain circumstances, described in the Regulations, the contract does not have to be advertised in the OJEU. An example is when, for technical or artistic reasons or because of the protection of exclusive rights, only a particular person can carry out the contract. This procedure is used only exceptionally.
  - **Innovation Procedure**  
This procedure can be used where the Council has identified a need for an innovative product, service or works that cannot be met by purchasing these from the market. A partnership can be set up with one or more partners with the aim of developing an innovative product, services or works. The partnership will need to be terminated as

the development progresses. The selection of bidders and process for negotiation will be in accordance with the Public Contracts Regulations.

6. Public authorities have a free choice between the open and restricted procedures. The competitive dialogue procedure is available where the contract cannot be awarded under open or restricted procedure. The negotiated procedure may only be used in the limited circumstances described in the EU procurement regulations.
7. Under restricted procedures, competitive dialogue and competitive negotiated procedures (those where a call for competition is required by advertising in the OJEU) there must be a sufficient number of participants in the process to ensure genuine competition, with a minimum of *five* for restricted procedures and *three* for competitive dialogue and negotiated procedures.

### Specification evaluation and award criteria

8. In all other respects the process follows the steps set out in the earlier section on tendering and you are required to complete preparation of your paperwork before the tendering process begins. Whilst some of the paperwork can be standardised it is important that Legal Services and the Procurement Team will work with you to devise award criteria based upon your specification for the services that are being procured.

Where tender bids received appear to be abnormally low, you need to seek an explanation from the bidder or bidders. Once received you need to assess the information and you can only reject the tender where the responses provided do not satisfactorily set out the reasons for the low bid. Contact Legal Services for guidance.

### Standstill and post tender formalities

9. Following the evaluation of the contract and before formally awarding the contract to the successful bidder there will be a mandatory standstill period. This period begins once you have notified the unsuccessful bidders of your decision and the reasons for the differing scores. This is known as the 'Alcatel' or "Standstill" period and is bound by strict rules. See points 11 and 13 below as to when the Alcatel letter must be sent out.
10. The standstill period allows for the unsuccessful bidders to seek any feedback on their bids and to challenge the procurement process. You should therefore have prepared in advance any information about the evaluation process, the reasons for the differing scores and why the bidder was unsuccessful before the award of the contract is notified to the bidders.

### Governance

11. The contract must be awarded by an authorised signatory on behalf of the Council. Your Director can award a contract up to £500,000 in value upon receipt of a contract award report. You must prepare an award report to authorise the award of the contract which must

be sent to Legal Services, Procurement and Finance for approval before your Director signs off the report. The report must be signed by the Director or a senior officer with authority delegated from the Director. The Alcatel letter can be sent out at any time after your Director signs off the contract award report.

12. For contracts above £500,000 you will need to have a Key cabinet member decision notice (CMDN) approved by the relevant Cabinet member before award of the contract. All contracts of this value should also be on the Forward Plan. Contact the Governance team for further guidance.
13. The Key CMDN must be published in advance of being signed by the Cabinet Member. There is separate guidance on this process available from the Legal Services team. The Alcatel letter can only be sent out after the Cabinet Member has signed the Key CMDN. Once the Key CMDN has been published the bidders are likely to become aware of the successful bidder so you should aim to make them informally aware of the tender outcome and intention to issue the Alcatel standstill letter at the same time as the Key CMDN is sent for publication. Confirmation of the award should follow once the call-in period has expired.
14. All contracts above £100,000 must be sealed in the presence of an Authorised Signatory and, once sealed, will be retained by Legal Services within the Deeds Room.

### Contract formalities

15. There must be a sealed written contract in place between the Council and the contractor before the supply, service or work is started. If this requirement may cause difficulties, you should consult Legal Services. In exceptional circumstances, Legal Services may permit the contract to begin before the contract is sealed and measures can be put in place to protect the Council's position in the interim.

You must send the following documents to Legal Services to prepare and finalise the formal contract documents:

- Signed Director's Contract Award Report/Key cabinet member decision notice;
  - Invitation to Tender (including the terms and conditions);
  - Successful Contractor/Service Provider/Consultant tender submission;
  - Any other documents you wish to include in the contract
16. Signed, Sealed contracts will be listed in the Council's contract register and placed in the Council's Deeds Room and you will be forwarded a contract number for future reference.

## Section 3 – Getting the Contract in Place

Where contracts are high value or high risk you should consult with your department's senior accountant or senior financial officer as to whether some form of security, such as a bond or parent company guarantee is required from the contractor

### Bonds

1. A performance bond is a written guarantee provided to the Council by a contractor's bank or insurer. It requires the contractor to deposit a sum of money with the bank or the insurer and is therefore usually only suitable for high value or high risk contracts. If the contractor does not do what it has promised under the contract, the Council can claim from the bank or insurer the sum of money which is specified in the performance bond.
2. A performance bond is intended to protect the Council against the costs that arise from the contractor's failure to perform the contract. You must assess the need for the bond by considering the risks to the Council, including the:
  - complexity of the contract relating to delivery;
  - capabilities of suppliers, service providers or contractors;
  - financial standing and security of suppliers, service providers or contractors.
3. In limited circumstances it may be necessary to have an on demand bond (effectively a cash bond), however there is a significant cost to these and they should only be sought in limited circumstances and following legal advice.
4. You should consider whether a performance bond or any other form of security is required where;
  - a contract for works, goods or services is estimated to exceed the EU threshold or
  - where it is proposed to make stage or other payments in advance of receiving the whole of the works, services or supplies
5. Should a performance bond or other form of security be required, you must identify this in the tender documentation. Contact the Contracts and Procurement Team or Legal Services for a template version of the performance bond.
6. You should not allow the contractor to commence the contract for the works, services or supplies until the bond has been provided to the Council.

### Parent company guarantees

7. A parent company guarantee could be requested from the contractor as an alternative form of security to a performance bond but only where the contractor has a parent company.



8. A parent company is a company which owns a number of companies (known as subsidiaries). You should seek advice from the Procurement Team or Legal Services if you intend to request a parent company guarantee in any tender.
9. There are other lesser used forms of security that can be requested against the contract, such as cash, title deeds, debentures and legal charges. Please contact the Procurement Team or Legal Services for further advice if you need to consider these.

## Contract documents

There are many different forms of standard contract. These are most frequently found in the construction industry (i.e. for works contracts) but others are also available.

The Legal Services team have knowledge of most standard forms of contract and also hold a standard set of terms and conditions which can be tailored to meet any forms of works, goods or services contract. These take account of the specific needs placed upon local government contracts e.g. freedom of information requests for contract documents and auditing obligations.

Requests for standard clauses and to discuss specific contractual requirements can be made by contacting Legal Services.

## Section 4 – Changes to the Contract

This section sets out what you must do if

- you are unable to comply with any of the requirements of these Rules, or
- there is a change to the contract e.g. additional works have been identified after the contract has begun.

It is very important that you follow correct governance processes to authorise any changes to the contract or these Rules. In almost all cases you will require approval from your Director and other senior officers within the Council.

The Head of Legal Services is responsible for monitoring adherence to these Rules. Failure to obtain the correct authorisation at the appropriate time to deviate from these Rules may mean that you are in breach of your employment contract and oblige the Head of Legal Services to report repeated breach of the Rules to the Council.

### Exemptions

1. It is the Council's policy that these Contract Rules should be complied with at all times. However, the Council recognises that circumstances may exist when it is not possible or desirable to comply with these Rules. On those occasions you may apply for an exemption from any or all of these Rules.
2. The fundamental principles of exemptions are that:
  - they should be used only in exceptional circumstances;
  - they are granted entirely at the discretion of the Corporate Director Resources, in consultation with the Head of Legal Services,
  - they should always be sought in advance of any purchasing as there is a general presumption that retrospective applications will not be approved, and
  - there is no automatic right to an exemption.
3. The Corporate Director Resources is accountable for giving appropriate approval to all exemptions and a record is kept of all those granted which is open to public inspection.
4. All exemption requests must be made in writing supported by justification for your application.

5. An exemption under this section **can never** be used where the total value of the contract exceeds the EU threshold. There are specific statutory exemptions which apply to contracts tendered under the EU process and you should always seek legal advice on these.

### When may an exemption be allowed?

6. An Exemption may be allowed when:
  - You want to obtain quotations or tenders from fewer bidders than these Rules require (including a single bidder) because they are the only suppliers which can provide the services or goods or works you want to purchase;
  - You are working in partnership with another public sector body and you are satisfied that their procurement rules have been complied with in the letting of the contract;
  - You want to extend or renew an existing contract which does not have provision for an extension and where a change of supplier would cause:
    - disproportionate technical difficulties;
    - excessive cost; and/or
    - significant disruption to services.
7. In all cases an exemption cannot be approved where the cost of the extension or contract exceeds the EU threshold.

### Exemption procedure

8. To apply for an Exemption, you should complete an Exemption Report.
9. The Exemption Report should set out clearly the grounds on which you are applying for the Exemption and must specify which of the reasons listed above apply.
10. If there is information which you wish to keep confidential and not disclose to the public you should also complete an exempt annex. However, all local authorities are increasingly expected to disclose information to the public on the grounds of transparency and accountability. The Council will be allowed to withhold information only in exceptional circumstances where the interests of the Council or others may be severely damaged or compromised by disclosure.
11. The completed exemption report should be sent to Legal Services, Procurement and Finance for approval.
12. Once the required approvals have been obtained you must send the report to the Head of Legal Services and the Corporate Director Resources for formal approval of the exemption. Electronic approval will be sufficient.

13. The Corporate Director Resources is required to keep a register of approved exemptions.
14. In urgent circumstances, contact must be made with the Head of Legal Services and the Corporate Director Resources **before** taking entering any contract, to obtain an “in principle” decision. This means that, unlike usual procedures, the decision to award will follow after the contract has been awarded. Verbal authority given by the Executive Director, Resources will mean that the correct authority has been given for the contract, even though the paperwork will be retrospective.

### Retrospective exemptions

15. An exemption to any of the Rules should never be sought retrospectively but exceptions to this principle will be allowed where:
  - It has been necessary to act urgently because of an unforeseen emergency which involves immediate risk of injury or damage or to prevent serious disruption to services.
  - it is necessary for an officer in Children’s Services or Adult Social Care to act immediately to secure care for any vulnerable person.
  - it is necessary to act urgently to secure a supply of goods eg Westcombe Engineering, where commercial offers are time limited and represent best value for the Council.
16. In both cases you should seek an ‘in principle’ decision from the Executive Director, Resources and the Head of Legal Services where possible, and the cost of the immediate action should not exceed the EU threshold. An exemption report should be completed as soon as reasonably possible after the contract has begun.

### Assigning/Novating contracts

17. Assignment is the transfer of the benefit of contract to another party. The contract should detail the circumstances in which a contract can be assigned but if it does not you will need to consult Legal services on the process. Novation is the transfer of the rights, obligations and liabilities of an original party to an existing contract to a new party. You should contact Legal services on the form of the contract that should be used for the novation, which is usually in the form of a deed.
18. Where a contract is required to be assigned or novated you must first calculate the total value of the contract to determine the correct process. A contract may be assigned/novated, without the need to carry out a new procurement, where;
  - (i) There is reference to such a change within the tender documents; or

(ii) The new contractor is replacing the existing contractor following a corporate restructure, takeover, merger, acquisition or insolvency, and as long as the new contractor fulfils the criteria upon which the existing contractor was selected (ie technical, financial capability).

19. Where a contract has a total value between £50,000 and £500,000 the assignment/novation will need to be approved by the following officers:

- Head of Legal Services; and
- Your Director (or if authorised, the Head of Service / Assistant Director)

20. Where a contract has a total value of more than £500,000 the assignment/novation will need to be approved by the officers listed above and:

- a credit check on the proposed contractor that the contract is to be assigned to have been carried out by Financial Services; and
- a Cabinet Member Decision Notice authorising the assignment/novation has been obtained; and
- a formal deed/notice of assignment, to be prepared by Legal Services, has to be entered into by the parties

## Varying contracts

21. Variations of contract typically comprise:

- change in price, or
- change in service delivery or goods or works leading to a change in price

22. If the variation looks as if the original value of the contract is likely to be exceeded, the procedure for obtaining approval to the variation is as follows:

22.1 Non-EU procured contracts

- Increase is less than £50,000

The project/contract manager or officer must obtain approval to the increase in line with the authority listed in the quick reference guide.

- Increase is more than £50,000

In addition to obtaining the authority listed in the quick reference guide, the project/contract manager or officer must inform the Head of Internal Audit immediately. This means that as long as the contract as varied is still under £500,000, it can be authorised by the relevant officer(s) referred to in the quick

reference guide (subject to having informed Internal Audit). If the variation takes the contract value over £500,000 or if the original contract was over £500,000 and a key cabinet member decision notice was obtained for the contract, a further key cabinet member decision notice need not be obtained for the variation, unless Legal Services consider such a decision should be obtained.

**The above is subject to;**

**(i) The variation not exceeding the EU threshold value for the works, services, supplies (ie accumulated value including the value of the variation) and;**

**(ii) The variation is lower than 10% of the initial contract value for services, supplies or 15% of the initial contract value for works.**

#### 22.1 EU procured contracts

Contact Legal Services for advice on whether the variation is likely to be treated as a new contract, requiring it to be re-tendered. If the advice from Legal Services is that the variation is unlikely to be treated as a new contract, the project project/contract manager or officer must follow the procedure outlined in the second bullet point of paragraph 22 above.

## Section 5 – Ending the Contract

### Terminating contracts

1. Where a contract is required to be terminated, other than by it expiring, seek advice from Legal Services.
2. Where a contract has a total value of between £50,000 and £500,000 the termination will need to be approved by the following officers:
  - Head of Legal Services; and
  - Your Director (or if authorised, the Head of Service / Assistant Director)
3. Where a contract has a total value of more than £500,000 the termination will need to be approved by the officers listed above and additionally
  - a Cabinet Member Decision Notice must authorise the termination and;
  - a termination notice must be issued to the contractor by Legal Services

## Section 6 – Explanations

### Glossary

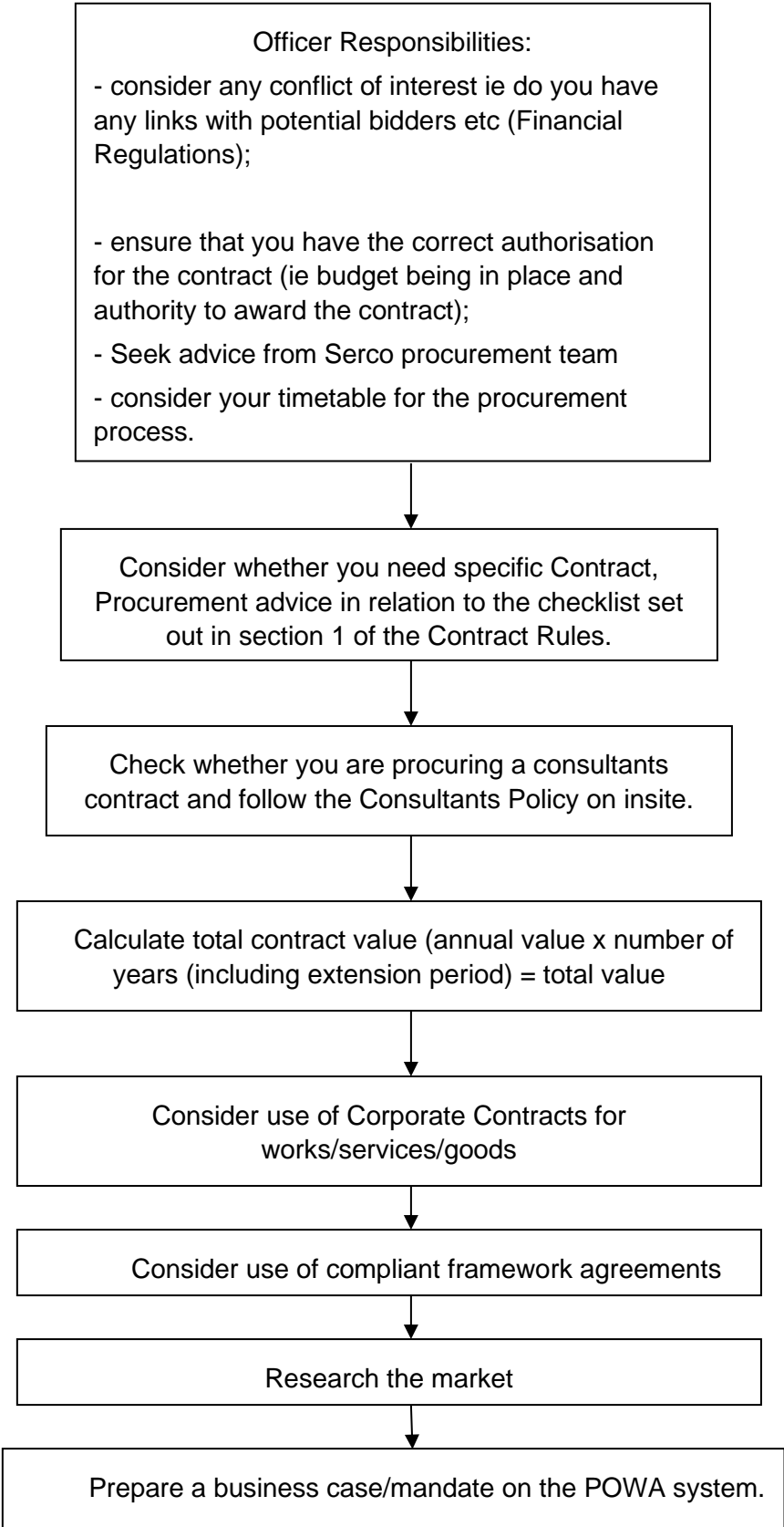
Key terms in this section	Meaning
Authorised Signatory	Means the Chief Executive, Corporate Director Resources, Head of Legal Services (or delegated officers in Legal Services).
Business Case	A document that sets out the rational for undertaking a project and its costs, risks and benefits populated on POWA, the council’s project management system.
Constitution	<p>The Council’s constitutional document which;</p> <ul style="list-style-type: none"> <li>- allocates powers and responsibility within the Council;</li> <li>- sets out delegations for its Executive including the cabinet members and delegation to officers;</li> <li>-sets out the rules of procedures, codes and protocols.</li> </ul>
Delegated Authority	The process under the Constitution which sets out what senior officers of the Council are entitled to do in the Council’s name e.g. to enter contracts. Most Director’s will have delegated some of these powers to Heads of Service.
E-Sourcing	The researching and gathering of product or service information by electronic means, mainly by internet or email use.
EU threshold	The financial limit above which all tendering must follow a statutory procedure governed by EU directives. It applies to all public works contracts, public supply contracts and public service contracts which have a value <u>ex</u> cluding VAT estimated to be no less than the pre-established thresholds. The thresholds are recalculated <del>by the European Commission</del> every two years. See the Quick Reference Guide for the threshold amounts for the works, goods and services.
Financial Regulations	The regulations outlining the officer’s responsibilities relating to financial matters.

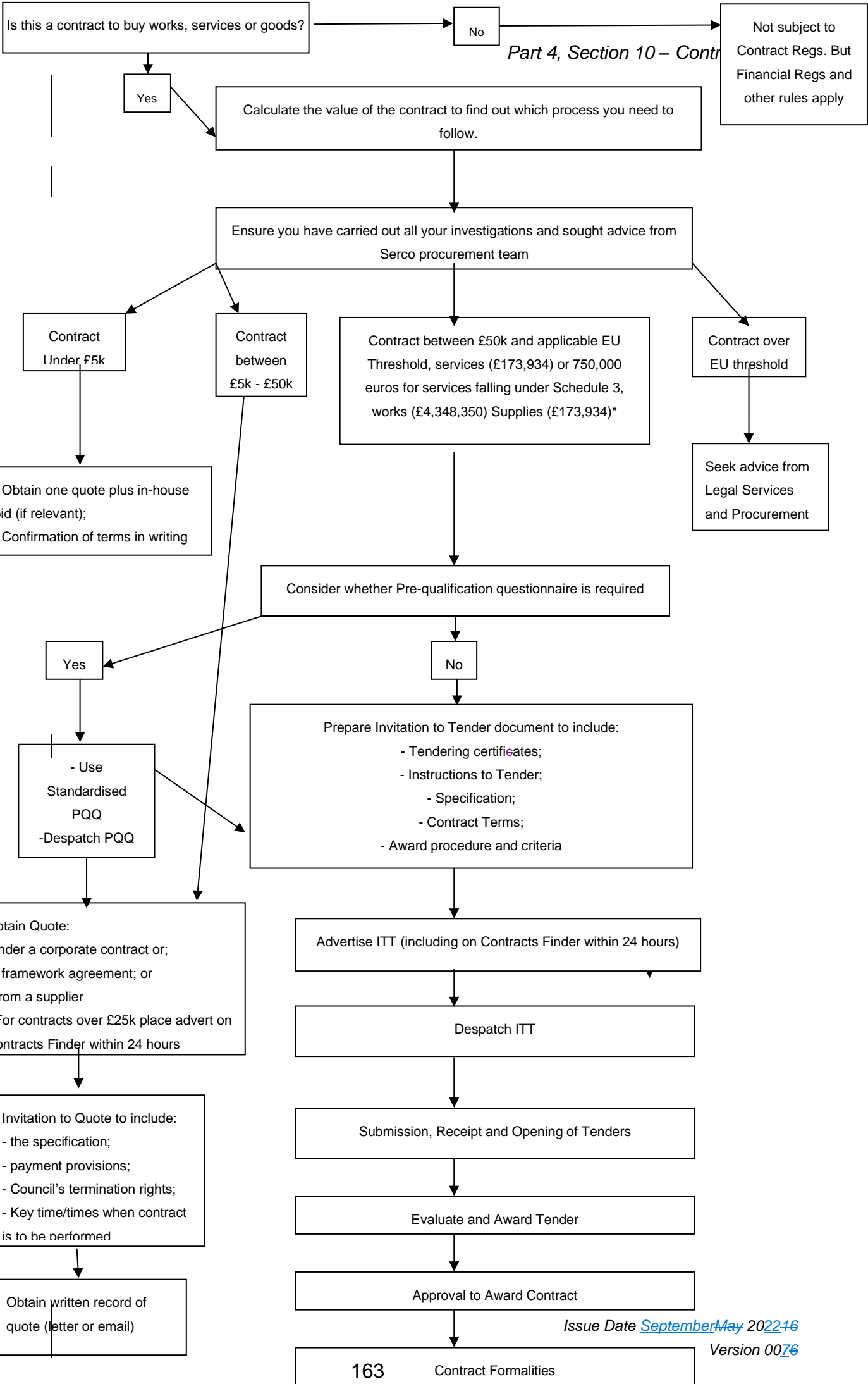


<p>Forward Plan</p>	<p>A forward plan is a list of published forthcoming key decisions to be taken during the following three months.</p>
<p>Framework Agreement</p>	<p>A framework is an agreement with suppliers to establish terms governing contracts that may be awarded during the life of the agreement. In other words, it is a general term for agreements that set out terms and conditions for making specific purchases (call-offs).</p>
<p>Key Decision</p>	<p>Any spend over £500k will be a key decision and the procedures for a key decision must be followed.</p>
<p>OJEU</p>	<p>Official Journal of the European Union. Contracts that are above the EU threshold are required to be advertised by placing a notice in the journal.</p>
<p>Procurement Strategy</p>	<p>A strategy document setting out the Council’s approach to procurement and priorities for the next few years.</p>
<p>Purchase order</p>	<p>The order placed on the Council’s financial management software system which commits funds to the contract.</p>
<p>State aid</p>	<p>State aid is a European Commission term which refers to forms of assistance from a public body or publicly-funded body, given to undertakings engaged in economic commercial activity on a selective basis, with the potential to distort competition and affect trade between member states of the European Union.</p>

**Flowcharts**

Beginning the process – Flowchart





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<b>CONSTITUTION AND ETHICS</b>	<b>AGENDA ITEM No. 11</b>
<b>6 OCTOBER 2022</b>	<b>PUBLIC REPORT</b>

Report of:	Fiona McMillan, Corporate Director of Governance	
Cabinet Member(s) responsible:	Councillor Coles, Cabinet Member for Finance & Corporate Governance	
Contact Officer(s):	Philippa Turvey, Democratic and Constitutional Services Manager Daniel Kalley – Senior Democratic Services Officer	01733 296334

<b>CODE OF CONDUCT COMPLAINTS</b>
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<b>R E C O M M E N D A T I O N S</b>	
<b>From: Monitoring Officer</b>	<b>Deadline date: N/A</b>
<p>It is recommended that the Constitution and Ethics Committee:</p> <ol style="list-style-type: none"> <li>Note the report on complaints received/being handled by the Monitoring Officer since the Committee's last meeting on 15<sup>th</sup> August 2022.</li> </ol>	

**1. ORIGIN OF REPORT**

1.1 This Report is submitted to the Constitution and Ethics Committee by the Council's Monitoring Officer.

**2. PURPOSE AND REASON FOR REPORT**

2.1 The Constitution and Ethics Committee has the responsibility for promoting and maintaining high standards of conduct amongst members and co-opted members of the council including 'monitoring the operation of the Code of Conduct'. This also includes parish councillors.

To assist in the fulfilment of the above objective it has been agreed that a standing item is placed on the agenda for the committee notifying and updating it on complaints that have been made, how they are being handled and whether they have been resolved. The committee decided that these should be reported in an anonymous way until such time as a breach of the code of conduct is found as part of the complaints process.

This Report fulfils the requirements set out above.

2.2 This report is for the Constitution and Ethics Committee to consider under its Terms of Reference No. 2.7.2.2.

Authority to oversee and approve the operation of the Council's functions relating to the promotion and maintenance of high standards of conduct amongst members and co-opted members including:

- promoting and maintaining high standards of conduct by members and co-opted members;
- Assisting the members and co-opted members to observe the Code of Conduct;

- Advising the council on the adoption or revision of the Members Code of Conduct;
- Monitoring the operation of the Code of Conduct;
- Advising, training or arranging to train members and co-opted members on matters relating to the Code of Conduct.

### 3. **TIMESCALES**

Is this a Major Policy Item/Statutory Plan?	<b>NO</b>	If yes, date for Cabinet meeting	
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### 4. **BACKGROUND AND KEY ISSUES**

#### 4.1 **NEW COMPLAINTS**

##### **City Councillors**

Since the Committee's last report on 15<sup>th</sup> August 2022 there has been 1 new complaint received in relation to city councillors:

**CONDCOMP/PCC/31** This complaint was received on 28<sup>th</sup> July 2022 and concerns allegations about the conduct of the subject member during a telephone conversation with the complainant. The subject member was invited to provide a response and following receipt this was shared with the complainant. Thereafter, the complainant confirmed that he did not wish for his complaint to proceed any further and therefore the process was concluded.

##### **Parish Councillors**

Since the Committee's last report on 15<sup>th</sup> August 2022 there has been 1 new complaint received in relation to Parish Councillors:

**CONDCOMP/PCC/32.** This complaint was received on 19<sup>th</sup> August 2022 and concerns various allegations which are all connected to and under consideration by the Council's Complaints procedure. The Deputy Monitoring Officer has therefore written to the Complainant to request that they complete the complaint form and provide further information as to the nature of the allegations and which of the general obligations they consider have been breached. A response is currently awaited.

#### 4.2 **ONGOING COMPLAINTS**

The following complaints remain active since the last meeting:

##### **City Councillors**

There are currently no additional ongoing complaints relating to city councillors other than those described within the New Complaints section of this Report.

##### **Parish Councillors**

There are currently no additional ongoing complaints relating to parish councillors other than those described within the New Complaints section of this Report.

#### 4.3 **CONCLUDED COMPLAINTS**

**CONDCOMP/PCC/27.** This complaint was received on 22<sup>nd</sup> March 2022 and concerned the content of a Whatsapp message relating to the impact of the Boundary Commission's review which the complainant considered was misleading and designed to extort an adverse public

response. The subject member denied the factual inaccuracy/alleged motivation for the message and the matter was therefore referred for initial assessment. The Independent Person and Deputy Monitoring Officer concluded, having regard to the subject member's convention rights, that whilst the Code was engaged, it had not been breached and that no further action would therefore be taken. As at the date of the last Report, the outcome had been communicated to the Complainant and Subject Member however, the Deputy Monitoring Officer was then requested to provide further information. The information was provided and the matter has now concluded.

**CONDCOMP/PCC/29 and CONDCOMP/PCC/30.** These complaints are connected and were received on 4<sup>th</sup> May and 3<sup>rd</sup> June 2022. They concern allegations that the subject member has brought the Council into disrepute as a result of comments on social media about officers, the stance the Council had taken in relation to the matter in dispute and a potential conflict of interest. The subject member denied any wrongdoing and contended that they had acted in accordance with their convention rights. The complainant did not consider that this response satisfactorily resolved the concerns raised and an initial assessment was arranged. The Independent Person and Deputy Monitoring Officer concluded that the subject member's actions had not breached the code of conduct and that no further action would be taken however, general advice was offered as to the application of the Council's other procedural requirements such as the Member Officer Protocol and Gifts and Hospitality Policy.

## **5. CONSULTATION**

- 5.1 The process for dealing with conduct complaints requires the Monitoring Officer to consult the Independent Person following an initial assessment and before any decisions are taken as to what if any further action is considered appropriate for example, the appointment of an investigator and, following receipt of the investigator's report, whether to refer the matter for a hearing.

## **6. ANTICIPATED OUTCOMES OR IMPACT**

- 6.1 By reporting the complaints that have been made the Committee can more effectively monitor the operation of the Code of Conduct.

## **7. REASON FOR THE RECOMMENDATION**

- 7.1 Regular reporting of both quantities and substance of complaints will help the Committee gain a better understanding of the effectiveness of current procedures and how well the Code is being observed across both the council and parish councils in its area. This will inform future decisions about what training may be necessary to ensure the requirements of the code are being met.

## **8. ALTERNATIVE OPTIONS CONSIDERED**

- 8.1 None

## **9. IMPLICATIONS**

### **Financial Implications**

- 9.1 None

### **Legal Implications**

- 9.2 Under the Localism Act 2011 the council may set its own procedures in relation to the handling of complaints.

### **Equalities Implications**

- 9.3 None

**10. BACKGROUND DOCUMENTS**

Used to prepare this report, in accordance with the Local Government (Access to Information) Act 1985

10.1 The Localism Act 2011.

**11. APPENDICES**

11.1 None



<b>CONSTITUTION AND ETHICS COMMITTEE</b>	AGENDA ITEM No. 12
<b>6 OCTOBER 2022</b>	<b>PUBLIC REPORT</b>

Report of:	Fiona McMillan, Director of Law and Governance and Monitoring Officer	
Cabinet Member(s) responsible:	Councillor Coles, Cabinet Member for Finance and Corporate Governance	
Contact Officer(s):	Dan Kalley, Senior Democratic Services Officer	Tel. 296334

## TRAINING RECORD

RECOMMENDATIONS	
<b>FROM: Director of Law and Governance and Monitoring Officer</b>	<b>Deadline date:</b>
It is recommended that the Constitution and Ethics Committee notes the updated training record as at 6 October 2022	

### 1. ORIGIN OF REPORT

- 1.1 This report is submitted to the Constitution and Ethics Committee following a referral from the Monitoring Officer.

### 2. PURPOSE AND REASON FOR REPORT

- 2.1 The purpose of this report is for the Constitution and Ethics Committee to note the training record on training provided by the Council since May 2022.

### 3. TIMESCALES

Is this a Major Policy Item/Statutory Plan?	<b>NO</b>	If yes, date for Cabinet meeting	
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### 4. BACKGROUND AND KEY ISSUES

- 4.1 As part of the work of the Improvement Panel there was a commitment and drive to increase the training provision for all Councillors.
- 4.2 To date 20 training sessions have been arranged and completed, this has been done via a mix of in person training and virtual training. Where possible virtual sessions have been recorded and made available. Not all sessions were able to be recorded, this was done at the request of some of the external training providers.
- 4.3 A number of finance and budget driven session have taken place and have been provided by outside organisations such as CIPFA and the Governance Training and Consultancy Ltd.

- 4.4 This year a dedicated Councillors training page has been set up on InSite giving access to members all training materials that have been used this municipal year.
- 4.5 A breakdown of the percentage per key session is outlined below.

It is important to note that some Councillors were unable to attend some of the sessions due to illness or other engagements on behalf of the Council.

Children Safeguarding – 58%  
General Committee Chairing skills – 82%  
Scrutiny Essentials – 29%  
Employment Committee – 63%  
Audit Committee session 1 – 15%  
Chairing and Leading Scrutiny – 75%  
Planning Session 1 – 100%  
Licensing Committee – 92%  
Audit Committee session 2 – 37%  
Planning Committee Session 2 – 78%  
Cabinet Member Robust Decision Making – 100%

There were also a number of sessions that were open to all Councillors this included:

Robust Decision Making  
Budget and Finance Training Session

- 4.6 In terms of overall numbers across the key sessions the percentage of those that have attended is 67%.

The particular areas of focus going forward will be around Scrutiny training, Audit training and more work around the budget.

However, it is noted that figures have improved over the course of the year and Group Leaders have had a positive impact on encouraging members to attend training sessions.

## 5. **APPENDICES**

- 5.1 There are none.

<b>CONSTITUTION AND ETHICS COMMITTEE</b>	AGENDA ITEM No.
<b>6 OCTOBER 2022</b>	<b>PUBLIC REPORT</b>

Report of:	Fiona McMillan, Director Law and Governance and Monitoring Officer		
Cabinet Member(s) responsible:	Councillor Andy Coles, Cabinet Member for Finance and Corporate Governance		
Contact Officer(s):	Dan Kalley, Senior Democratic Services Officer	Tel. 296334	

**WORK PROGRAMME, FUTURE DATES AND MEMBER ISSUES**

R E C O M M E N D A T I O N S	
<b>FROM:</b> Fiona McMillan, Director of Law and Governance and Monitoring Officer	<b>Deadline date:</b> N/A
<p>It is recommended that the Constitution and Ethics Committee</p> <p>1. Notes and agrees the Work Programme with any additional items or suggestions to be included</p>	

**1. ORIGIN OF REPORT**

1.1 This is a standard report to the Constitution and Ethics Committee which forms part of its agreed work programme. This report provides details of the Draft Work Programme for the following municipal year as it stands.

**2. PURPOSE AND REASON FOR REPORT**

2.1 The programme can be refreshed throughout the year in consultation with the senior officer and the Committee membership to ensure that it remains relevant and up to date. In addition, any delays in reporting issues are recorded so that they do not drop off the committee agenda.

2.2 This is also an opportunity for Members of the Committee to raise any issues of concern under the Committee's terms of reference for discussion or addition to the work programme.

**3. TIMESCALES**

Is this a Major Policy Item/Statutory Plan?	<b>NO</b>	If yes, date for Cabinet meeting	<b>N/A</b>
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**4. IMPLICATIONS**

**Financial Implications**

4.1 There are none.

## **Legal Implications**

4.2 There are none.

## **Equalities Implications**

4.3 There are none.

## **5. APPENDICES**

5.1 Appendix A - Work Programme 2022/23.

## APPENDIX A

DATE: 4 JULY 2022			
		Section / Lead	Description
	Civic Protocol – Honours Panel	Executive and Member Services	To include membership make up of the Honours Panel and reporting process.
	Governance Review updates	Fiona McMillan Legal	To receive a report on options for reviewing governance arrangements for the Council
	Budgetary Control Policy Framework	Cecilie Booth/Emma Riding Finance	To review and amend the Budgetary Control Framework Policy and the terms of reference for the Financial Sustainability Working Group
	<b>INFORMATION AND OTHER ITEMS</b>		
	Dispensations Issues	Fiona McMillan Legal	To receive an update on the use of dispensations.
	Update on National Issues	Fiona McMillan Legal	To receive a report on any issues of national importance
	Report on Code of Conduct Issues	Fiona McMillan	To receive an update as to any code of conduct cases
	Work Programme 2022 / 2023	Democratic Services Dan Kalley	

DATE: 6 OCTOBER 2022

	<b>Section / Lead</b>	<b>Description</b>
Governance Review – Terms of Reference	Fiona McMillan Legal	To agree the terms of reference for the Governance Review working group.
Constitution updates including:  Council Questions Motions with significant implications Naming Conventions Officer Employment Rules  Officer Employment Rules/Employment Committee Terms of Reference	Pippa Turvey/Fiona McMillan Democratic Services  Fiona McMillan/Mandy Pullen	To review a number of constitution updates.
Appointment to Outside Bodies, Appointment of Council Champions, and appointment to CPCA Board	Pippa Turvey/Fiona McMillan	To review the reference in the Constitution to appointments to Outside Bodies, appointment to the CPCA Board and the potential inclusion of Council Champions
Contract rules	Finance/Legal	To review updates to the contract rules for recommendation to Full Council
Mayors Declaration – Civic Protocol	Fiona McMillan/Rachel Edwards	To review wording of Mayor’s declaration of acceptance of officer in relation to the Civic Protocol.
Honours Panel – recommendations EXEMPT	Sue Proctor Executive and Member Services	Committee to review recommendations as part of their role as the Honours Panel
<b>INFORMATION AND OTHER ITEMS</b>		
Dispensations Issues	Fiona McMillan Legal	To receive an update on the use of dispensations.
Update on National Issues	Fiona McMillan Legal	To receive a report on any issues of national importance
Training record	Fiona McMillan/Democratic Services	To review training attendance

	Report on Code of Conduct Issues	Fiona McMillan	To receive an update as to any code of conduct cases
	Work Programme 2022 / 2023	Democratic Services Dan Kalley	

**DATE: 21 NOVEMBER 2022**

		<b>Section / Lead</b>	<b>Description</b>
	Delegations to the Monitoring Officer	Fiona McMillan	To review references to the delegated powers of the Monitoring Officer in the Constitution
	<b>INFORMATION AND OTHER ITEMS</b>		
	Dispensations Issues	Fiona McMillan Legal	To receive an update on the use of dispensations.
	Update on National Issues	Fiona McMillan Legal	To receive a report on any issues of national importance
	Report on Code of Conduct Issues	Fiona McMillan	To receive an update as to any code of conduct cases
	Work Programme 2022 / 2023	Democratic Services Dan Kalley	

**DATES: 6 FEBRUARY 2023**

		<b>Section / Lead</b>	<b>Description</b>

	<b>INFORMATION AND OTHER ITEMS</b>		
	Dispensations Issues	Fiona McMillan Legal	To receive an update on the use of dispensations.
	Update on National Issues	Fiona McMillan Legal	To receive a report on any issues of national importance
	Report on Code of Conduct Issues	Fiona McMillan	To receive an update as to any code of conduct cases
	Work Programme 2023 / 2024	Democratic Services Dan Kalley	



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