

Agenda

Meeting: Audit Committee

**Venue: Brierley Room, County Hall,
Northallerton, DL7 8AD**

Date: Thursday 2 March 2017 at 1.30 pm

**Note: Members are invited to attend a
seminar concerning Cyber Security
and General Information Governance
at 1.00 pm in the Brierley Room**

Recording is allowed at County Council, committee and sub-committee meetings which are open to the public. Please give due regard to the Council's protocol on audio/visual recording and photography at public meetings, a copy of which is available to download below. Anyone wishing to record is asked to contact, prior to the start of the meeting, the Officer whose details are at the foot of the first page of the Agenda. We ask that any recording is clearly visible to anyone at the meeting and that it is non-disruptive. <http://democracy.northyorks.gov.uk>

Business

1. **Minutes of the meeting held on 1 December 2016**

(Pages 5 to 10)

2. **Any Declarations of Interest**

3. **Exclusion of the Public** - The Committee is recommended to approve the following:–
That the public be excluded from the meeting during consideration of Appendices 2 and 3 to the report 'Counter Fraud and Associated Matters' on the grounds that they involve the likely disclosure of exempt information as defined in paragraph 7 of Part 1 of Schedule 12A to the Local Government Act 1972 as amended by the Local Government (Access to Information)(Variation) Order 2006.

4. **Public Questions or Statements**

Members of the public may ask questions or make statements at this meeting if they have given notice (including the text of the question/statement) to the officer whose contact details are at the foot of the first page of this Agenda by midday on Monday 27 February 2017. Each speaker should limit themselves to 3 minutes on any item. Members of the public who have given notice will be invited to speak:-

- at this point in the meeting if their questions/statements relate to matters which are not otherwise on the Agenda (subject to an overall time limit of 30 minutes);
- when the relevant Agenda item is being considered if they wish to speak on a matter which is on the Agenda for this meeting.

If you are exercising your right to speak at this meeting, but do not wish to be recorded, please inform the Chairman who will instruct those taking a recording to cease while you speak.

5. **Progress on Issues Raised by the Committee** – Joint report of the Corporate Director – Strategic Resources and the Assistant Chief Executive (Legal and Democratic Services)
(Pages 11 to 14)
6. **External Audit Plan 2016/17 for North Yorkshire County Council and North Yorkshire Pension Fund** – Report of KPMG
(Pages 15 to 32)
7. **Production of Statement of Accounts 2016/17** – Report of the Corporate Director – Strategic Resources
(Pages 33 to 39)
8. **Progress on 2016/17 Internal Audit Plan** - Report of the Head of Internal Audit
(Pages 40 to 44)
9. **2017/18 Internal Audit Plan Consultation** - Report of the Head of Internal Audit
(Pages 45 to 63)
10. **Internal Audit Work / Internal Control Matters for the Central Services Directorate:-**
- (a) Report of the Head of Internal Audit
(Pages 64 to 75)
- (b) Report of the Corporate Director - Strategic Resources
(Pages 76 to 88)
11. **Accounting Policies** - Report of the Corporate Director – Strategic Resources
(Pages 89 to 95)

12. **Information Governance – Progress Report** - Report of the Corporate Director – Strategic Resources
(Pages 96 to 100)
13. **Counter Fraud and Associated Matters** - Report of the Head of Internal Audit
(Pages 101 to 128)
Private appendices 2 and 3 circulated to Members only - Pages 129 to 142)
14. **Annual Treasury Management Strategy 2017/18** - Report of the Corporate Director – Strategic Resources
(Pages 143 to 196)
15. **Review of the Contract Procedure Rules** – Report of the Corporate Director – Strategic Resources
(Pages 197 to 237)
16. **Programme of Work 2016/17**
(Page 238)
17. **Other business which the Chairman agrees should be considered as a matter of urgency because of special circumstances**

Barry Khan
Assistant Chief Executive (Legal and Democratic Services)

County Hall
Northallerton

Notes:

Emergency Procedures for Meetings

Fire

The fire evacuation alarm is a continuous Klaxon. On hearing this you should leave the building by the nearest safe fire exit. Once outside the building please proceed to the fire assembly point outside the main entrance.

Persons should not re-enter the building until authorised to do so by the Fire and Rescue Service or the Emergency Co-ordinator.

An intermittent alarm indicates an emergency in nearby building. It is not necessary to evacuate the building but you should be ready for instructions from the Fire Warden.

Accident or Illness

First Aid treatment can be obtained by telephoning Extension 7575.

AUDIT COMMITTEE

1. Membership

| County Councillors (8) | | | | | | | |
|---|------------------------------------|--------|--------|---|------------------------|-----|-------|
| | <i>Councillors Names</i> | | | | <i>Political Group</i> | | |
| 1 | ATKINSON, Margaret (Vice Chairman) | | | | Conservative | | |
| 2 | BAKER, Robert | | | | Conservative | | |
| 3 | BLACKIE, John | | | | NY Independent | | |
| 4 | BROADBENT, Eric | | | | Labour | | |
| 5 | CLARK, Jim | | | | Conservative | | |
| 6 | FORT, John BEM | | | | Conservative | | |
| 7 | GRANT, Helen | | | | NY Independent | | |
| 8 | JORDAN, Mike (Chairman) | | | | Conservative | | |
| Members other than County Councillors (Non-voting) (3) | | | | | | | |
| 1 | PORTLOCK, David | | | | | | |
| 2 | MARSH, David | | | | | | |
| 3 | Vacancy | | | | | | |
| | | | | | | | |
| Total Membership – (11) | | | | Quorum – (3) County Councillors | | | |
| Con | Lib Dem | NY Ind | Labour | Liberal | UKIP | Ind | Total |
| 5 | 0 | 2 | 1 | 0 | 0 | 0 | |

2. Substitute Members

| Conservative | | Liberal Democrat | |
|-----------------------|--------------------------|-------------------------|---------------------------------|
| | <i>Councillors Names</i> | | <i>Councillors Names</i> |
| 1 | HARRISON-TOPHAM, Roger | 1 | De COURCEY-BAYLEY, Margaret-Ann |
| 2 | SANDERSON, Janet | 2 | |
| 3 | METCALFE, Chris | 3 | |
| 4 | | 4 | |
| 5 | | 5 | |
| NY Independent | | Labour | |
| | <i>Councillors Names</i> | | <i>Councillors Names</i> |
| 1 | JEFFERSON, Janet | 1 | SHAW-WRIGHT, Steve |
| 2 | | 2 | |
| 3 | | 3 | |
| 4 | | 4 | |
| 5 | | 5 | |

North Yorkshire County Council

Audit Committee

Minutes of the meeting held on Thursday 1 December 2016 at 1.30 pm at County Hall, Northallerton.

Present:-

County Councillor Members of the Committee:-

County Councillor Mike Jordan (in the Chair), County Councillors Margaret Atkinson, Bernard Bateman MBE (as Substitute for Jim Clark), Eric Broadbent, and John Fort BEM.

External Members of the Committee:-

Mr David Marsh and Mr David Portlock.

In Attendance:-

County Councillor Don Mackenzie (Executive Member for Highways, Road Safety, Access to the Countryside (including broadband, mobile phone coverage) and Public Transport).

KPMG Officer: Alastair Newall.

Veritau Ltd Officer: Max Thomas (Head of Internal Audit).

County Council Officers: David Bowe (Corporate Director - Business and Environmental Services), Kevin Draisey (Head of Procurement and Contract Management), Gary Fielding (Corporate Director – Strategic Resources), Ruth Gladstone (Principal Democratic Services Officer), Michael Leah (Assistant Director - Strategic Resources) and Fiona Sowerby (Corporate Risk and Insurance Manager).

Apology for Absence:-

An apology for absence was received from County Councillor Helen Grant.

Copies of all documents considered are in the Minute Book

209. Minutes

Resolved -

That the Minutes of the meeting held on 29 September 2016, having been printed and circulated, be taken as read and be confirmed and signed by the Chairman as a correct record.

210. Declarations of Interest

There were no declarations of interest.

211. Public Questions or Statements

There were no questions or statements from members of the public.

212. Business and Environmental Services Directorate - Internal Audit Work

Considered -

The report of the Head of Internal Audit advising of the internal audit work performed during the year ended 30 November 2016 for the Business and Environmental Services Directorate. The opinion of the Head of Internal Audit was "Substantial Assurance" with regard to the systems of internal control in respect of that area.

Members highlighted that 13 Priority 3 actions arising from the audit of Integrated Passenger Transport appeared to be a significant number. In response, it was suggested that that number of actions was a reflection of the many different avenues of process and the number of contracts in operation within Integrated Passenger Transport. County Councillor Don Mackenzie (Executive Member) advised that Integrated Passenger Transport had a very complex role to perform against a background of great pressure from falling budgets and that they were successful in getting the best value for money for the Council tax payer.

It was noted that, whilst a follow-up audit in relation to Integrated Passenger Transport had commenced in November 2016, no observations were currently available, although a follow-up report was scheduled to be submitted to the Committee's meeting on 2 March 2017.

Members congratulated Business and Environmental Services on delivery of the Bedale, Aiskew and Leeming Bar Bypass under budget and ahead of time.

Resolved -

That it be noted that this Committee is satisfied that the internal control environment operating in the Business and Environmental Services Directorate is both adequate and effective.

213. Business and Environmental Services Directorate - Internal Control Matters

Considered -

The report of the Corporate Director - Business and Environmental Services providing an update on progress against the areas for improvement as identified in the Directorate's Statement of Assurance and providing details of the latest Risk Register for that Directorate.

Members questioned County Councillor Don Mackenzie, David Bowe and Michael Leah concerning the issues in the report.

Resolved -

- (a) That the position on the Business and Environmental Services Directorate Statement of Assurance be noted.
- (b) That the Directorate Risk Register for the Business and Environmental Services Directorate be noted.

214. Progress on Issues Raised by the Committee

Considered -

The joint report of the Corporate Director - Strategic Resources and the Assistant Chief Executive (Legal and Democratic Services) which advised of progress on issues which the Committee had raised at previous meetings, together with Treasury Management issues.

Resolved -

- (a) That the report be noted.
- (b) That the Corporate Director - Health and Adult Services and the Chairman of the Scrutiny of Health Committee be invited to attend the Audit Committee's meeting on 22 June 2017 for an hour's discussion in respect of governance relating to health and social care integration.
- (c) That, after the 22 June 2017 meeting of this Committee, governance relating to health and social care integration be removed from the "Progress on Issues Raised by the Committee" report which is submitted to every meeting.
- (d) That it be noted that a full update regarding Business Continuity shall be submitted to the Audit Committee's meeting on 22 June 2017 and that, following the 22 June 2017 meeting, Business Continuity be removed from the "Progress on Issues Raised by the Committee" report which is submitted to every meeting.

215. External Auditor Annual Audit Letter 2015/16

Considered -

The External Auditor's Annual Audit Letter on the 2015/16 audit summarising the key matters arising from the work that KPMG carried out in respect of the year ended 31 March 2016.

Resolved -

That the Annual Audit Letter be noted.

216. Contract Management

Considered -

The report of the Corporate Director - Strategic Resources advising of arrangements relating to contract management within the County Council and the principles of good contract management; describing the strategic direction of the Corporate Procurement Group to improving contract management within the Council; providing an analysis of the future challenges and risks the Council faced in terms of contract management; and informing the Committee of the recent activity and next steps.

During discussion:-

- Members commended the County Council's officers on the achievements which were being made in respect of Procurement and Contract Management.

- The Head of Procurement and Contract Management offered to provide Mr David Marsh with a copy of a spreadsheet which showed how the figure of £528,765, being the total saving made by creating a specific post relating to Contract Management, had been calculated. The Corporate Director – Strategic Resources clarified that the methodology for calculating savings was not precise.
- The Corporate Director – Strategic Resources confirmed that those staff who were achieving contract savings were being recognised at both Directorate Management Team level and within the Corporate Management Team. However, he suggested that he wished to consider whether prizes should also be provided.

Resolved -

- (a) That the report be noted.
- (b) That the areas identified and comments made in order to further add value to the ongoing work on Contract Management be noted.
- (c) That the Head of Procurement and Contract Management provide Mr David Marsh with a copy of a spreadsheet which shows how the figure of £528,765, being the total saving made by creating a specific post relating to Contract Management, has been calculated.
- (d) That the Corporate Director – Strategic Resources consider whether the County Council should award prizes to those staff who achieve contract savings.

217. Audit Committee Terms of Reference

Considered -

The report of the Corporate Director - Strategic Resources asking the Committee to consider possible changes to the Audit Committee's terms of reference in line with the requirements to review the terms of reference on an annual basis and to consider whether the Committee wished to conduct a review of its own effectiveness.

Members expressed the view that there was nothing they would wish to add to the Committee's terms of reference and that there were no areas where they felt hindered by the terms of reference.

Members expressed the view that it would be appropriate for the Committee to review its own effectiveness prior to the local government elections in 2017. They also agreed detailed arrangements which have been recorded in part (b) of the following Resolution.

Resolved -

- (a) That the existing Terms of Reference for the Audit Committee, as set out at Appendix A to the report, be approved.
- (b) That a review be undertaken of the Audit Committee's effectiveness, to include the following:-
 - The review be undertaken prior to the local government elections in 2017.

- The common issues which arise in responses received as part of the Review be reported to the Audit Committee's meeting to be held on 2 March 2017.
- Issues which the review identifies as working well be reported to the Audit Committee's meeting to be held on 22 June 2017.
- Members' responses to the Review be collated by a neutral party.
- That, in addition to Audit Committee Members and External Members, views be sought from Portfolio Holders, Corporate Directors, the Head of Internal Audit, and the External Auditor as part of the Review.

218. Progress on 2016/17 Internal Audit Plan

Considered -

The report of the Head of Internal Audit informing of progress made to date in delivering the 2016/17 Internal Audit Plan and developments likely to impact on the Plan throughout the remainder of the financial year.

It was highlighted that Veritau Ltd was on track to achieve the Plan. A number of variations to the Plan had been authorised, all of which related to the Health and Adult Services Directorate. The net effect of variations was to allocate a further five days to Contingency.

Resolved -

That the progress made in delivering the 2016/17 Internal Audit programme of work and the variations agreed by the client officer be noted.

219. Risk Management - Progress

Considered -

The report of the Corporate Director - Strategic Resources giving details of the updated Corporate Risk Register and advising of progress on other Risk Management related issues.

It was highlighted that two new risks had been included in the Corporate Risk Register and that these related to Schools Organisation Policy and Place Planning, and Growth. Three risks had been deleted. Two risks, which related to the 2020 North Yorkshire Change Programme, and Economic Development and Opportunities for Devolution in North Yorkshire, had changed significantly.

During discussion, Members highlighted that there was a high risk environment at the moment but that having approximately ten risks on the Corporate Risk Register was correct.

Resolved -

- (a) That the updated Corporate Risk Register, as set out at Appendix A to the report, be noted.
- (b) That the position on other Risk Management related matters be noted.

220. Programme of Work 2016/17

Considered -

The Programme of Work 2016/17.

During discussion, Members highlighted that the Audit Committee's calendar of meetings would require amendment to reflect the shorter timetable, in future years, for auditing and approving the County Council's Statement of Final Accounts (SOFA). The Corporate Director – Strategic Resources advised that it might be helpful to start now running a parallel timetable comprising only four Committee meetings per year (ie no meetings in June and July).

In response to Members' questions, the Corporate Director – Strategic Resources provided confirmation that his Directorate would be gearing-up to deliver the new arrangements for the SOFA and that officers had two sets of dates because the next year was the trail run.

Resolved -

- (a) That the Programme of Work 2016/17 be approved, subject to the inclusion of:-
 - (i) The arrangements to consider the outcome of the Review of the Effectiveness of the Audit Committee, as recorded at Minute 217.
 - (ii) An hour's discussion with the Corporate Director - Health and Adult Services and the Chairman of the Scrutiny of Health Committee, on 22 June 2017, about governance relating to health and social care integration, as recorded at Minute 214.
 - (iii) A full update regarding business continuity at the Committee's meeting on 22 June 2017, as recorded at Minute 214.
- (b) That the Seminar to be held for Audit Committee Members on 2 March 2017 at 1pm include the issues of cyber security and general Information Governance.
- (c) That a Seminar for Audit Committee Members be held following the 2017 elections, to include the issue of how the Modern Council 2020 Programme is increasing the County Council's productivity.

The meeting concluded at 3.30 pm.

RAG/JR

NORTH YORKSHIRE COUNTY COUNCIL

AUDIT COMMITTEE

2 March 2017

PROGRESS ON ISSUES RAISED BY THE COMMITTEE

**Joint Report of the Corporate Director – Strategic Resources
and the Assistant Chief Executive (Legal and Democratic Services)**

1.0 PURPOSE OF THE REPORT

1.1 To advise Members of

- (i) progress on issues which the Committee has raised at previous meetings
- (ii) other matters that have arisen since the last meeting and that relate to the work of the Committee

2.0 BACKGROUND

2.1 This report is submitted to each meeting listing the Committee's previous Resolutions and / or when it requested further information be submitted to future meetings. The table below represents the list of issues which were identified at previous Audit Committee meetings and which have not yet been resolved. The table also indicates where the issues are regarded as completed and will therefore not be carried forward to this agenda item at the next Audit Committee meeting.

| Date | Minute number and subject | Audit Committee Resolution | Comment | Complete? |
|-------------|---|---|---|------------------|
| 23/09/15 | 146 – Internal Audit Work and related Internal Control Matters for the Health and Adult Services Directorate. | That the Corporate Director – Strategic Resources discuss the timing of the next governance review of the Health and Wellbeing Board and Integrated Commissioning Board with the Assistant Director – Strategic Resources and the Head of Internal Audit. | Awaiting latest set of guidelines for Better Care Fund and on-going discussions with Health. Optimum timing will then be determined. A verbal update was provided to the Committee at the last meeting. This issue is such that it is unlikely that a single action will address. It is suggested that verbal updates continue to be provided and the focus on HAS for the September meeting provides opportunity to explore further. | X |

| Date | Minute number and subject | Audit Committee Resolution | Comment | Complete? |
|-------------|--|--|---|------------------|
| 23/06/16 | 186 – Business Continuity Plan - update | That Members' comments be fed into Management Board as part of the validation of the Corporate Business Continuity Plan | To be removed once the full update regarding Business Continuity has been submitted to the Committee on 22 June 2017. | x |
| | 187 - Corporate Procurement Strategy | That the Head of Procurement and Contract Management research whether the County Council now has more suppliers as a consequence of the simplification of the rules. | Kevin Draisey to provide response at the appropriate time. It is suggested that this analysis be carried out after a year of the new arrangements – suggested March 2017. | X |
| | 208 – Programme of Work | That the programme of work be approved, subject to the Corporate Director, Strategic Resources arranging a briefing for Mr David Marsh (External Member) concerning procurement. | Kevin Draisey to arrange direct with David Marsh. | X |
| 01/12/16 | 214 – Progress on Issues Raised by the Committee | That the Corporate Director – Health and Adult Services and the Chairman of the Scrutiny of Health Committee be invited to attend the Audit Committee's meeting on 22 June 2017 for an hour's discussion in respect of governance relating to health and social care integration | The Corporate Director – Health and Adult Services is unable to attend the meeting on 22 June but will attend on 13 July – Chairman of Scrutiny of Health Committee also to be invited. | x |
| | 216 – Contract Management | That the Head of Procurement and Contract Management provide Mr David Marsh with a copy of a spreadsheet which shows how the figure of £528,765 being the total saving made by creating a specific post relating to Contract Management, has been calculated. | Kevin Draisey to arrange direct with David Marsh | x |
| | 217 – Audit Committee Terms of Reference | That a review be undertaken of the Audit Committee's effectiveness, to include the following:- | Full agenda for March meeting and pre-Committee topic of cyber security and info governance already established. | X |

| Date | Minute number and subject | Audit Committee Resolution | Comment | Complete? |
|------|----------------------------------|---|---|-----------|
| | | <ul style="list-style-type: none"> • The review be undertaken prior to the local government elections in 2017 • The common issues which arise in responses received as part of the Review be reported to the Audit Committee's meeting to be held on 2 March 2017. • Issues which the review identifies as working well be reported to the Audit Committee's meeting to be held on 22 June 2017 • Members' responses to the Review be collated by a neutral party • That, in addition to Audit Committee Members and External Members, views be sought from Portfolio Holders, Corporate Directors, the Head of Internal Audit, and the External Auditor as part of the Review | It is suggested that views still be sought from Committee members prior to County Council elections and a plan be produced which can be tested informally with Members prior to elections. The learning can then be used to inform the new Audit Committee post May 2017. | |
| | 220 – Programme of works 2016/17 | That a Seminar for Audit Committee Members be held following the 2017 elections, to include the issue of how the Modern Council 2020 Programme is increasing the County Council's productivity. | Seminar to be arranged for the June meeting | x |

3.0 TREASURY MANAGEMENT

- 3.1 Capita have updated their forecasts of 17 November to take into account the Bank of England quarterly Inflation Report for November 2016, the decision of the MPC meeting of 3 November, and the US Presidential election of 8 November.
- 3.2 The MPC decision included a forward view that Bank Rate could go either up or down depending on how economic data evolves in the coming months. Capita's central view remains that Bank Rate will remain unchanged at 0.25% until the first increase to 0.50% in

June 2019 (unchanged from previous forecasts). However, there remains a risk of a cut in Bank Rate if economic growth were to take a significant dip downwards, though this is thought unlikely.

- 3.3 Deutsche Bank has been temporarily suspended from the Council's investment list as a result of their Credit Default Swap (CDS) rating moving out of range – this will be monitored.
- 3.4 Investment rates available continue to remain at relatively low levels, as a result of the historically low Bank Rate. Alternative options are continually monitored and reviewed in order to ensure investment returns are maximised, while maintaining the appropriate level of security and liquidity of funds. Treasury Management staff are currently investigating a number investment options to assess whether they meet the Council's investment priorities and criteria list. However, a proposal to use any additional investment options would require detailed assessment and be subject to scrutiny by Audit Committee and approval by Members.
- 3.5 The Treasury Management Strategy was approved by County Council on 15 February and is considered separately on this Committee's agenda.

4.0 RECOMMENDATION

- 4.1 That the Committee considers whether any further follow-up action is required on any of the matters referred to in this report.

GARY FIELDING
Corporate Director – Strategic Resources

BARRY KHAN
Assistant Chief Executive
(Legal and Democratic Services)

County Hall
NORTHALLERTON

2 March 2017

Background Documents: Report to, and Minutes of, Audit Committee meeting held on 1 December 2016



External Audit Plan 2016/17

North Yorkshire County Council
North Yorkshire Pension Fund

January 2017

The Local Government Landscape



Financial Statement Audit



There are no significant changes to the Code of Practice on Local Authority Accounting in 2016/17, which provides stability in terms of the accounting standards the Council need to comply with.

Materiality

Materiality for planning purposes has set at **£15 million** for the Council and **£25 million** for the Pension Fund.

We are obliged to report uncorrected omissions or misstatements other than those which are 'clearly trivial' to those charged with governance and this has been set at **£0.75 million** for the Council and **£1.25 million** for the Pension Fund.

Significant risks

Those risks requiring specific audit attention and procedures to address the likelihood of a material financial statement error have been identified in the Council as:

- Significant changes in the pension liability due to LGPS Triennial Valuation; and
- The valuation of schools

No specific significant risks were identified within the pension fund.

See pages 4 to 8 for more details.

Value for Money Arrangements work



Our risk assessment is ongoing and we will report VFM significant risks during our audit.

As in 2015/16, our approach to the Value for Money conclusion is determined by the NAO who issue supporting guidance. The approach in 2016/17 is consistent with that followed in 2015/16.

As in 2015/16 our VFM conclusion work only applies to the Council, and not the Pension Fund.

See pages 9 to 12 for more details

Logistics



Our team is:

- Rashpal Khangura – Director
- Alastair Newall – Manager
- Tom Soulby – Assistant Manager

More details are on **page 15**.

Our work will be completed in four phases from December to September and our key deliverables are this Audit Plan and a Report to those charged with Governance as outlined on **page 14**.

Our fee for the audit is £94,490 (£94,490 2015/16) for the Council and £24,943 (£24,943 2015/16 for the Pension Fund. See **page 13**.

Introduction

Background and Statutory responsibilities

This document supplements our Audit Fee Letter 2016/17 presented to you in April 2016, which also sets out details of our appointment by Public Sector Audit Appointments Ltd (PSAA).

Our statutory responsibilities and powers are set out in the Local Audit and Accountability Act 2014 and the National Audit Office's Code of Audit Practice.

Our audit has two key objectives, requiring us to audit/review and report on your:

- *Financial statements (including the Annual Governance Statement)*: Providing an opinion on your accounts; and
- *Use of resources*: Concluding on the arrangements in place for securing economy, efficiency and effectiveness in your use of resources (the value for money conclusion).

The audit planning process and risk assessment is an on-going process and the assessment and fees in this plan will be kept under review and updated if necessary.

Acknowledgements

We would like to take this opportunity to thank officers and Members for their continuing help and co-operation throughout our audit work.

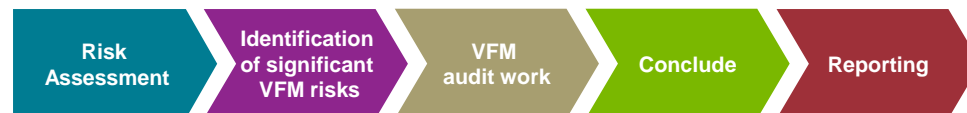
Financial Statements Audit

Our financial statements audit work follows a four stage audit process which is identified below. Appendix 1 provides more detail on the activities that this includes. This report concentrates on the Financial Statements Audit Planning stage of the Financial Statements Audit.



Value for Money Arrangements Work

Our Value for Money (VFM) Arrangements Work follows a five stage process which is identified below. Page 9 provides more detail on the activities that this includes. This report concentrates on explaining the VFM approach for the 2016/17.





Financial Statements Audit Planning

Our planning work takes place during December 2016 and January 2017. This involves the following key aspects:

- Risk assessment;
- Determining our materiality level; and
- Issuing this audit plan to communicate our audit strategy.

Risk assessment

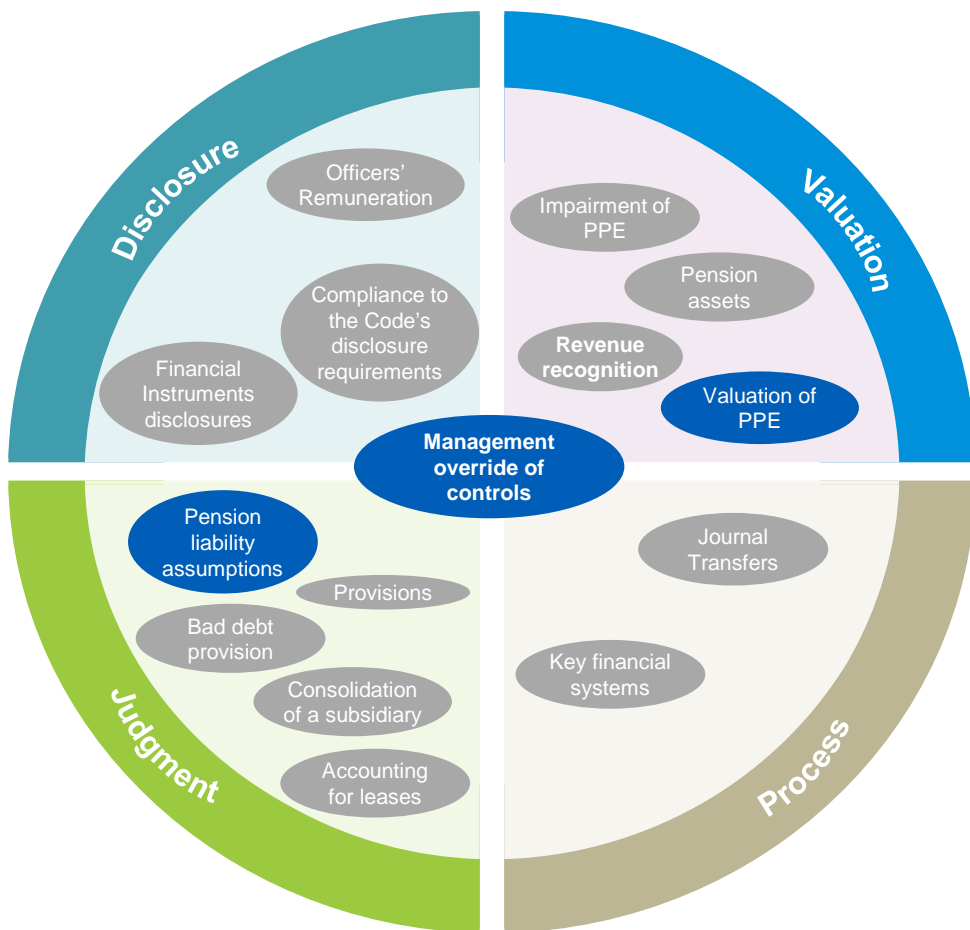
Professional standards require us to consider two standard risks for all organisations. We are not elaborating on these standard risks in this plan but consider them as a matter of course in our audit and will include any findings arising from our work in our ISA 260 Report.

- **Management override of controls** – Management is typically in a powerful position to perpetrate fraud owing to its ability to manipulate accounting records and prepare fraudulent financial statements by overriding controls that otherwise appear to be operating effectively. Our audit methodology incorporates the risk of management override as a default significant risk. In line with our methodology, we carry out appropriate controls testing and substantive procedures, including over journal entries, accounting estimates and significant transactions that are outside the normal course of business, or are otherwise unusual.
- **Fraudulent revenue recognition** – We do not consider this to be a significant risk for local authorities as there are limited incentives and opportunities to manipulate the way income is recognised. We therefore rebut this risk and do not incorporate specific work into our audit plan in this area over and above our standard fraud procedures.

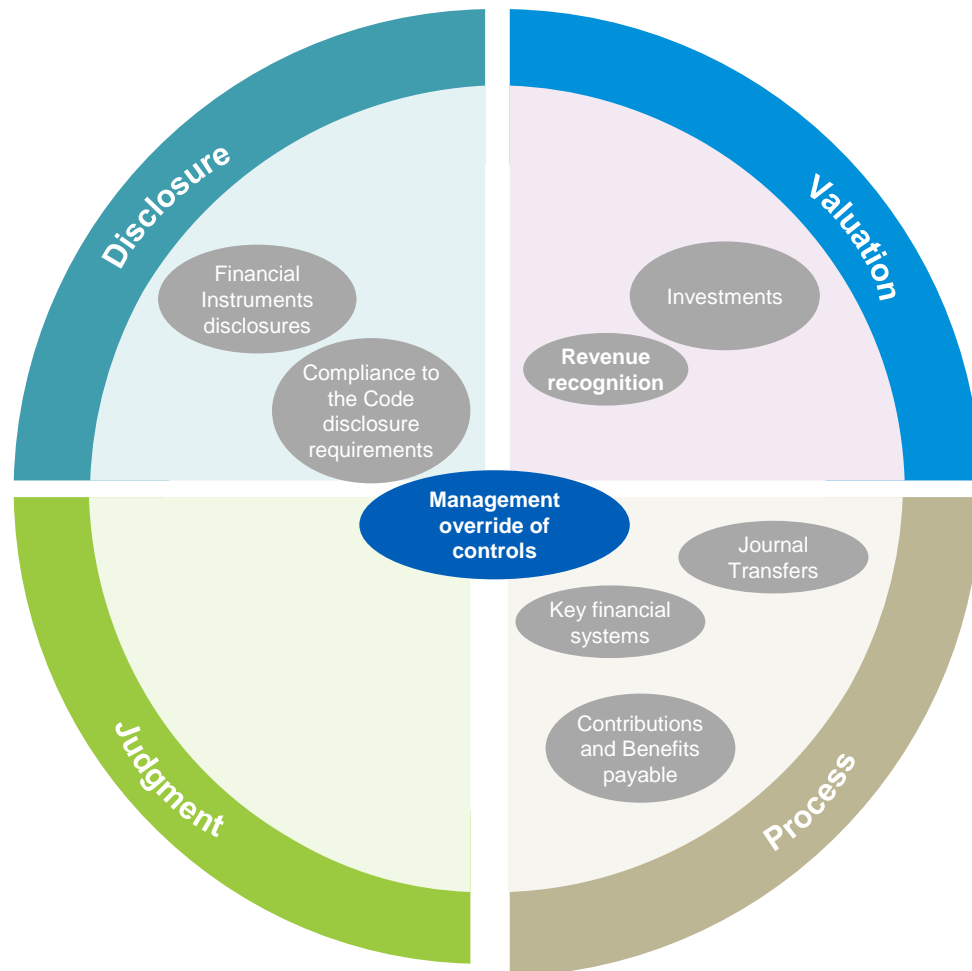
The diagrams overleaf identify significant risks and other areas of audit focus in both the Council and the Pension Fund, which we expand on page 6. These diagrams also identify a range of other areas considered by our audit approach.

Financial statements audit planning (cont.)

North Yorkshire County Council



North Yorkshire Pension Fund



- Keys:
- Significant risk
 - Other key areas covered by our approach



Significant Audit Risks (Council only)

Those risks requiring specific audit attention and procedures to address the likelihood of a material financial statement error.

Risk: Significant changes in the pension liability due to LGPS Triennial Valuation

The Pension Fund has undergone a triennial valuation with an effective date of 31 March 2016 in line with the Local Government Pension Scheme (Administration) Regulations 2013. The share of pensions assets and liabilities for each admitted body is determined in detail, and a large volume of data is provided to the actuary to support this triennial valuation.

The pension numbers to be included in the financial statements for 2016/17 will be based on the output of the triennial valuation rolled forward to 31 March 2017. For 2017/18 and 2018/19 the actuary will then roll forward the valuation for accounting purposes based on more limited data.

There is a risk that the data provided to the actuary for the valuation exercise is inaccurate and that these inaccuracies affect the actuarial figures in the accounts.

Approach:

We will review the output from the Actuary both relating to the Triennial Valuation at 31 March 2016 and the rolled forward values at 31 March 2017. We will carry out testing on the data provided by the Council to the Pension Fund to confirm that it is materially complete and accurate.

In addition, during our audit of the Pension Fund, we will review and test the completeness and accuracy of the data provided to the actuary by the Pension Fund to inform the Triennial Review. We expect that, as in previous years, we will receive specific requests from the auditors of other admitted bodies to provide assurance to them. We are required to support their audits under the protocols put in place by Public Sector Audit Appointments, and where the work they request is over and above that already being carried out for our Pension Fund audit, there will be additional costs arising from this. As in previous years, the Pension Fund can consider recharging these costs to the relevant admitted bodies.

Significant Audit Risks (Council only)

Those risks requiring specific audit attention and procedures to address the likelihood of a material financial statement error.

Risk: Revaluation of Property, Plant & Equipment

The Council has a rolling programme of revaluations of its Property, Plant & Equipment assets in line with the requirements of the CIPFA Code of Practice.

In 2016/17 we understand the Council is revaluing its primary schools. This is a significant proportion of the Council's PPE value and represents a very large number of assets. While we understand the revaluation approach will be applied consistently to previous years revaluations, the size and nature of the assets being revalued in 2016/17, results in the inherent risk of applying incorrect valuations leading to material errors is greater than in previous years.

Approach:

We will discuss with officers early in our audit to establish the approach that the Council is taking to revaluing its primary schools. Our detailed testing will include a range of work, including:

- Assessing the competence, capability, objectivity and independence of the Council's external valuer;
- Reviewing the terms of engagement of, and the instructions issued to, the valuer for consistency with the Council's accounting policies and the CIPFA Code of Practice;
- Reviewing the information provided to the valuer by the Council and agreeing this to the Council's asset records;
- Reviewing the reasonableness of the valuation assumptions used in the valuation model;
- Reviewing the accounting treatment of the revaluation within the Council's financial statements to ensure that any upwards revaluations or impairments have been properly classified and accounted for; and
- Considering the adequacy of the disclosures about the key judgments and degree of estimation in arriving at the valuation and related sensitivities.



Materiality

We are required to plan our audit to determine with reasonable confidence whether or not the financial statements are free from material misstatement. An omission or misstatement is regarded as material if it would reasonably influence the user of financial statements. This therefore involves an assessment of the qualitative and quantitative nature of omissions and misstatements.

Generally, we would not consider differences in opinion in respect of areas of judgement to represent 'misstatements' unless the application of that judgement results in a financial amount falling outside of a range which we consider to be acceptable.

For the Council, materiality for planning purposes has been set at £15 million, which equates to approximately 1.5 percent of gross expenditure, and is consistent with 2015/16.

For the Pension Fund, materiality for planning purposes has been set at £25 million which is consistent with 2015/16.

We design our procedures to detect errors in specific accounts at a lower level of precision.

Reporting to the Audit Committee

Whilst our audit procedures are designed to identify misstatements which are material to our opinion on the financial statements as a whole, we nevertheless report to the Audit Committee any unadjusted misstatements of lesser amounts to the extent that these are identified by our audit work.

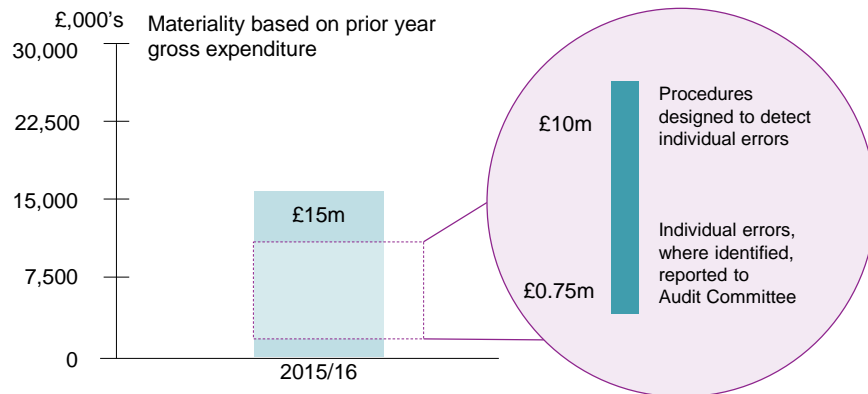
Under ISA 260(UK&I) 'Communication with those charged with governance', we are obliged to report uncorrected omissions or misstatements other than those which are 'clearly trivial' to those charged with governance. ISA 260 (UK&I) defines 'clearly trivial' as matters that are clearly inconsequential, whether taken individually or in aggregate and whether judged by any quantitative or qualitative criteria.

In the context of the Council, we propose that an individual difference could normally be considered to be clearly trivial if it is less than £0.75 million.

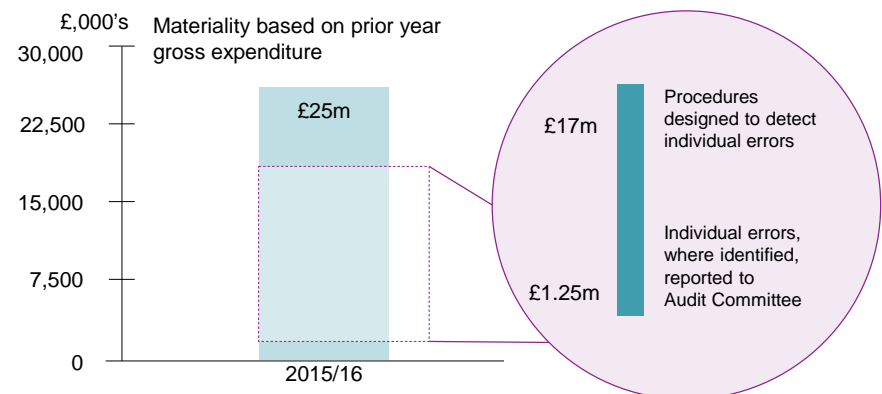
In the context of the Pension Fund, we propose that an individual difference could normally be considered to be clearly trivial if it is less than £1.25 million.

If management have corrected material misstatements identified during the course of the audit, we will consider whether those corrections should be communicated to the Audit Committee to assist it in fulfilling its governance responsibilities.

North Yorkshire County Council



North Yorkshire Pension Fund





Group audit

In addition to the Council, we will consider whether any of the Council's subsidiary companies are significant in the context of our group audit. The prior year financial statements showed that the Council identified that it had a group relationship with four other bodies, and that three of these required consolidation into the group financial statements, as follows:

- NYnet Limited;
- Yorwaste Limited; and
- Veritau Limited.

To support our audit work on the Council's group accounts, we will consider whether we need to seek to place reliance on the work of the auditors to these subsidiaries. Where this is necessary we will liaise with them in order to confirm that their programme of work is adequate for our purposes and they satisfy professional requirements.

In 2015/16 we did not consider any of your subsidiary companies to be significant to your group financial statements, and consequently we did not plan to place reliance on the work of the subsidiary company auditors. We will reconsider this judgement in 2016/17 based on up to date subsidiary company information, but we are not aware of any changes in circumstances which would lead to a change in approach in 2016/17.

We will report the following matters in our Report to those charged with Governance:

- Any deficiencies in the system of internal controls or instances of fraud which the subsidiary auditors identify;
- Any limitations on the group audit, for example, where the our access to information may have been restricted; and
- Any instances where our evaluation of the work the subsidiary auditors gives rise to concern about the quality of that auditor's work.

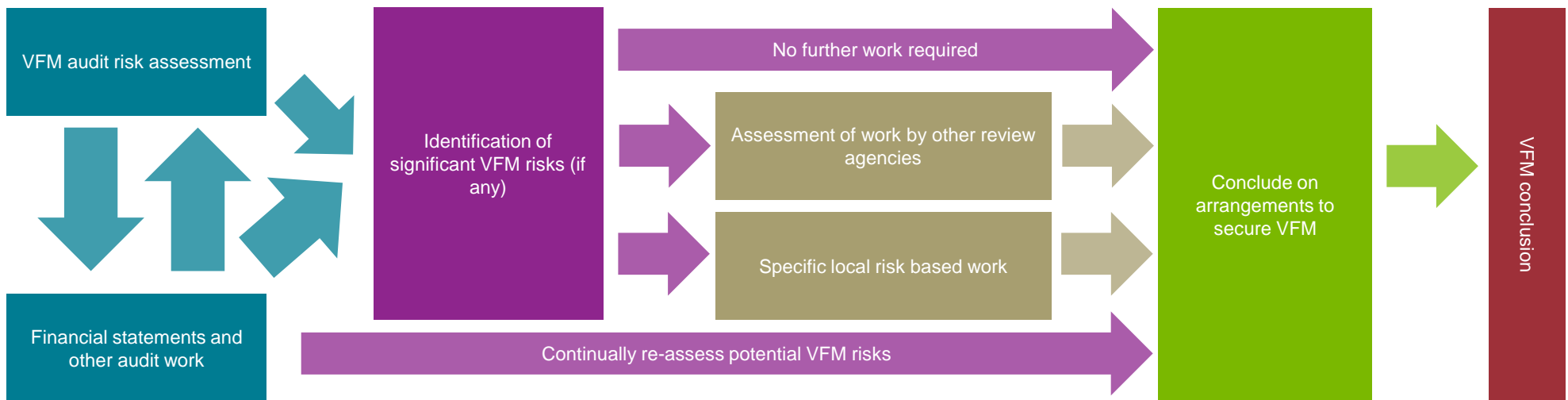


Background to approach to VFM work

The Local Audit and Accountability Act 2014 requires auditors of local government bodies to be satisfied that the Council 'has made proper arrangements for securing economy, efficiency and effectiveness in its use of resources'.

This is supported by the Code of Audit Practice, published by the NAO in April 2015, which requires auditors to 'take into account their knowledge of the relevant local sector as a whole, and the audited body specifically, to identify any risks that, in the auditor's judgement, have the potential to cause the auditor to reach an inappropriate conclusion on the audited body's arrangements.'

The VFM approach is fundamentally unchanged from that adopted in 2015/16 and the process is shown in the diagram below. The diagram overleaf shows the details of the criteria for our VFM work.





Overall criterion

In all significant respects, the audited body had proper arrangements to ensure it took properly informed decisions and deployed resources to achieve planned and sustainable outcomes for taxpayers and local people.

Informed decision making

Proper arrangements:

- Acting in the public interest, through demonstrating and applying the principles and values of sound governance.
- Understanding and using appropriate and reliable financial and performance information to support informed decision making and performance management.
- Reliable and timely financial reporting that supports the delivery of strategic priorities.
- Managing risks effectively and maintaining a sound system of internal control.

Sustainable resource deployment

Proper arrangements:

- Planning finances effectively to support the sustainable delivery of strategic priorities and maintain statutory functions.
- Managing and utilising assets to support the delivery of strategic priorities.
- Planning, organising and developing the workforce effectively to deliver strategic priorities.

Working with partners and third parties

Proper arrangements:

- Working with third parties effectively to deliver strategic priorities.
- Commissioning services effectively to support the delivery of strategic priorities.
- Procuring supplies and services effectively to support the delivery of strategic priorities.



| VFM audit stage | Audit approach |
|--|---|
| VFM audit risk assessment | <p>We consider the relevance and significance of the potential business risks faced by all local authorities, and other risks that apply specifically to the Council. These are the significant operational and financial risks in achieving statutory functions and objectives, which are relevant to auditors' responsibilities under the <i>Code of Audit Practice</i>.</p> <p>In doing so we consider:</p> <ul style="list-style-type: none"> ■ The Council's own assessment of the risks it faces, and its arrangements to manage and address its risks; ■ Information from the Public Sector Auditor Appointments Limited VFM profile tool; ■ Evidence gained from previous audit work, including the response to that work; and ■ The work of other inspectorates and review agencies. |
| Linkages with financial statements and other audit work | <p>There is a degree of overlap between the work we do as part of the VFM audit and our financial statements audit. For example, our financial statements audit includes an assessment and testing of the Council's organisational control environment, including the Council's financial management and governance arrangements, many aspects of which are relevant to our VFM audit responsibilities.</p> <p>We have always sought to avoid duplication of audit effort by integrating our financial statements and VFM work, and this will continue. We will therefore draw upon relevant aspects of our financial statements audit work to inform the VFM audit.</p> |
| Identification of significant risks | <p>The Code identifies a matter as significant '<i>if, in the auditor's professional view, it is reasonable to conclude that the matter would be of interest to the audited body or the wider public. Significance has both qualitative and quantitative aspects.</i>'</p> <p>If we identify significant VFM risks, then we will highlight the risk to the Council and consider the most appropriate audit response in each case, including:</p> <ul style="list-style-type: none"> ■ Considering the results of work by the Council, inspectorates and other review agencies; and ■ Carrying out local risk-based work to form a view on the adequacy of the Council's arrangements for securing economy, efficiency and effectiveness in its use of resources. |

Value for money arrangements work (cont.)



| VFM audit stage | Audit approach |
|--|---|
| <p>Assessment of work by other review agencies</p> <p>and</p> <p>Delivery of local risk based work</p> | <p>Depending on the nature of the significant VFM risk identified, we may be able to draw on the work of other inspectorates, review agencies and other relevant bodies to provide us with the necessary evidence to reach our conclusion on the risk.</p> <p>If such evidence is not available, we will instead need to consider what additional work we will be required to undertake to satisfy ourselves that we have reasonable evidence to support the conclusion that we will draw. Such work may include:</p> <ul style="list-style-type: none"> ■ Meeting with senior managers across the Council; ■ Review of minutes and internal reports; ■ Examination of financial models for reasonableness, using our own experience and benchmarking data from within and without the sector. |
| <p>Concluding on VFM arrangements</p> | <p>At the conclusion of the VFM audit we will consider the results of the work undertaken and assess the assurance obtained against each of the VFM themes regarding the adequacy of the Council's arrangements for securing economy, efficiency and effectiveness in the use of resources.</p> <p>If any issues are identified that may be significant to this assessment, and in particular if there are issues that indicate we may need to consider qualifying our VFM conclusion, we will discuss these with management as soon as possible. Such issues will also be considered more widely as part of KPMG's quality control processes, to help ensure the consistency of auditors' decisions.</p> |
| <p>Reporting</p> | <p>We will report on the results of the VFM audit through our ISA 260 Report. This will summarise any specific matters arising, and the basis for our overall conclusion.</p> <p>The key output from the work will be the VFM conclusion (i.e. our opinion on the Council's arrangements for securing VFM), which forms part of our audit report.</p> |

Whole of government accounts (WGA)

We are required to review your WGA consolidation and undertake the work specified under the approach that is agreed with HM Treasury and the National Audit Office. Deadlines for production of the pack and the specified approach for 2016/17 have not yet been confirmed.

Electors challenge

The Local Audit and Accountability Act 2014 gives electors certain rights. These are:

- The right to inspect the accounts;
- The right to ask the auditor questions about the accounts; and
- The right to object to the accounts.

As a result of these rights, in particular the right to object to the accounts, we may need to undertake additional work to form our decision on the elector's objection. The additional work could range from a small piece of work where we interview an officer and review evidence to form our decision, to a more detailed piece of work, where we have to interview a range of officers, review significant amounts of evidence and seek legal representations on the issues raised.

The costs incurred in responding to specific questions or objections raised by electors is not part of the fee. This work will be charged in accordance with the PSAA's fee scales.

Our audit team

Our audit team will be led by Rashpal Khangura who will offer continuity to the audit. Appendix 2 provides more details on specific roles and contact details of the team.

Reporting and communication

Reporting is a key part of the audit process, not only in communicating the audit findings for the year, but also in ensuring the audit team are accountable to you in addressing the issues identified as part of the audit strategy. Throughout the year we will communicate with you through meetings with the finance team and the Audit Committee. Our communication outputs are included in Appendix 1.

Independence and Objectivity

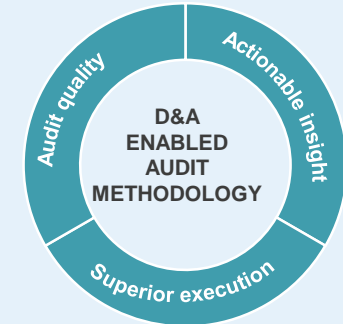
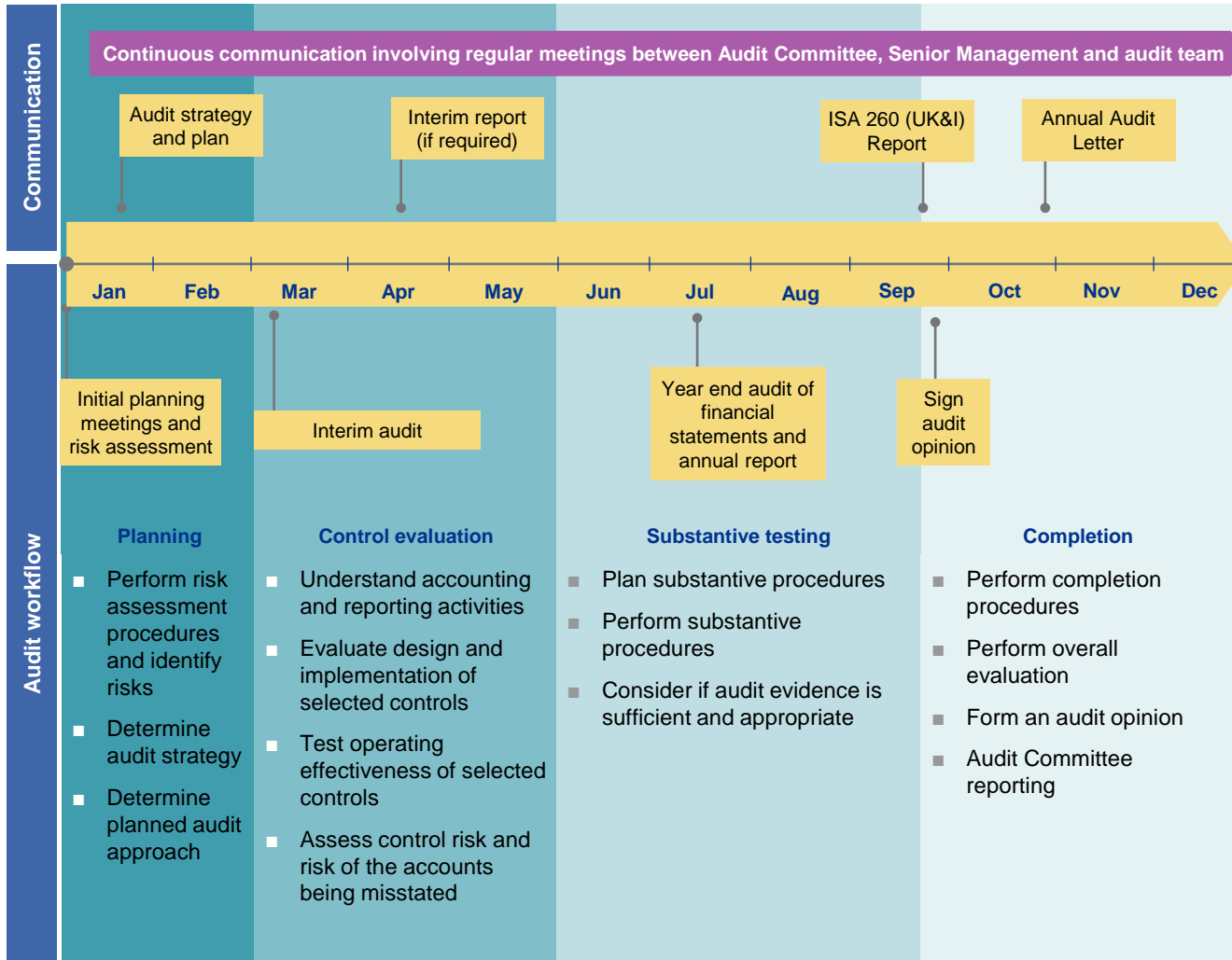
Auditors are also required to be independent and objective. Appendix 3 provides more details of our confirmation of independence and objectivity.

Audit fee

Our Audit Fee Letter 2016/17 presented to you in April 2016 first set out our fees for the 2016/17 audit. This letter also sets out our assumptions. We have not considered it necessary to make any changes to the agreed fees at this stage.

The planned audit fee for 2016/17 is £94,490 for the Council. This is the same as is 2015/16. The planned audit fee for 2016/17 is £24,943 for the Pension Fund. (2015/16 £24,943).

Appendix 1: Key elements of our financial statements audit approach



Driving more value from the audit through data and analytics

Technology is embedded throughout our audit approach to deliver a high quality audit opinion. Use of Data and Analytics (D&A) to analyse large populations of transactions in order to identify key areas for our audit focus is just one element. We strive to deliver new quality insight into your operations that enhances our and your preparedness and improves your collective 'business intelligence.' Data and Analytics allows us to:

- Obtain greater understanding of your processes, to automatically extract control configurations and to obtain higher levels assurance.
- Focus manual procedures on key areas of risk and on transactional exceptions.
- Identify data patterns and the root cause of issues to increase forward-looking insight.

We anticipate using data and analytics in our work around key areas such as accounts payable, and journals.

Appendix 2: Audit team



Your audit team has been drawn from our specialist public sector assurance department. Both Rashpal and Alastair were part of the North Yorkshire Council audit last year.



| | |
|-----------------|--|
| Name | Rashpal Khangura |
| Position | Director |
| | <p>'My role is to lead our team and ensure the delivery of a high quality, valued added external audit opinion.</p> <p>I will be the main point of contact for the Audit Committee and Chief Executive.'</p> |

0113 231 3396
rashpal.khangura@kpmg.co.uk



| | |
|-----------------|---|
| Name | Alastair Newall |
| Position | Manager |
| | <p>'I provide quality assurance for the audit work and specifically any technical accounting and risk areas. I will work closely with Rashpal Khangura to ensure we add value.</p> <p>I will liaise with the Corporate Director Strategic Resources and other Executive Directors.'</p> |

0113 231 3552
alastair.newall@kpmg.co.uk



| | |
|-----------------|--|
| Name | Tom Soulby |
| Position | Assistant Manager |
| | <p>'I will be responsible for the on-site delivery of our work and will supervise the work of our audit assistants.'</p> |

0113 380 0573
tom.Soulby@kpmg.co.uk



Appendix 3: Independence and objectivity requirements

Independence and objectivity

Professional standards require auditors to communicate to those charged with governance, at least annually, all relationships that may bear on the firm's independence and the objectivity of the audit engagement partner and audit staff. The standards also place requirements on auditors in relation to integrity, objectivity and independence.

The standards define 'those charged with governance' as 'those persons entrusted with the supervision, control and direction of an entity'. In your case this is the Audit Committee.

KPMG LLP is committed to being and being seen to be independent. APB Ethical Standards require us to communicate to you in writing all significant facts and matters, including those related to the provision of non-audit services and the safeguards put in place, in our professional judgement, may reasonably be thought to bear on KPMG LLP's independence and the objectivity of the Engagement Lead and the audit team.

Further to this auditors are required by the National Audit Office's Code of Audit Practice to:

- Carry out their work with integrity, independence and objectivity;
- Be transparent and report publicly as required;
- Be professional and proportional in conducting work;
- Be mindful of the activities of inspectorates to prevent duplication;
- Take a constructive and positive approach to their work;
- Comply with data statutory and other relevant requirements relating to the security, transfer, holding, disclosure and disposal of information.

PSAA's Terms of Appointment includes several references to arrangements designed to support and reinforce the requirements relating to independence, which auditors must comply with. These are as follows:

- Auditors and senior members of their staff who are directly involved in the management, supervision or delivery of PSAA audit work should not take part in political activity.

- No member or employee of the firm should accept or hold an appointment as a member of an audited body whose auditor is, or is proposed to be, from the same firm. In addition, no member or employee of the firm should accept or hold such appointments at related bodies, such as those linked to the audited body through a strategic partnership.
- Audit staff are expected not to accept appointments as Governors at certain types of schools within the local Council.
- Auditors and their staff should not be employed in any capacity (whether paid or unpaid) by an audited body or other organisation providing services to an audited body whilst being employed by the firm.
- Auditors appointed by the PSAA should not accept engagements which involve commenting on the performance of other PSAA auditors on PSAA work without first consulting PSAA.
- Auditors are expected to comply with the Terms of Appointment policy for the Engagement Lead to be changed on a periodic basis.
- Audit suppliers are required to obtain the PSAA's written approval prior to changing any Engagement Lead in respect of each audited body.
- Certain other staff changes or appointments require positive action to be taken by Firms as set out in the Terms of Appointment.

Confirmation statement

We confirm that as of January 2017 in our professional judgement, KPMG LLP is independent within the meaning of regulatory and professional requirements and the objectivity of the Engagement Lead and audit team is not impaired.



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This report is addressed to the Council and has been prepared for the sole use of the Council. We take no responsibility to any member of staff acting in their individual capacities, or to third parties. We draw your attention to the Statement of Responsibilities of auditors and audited bodies, which is available on Public Sector Audit Appointment’s website (www.psaa.co.uk).

External auditors do not act as a substitute for the audited body’s own responsibility for putting in place proper arrangements to ensure that public business is conducted in accordance with the law and proper standards, and that public money is safeguarded and properly accounted for, and used economically, efficiently and effectively.

We are committed to providing you with a high quality service. If you have any concerns or are dissatisfied with any part of KPMG’s work, in the first instance you should contact Rashpal Khangura the engagement lead to the Council, who will try to resolve your complaint. If you are dissatisfied with your response please contact the national lead partner for all of KPMG’s work under our contract with Public Sector Audit Appointments Limited, Andrew Sayers, by email to Andrew.Sayers@kpmg.co.uk .After this, if you are still dissatisfied with how your complaint has been handled you can access PSAA’s complaints procedure by emailing generalenquiries@psaa.co.uk by telephoning 020 7072 7445 or by writing to Public Sector Audit Appointments Limited, 3rd Floor, Local Government House, Smith Square, London, SW1P 3HZ.

NORTH YORKSHIRE COUNTY COUNCIL

AUDIT COMMITTEE

2 March 2017

PRODUCTION OF STATEMENT OF ACCOUNTS 2016/17

Report of the Corporate Director – Strategic Resources

1.0 PURPOSE OF THE REPORT

- 1.1 To review changes to the Statement of Accounts Timetable and approach for 2016/17;
- 1.2 To review changes in the approach to the Annual Governance Statement for 2016/17.

2.0 BACKGROUND

- 2.1 The Code of Practice on Local Authority Accounting in the United Kingdom (the Code) specifies the principles and practices of accounting required to give a 'true and fair' view of the financial position, financial performance and cash flows of a Local Authority.
- 2.2 The Code sets out the proper accounting practices required by the Local Government Act 2003. These proper practices apply to the Statement of Accounts which are prepared in accordance with the statutory framework established by the Accounts and Audit Regulations.
- 2.3 The Accounts and Audit Regulations set out the requirements and timelines for Member approval of Local Authority Accounts and one of the Terms of Reference for this Committee is to approve the Annual Statement of Final Accounts (SOFA).
- 2.2 The Accounts and Audit Regulations also include a requirement for the Statement of Final Accounts to include an Annual Governance Statement (AGS). The approval of the Annual Governance Statement is also one of the Terms of Reference of the Audit Committee.
- 2.4 The new Accounts and Audit Regulations 2015 introduced with effect from 1 April 2015 have resulted in a change in the timeframe for approval of the Statement of Accounts and these changes will be implemented from 2017/18 and therefore apply to the financial statements for that year.

3.0 STATUTORY REQUIREMENTS

- 3.1 Prior to the introduction of the revised Accounts and Audit Regulations in 2015, local authorities were required to have draft accounts produced and approved by the S151 Officer by 30 June and audited, approved and published by 30 September following the end of the financial year.
- 3.2 The Accounts and Audit Regulations 2015 set out the requirement to accelerate this process so that draft annual accounts are produced by 31 May (one month early than the current statutory deadline) and audited, approved and published by 31 July following the end of the financial year (two months earlier than the current statutory deadline).
- 3.3 The shortened timeframe for reporting of the SOFA will be effective from 2017/18.
- 3.4 The changes reflected in the new Accounts and Audit Regulations 2015 which impact on the closure of accounts process are as follows:
- (a) Certification of the Accounts by the S151 Officer (currently 30 June) and publication on the authority's website by 31 May to comply with the new public rights of inspection provisions;
 - (b) The full SOFA, including Annual Governance Statement has to be re-certified by the S151 Officer, approved by Members (this Committee), the external audit opinion to be issued and both published (currently 30 September) by 31 July;
 - (c) Where the Audit of Accounts has not been concluded by 31 July a notice must be put on the authority's website stating that it has not been able to publish the statement of accounts and the reasons for this and then subsequently publish the accounts as soon as reasonably practical after the receipt of any report from the auditor;
 - (d) The public's right of objection and inspection of the accounts and questioning of the auditor will be through a single 30 working day period which must include the first 10 working days of June;
 - (e) The SOFA must be available for public access for a period of not less than 5 years.

4.0 STATEMENT OF ACCOUNTS TIMETABLE 2016/17

- 4.1 In order to ensure compliance with the new regulations the County Council will be working to a revised timetable for the 2016/17 closure of accounts process, which is in line with the statutory deadlines set for 2017/18.
- 4.2 The Accounts and Audit Regulations do not require formal Member approval of the Draft SOFA. However, Member consideration, approval and certification is required for the Final SOFA.

- 4.3 In terms of Draft Accounts, the proposed approach for 2016/17 is to produce a draft SOFA (including the AGS), in accordance with the new reporting deadlines, by 31 May 2017.
- 4.4 This year, a report on the Draft SOFA and AGS will be presented to a meeting of this Committee scheduled for 22 June 2017, to be followed by an Audit Sub-Committee Group Meeting to facilitate a more detailed review of the accounts.
- 4.5 The process for the approval and certification of the Final SOFA is also to be brought forward for 2016/17. The external audit of accounts by KPMG is expected to start in July 2017. On completion of the external audit a report (including any changes reflected in the final SOFA compared with the draft version) will be submitted to the Audit Committee scheduled for 7 September 2017. Following consideration of the Auditor's report, the Committee will be asked to sign the Accounts.
- 4.6 The following timetable has been set for 2016/17 in order to ensure compliance with future statutory obligations and to provide Audit Committee with sufficient time and information to seek assurances. Provisions for reserve deadlines have also been made should they be required this year:

| Date | Event | Comment |
|-----------------|---|---|
| 31/05/17 | Draft SOFA – Deadline | NYCC Deadline for completion of 2016/17 Draft SOFA including AGS |
| 22/06/17 | Audit Committee | Update report to Audit Committee on Draft SOFA and AGS |
| w/c 26/06/17 | Audit Committee Sub-Group (TBC) | Sub-Group Meeting to review Draft SOFA and AGS in detail |
| 30/06/17 | Draft SOFA - Statutory Deadline 2016/17 | Current Statutory deadline for completion of 2016/17 Draft SOFA including AGS |
| 13/07/17 | Audit Committee | Reserve date for Update report on Draft SOFA and AGS |
| 31/07/17 | <i>Final SOFA – 2017/18 Deadline</i> | <i>Final SOFA and AGS Deadline for 2017/18 - NYCC not working towards this deadline</i> |
| 07/09/17 | Audit Committee | Final SOFA and AGS |
| 22/09/17 | Audit Committee | Reserve Date for Final SOFA and AGS |
| 30/09/17 | Final SOFA – Statutory Deadline 2016/17 | Final Statutory deadline for completion of 2016/17 Draft SOFA and AGS |

5.0 **CHANGES IN APPROACH TO CLOSURE OF ACCOUNTS PROCESS 2016/17**

5.1 In order to meet the challenge presented by the accelerated final accounts process a number of areas have been considered to facilitate the shortening of the timetable by one month. Particular areas of focus include:

(a) SOFA

A comprehensive review of the Statement of Accounts document was undertaken including Narrative Report, Accounting Policies, Main Statements and Supporting Notes in liaison with External Auditors.

As part of this review a materiality threshold of £2m has been established for reporting purposes. The limit has been set, based on an impact assessment, under which further detail will not be disclosed in the supporting Disclosure Notes where it is considered not beneficial to the reader of the accounts.

A further area currently under consideration is a review of the consolidated Group Accounts within the SOFA.

(b) Closure of Accounts Process

A series of workshops have been held to challenge and review tasks, timetables and reporting within the closure of accounts process.

(c) Internal Processes

A review of transactional processes has been carried out including bank reconciliations, holding accounts and suspense accounts to identify any issues and to ensure a planned approach to the closure of related areas.

(d) Technical Process Review

A review of the timetable for technical processes and tasks. This has resulted in the earlier scheduling of a number of year end tasks including capital accounting, SOFA document preparation and restatement requirements following changes in the Code of Practice.

6.0 **CHANGES IN APPROACH TO THE ANNUAL GOVERNANCE STATEMENT 2016/17**

6.1 As described above, the accelerated closedown process requires a new approach if the deadlines are to be met. The AGS is an integral part of the SOFA and the current approach has been developed to work with a 30 September deadline. This section therefore sets out some updates in terms of requirements and the plans to ensure compliance with an accelerated closedown process.

6.2 North Yorkshire County Council has been complying with the CIPFA/SOLACE Delivering Good Governance in Local Government 2007 Framework, which sets the standard for local authority governance in the UK. This Framework was reviewed in

2012 to ensure that it remained 'fit for purpose' and an addendum was issued to the 2007 Framework in 2012. NYCC has used the aforementioned documents as the basis for reviewing and reporting on the effectiveness of its governance arrangements.

CIPFA/SOLACE Delivering Good Governance in Local Government Framework 2016

- 6.3 Following publication of the CIPFA/SOLACE Delivering Good Governance in Local Government Framework 2016, the Council carried out a review of the changes, and has updated their compliance documentation including the Local Code and the Annual Governance Statement. This Framework applies to the financial year 2016/17 onwards.

New 2016 Framework Principles

- 6.4 The new 2016 Principles that need to be reflected in the Local Code with links to the Annual Governance Statement are as follows:
- A. Behaving with integrity, demonstrating strong commitment to ethical values, and respecting the rule of law;
 - B. Ensuring openness and comprehensive stakeholder engagement;
 - C. Defining outcomes in terms of sustainable economic, social, and environmental benefits;
 - D. Determining the interventions necessary to optimise the achievement of the intended outcomes;
 - E. Developing the entity's capacity, including the capability of its leadership and the individuals within it;
 - F. Managing risks and performance through robust internal control and strong public financial management;
 - G. Implementing good practices in transparency, reporting, and audit to deliver effective accountability.

To achieve good governance, each local authority should be able to demonstrate that its governance structures comply with the core and sub-principles contained in this Framework.

Changes to the Local Code, Annual Governance Statement and Statements of Assurance

- 6.5 **Local Code** – the Code has been changed to represent the new Principles. Some of the contents of the existing Principles remain and there are two new ones namely:
- Determining the interventions necessary to optimise the achievement of the intended outcomes; and

- Implementing good practices in transparency, reporting, and audit to deliver effective accountability.

The two 'new' Principles contain many behaviours and actions that the Council have previously evidenced either as part of one of the existing Principles or as part of our work evidencing compliance with the CIPFA/SOLACE Statement on the Role of the Chief Financial Officer in Local Government.

6.6 **Annual Governance Statement** – the AGS has been changed to align with the new Framework and Principles. It includes the key elements of governance arrangements to support the Council's vision for the area, outcomes and value for money. It also provides an assessment of the effectiveness of the Council's governance arrangements in supporting the planned outcomes.

6.7 **Statements of Assurance** – the current approach is for the Chief Executive and all Corporate Directors to prepare a signed individual Statement of Assurance relating to the governance and internal control procedures, and the review thereof, in their service areas. This is not, however, a requirement but is used as the basis for Section 7 of the AGS. Going forward it is proposed that Statements of Assurance will not be completed but clearly Corporate Directors will continue to be asked to review the effectiveness of the system of internal control and risk management processes and to report on such issues when they present their annual reports to the Audit Committee. Reference points for this report will include:-

- Internal audit reports
- Risk registers (which overlap Statements of Assurance to a very large extent)
- Items which Management Board have deemed appropriate for Section 7 of the AGS (which will continue to be produced) and fall within their remit
- Issues identified by Audit Committee and / or Overview & Scrutiny Committees and
- Personal views and judgements about key issues impacting upon governance and the control environment

Areas for further improvement and steps to address the matters so identified will therefore continue to be a feature and the Audit Committee will be able to test these areas in line with the Committee programme.

6.8 The update of the AGS for 2016/17 will fall in line with the revised timetable for the SoFA.

7.0 **RECOMMENDATION**

7.1 That Members:

- (i) review the Statement of Accounts Timetable and approach for **(paragraph 4.1 to 4.6)**;
- (ii) review the changes in approach to the Annual Governance Statement for 2016/17 **(paragraph 6.1 to 6.8)**.

GARY FIELDING

Corporate Director – Strategic Resources

County Hall
Northallerton

2 March 2017

NORTH YORKSHIRE COUNTY COUNCIL

AUDIT COMMITTEE

2 MARCH 2017

PROGRESS ON 2016/17 INTERNAL AUDIT PLAN

Report of the Head of Internal Audit

1.0 PURPOSE OF THE REPORT

- 1.1 To inform Members of the progress made to date in delivering the 2016/17 Internal Audit Plan and any developments likely to impact on the Plan throughout the remainder of the financial year.

2.0 BACKGROUND

- 2.1 Members approved the 2016/17 Audit Plan on the 23 June 2016. The total number of planned audit days for 2016/17 is 1,290 (plus 912 days for other work including counter fraud and information governance). The performance target for Veritau is to deliver 93% of the agreed Audit Plan.
- 2.2 This report provides details of how work on the 2016/17 Audit Plan is progressing.

3.0 INTERNAL AUDIT PLAN PROGRESS BY 31 JANUARY 2017

- 3.1 The internal audit performance targets for 2016/17 were set by the County Council's client officer. Progress against these performance targets, as at 31 January 2017, is detailed in **Appendix 1**.
- 3.2 Work is ongoing to complete the agreed programme of work. It is anticipated that the 93% target for the year will be exceeded by the end of April 2017 (the cut off point for 2016/17 audits). **Appendix 2** provides details of the final reports issued in the period. A further 7 audit reports have been issued but are still in draft.

Contingency and Counter Fraud Work

- 3.3 Veritau continues to handle cases of suspected fraud or malpractice. Such assignments are carried out in response to issues raised by staff or members of the public via the Whistleblower Hotline, or as a result of management raising concerns. Since the start of the current financial year, 55 cases of suspected fraud or malpractice have been referred to Veritau for investigation. 14 of these are internal fraud cases, 14 social care and 4 external fraud. A further 23 cases relate to applications for school places. A number of these investigations are still ongoing. Work is also progressing with the North Yorkshire and York counter fraud initiative which has been grant funded by the Department for Communities and Local Government (DCLG). The project involves proactive data matching designed to identify and prevent fraud losses within high risks areas such as social care, council

tax, NNDR and procurement. To date the project has helped to recover fraud totalling £542k.

Information Governance

- 3.4 Veritau's Information Governance Team (IGT) continues to handle a significant number of information requests submitted under the Freedom of Information and Data Protection Acts. The number of FOI requests received between 1 April 2016 and 31 January 2017 is 1,077 compared with 1,001 requests received during the corresponding period in 2015/16 (this represents a 7.6% increase). The IGT is currently exceeding the performance response target of 95% for 2016/17 with approximately 98% of requests so far being answered within the statutory 20 day deadline. The IGT also coordinates the County Council's subject access requests and has received 192 such requests between 1 April 2016 and 31 January 2017 (note this figure has increased on previous years because we are now able to report on all subject access requests received by the Council rather than just those managed by Veritau).
- 3.5 Veritau is continuing to assist with the implementation of the County Council's information governance framework (including the update of information asset registers, preparation of data sharing agreements, data breach reporting and investigation, and the provision of advice and training). As part of this, Veritau auditors also continue to undertake a programme of unannounced audit visits to County Council premises in order to assess staff awareness of the need to secure personal and sensitive information.

Variations to the 2016/17 Audit Plan

- 3.6 All proposed variations to the agreed Audit Plan arising as the result of emerging issues and/or requests from directorates are subject to a Change Control process. Where the variation exceeds 5 days then the change must be authorised by the client officer. Any significant variations will then be communicated to the Audit Committee for information. The following variations have been authorised since the plan was approved. The variations follow discussions with management and reflect changes in current priorities:

| | |
|---|----------|
| Add Court of Protection / petty cash | +5 days |
| Add Developing Stronger Families | +10 days |
| Add additional counter fraud allocation | +45 days |
| Delete bus subsidy audit | -20 days |
| Delete HAS new models of care | -10 days |
| Delete resettlement of refugees | -15 days |
| Contingency | -15 days |
| Net change to plan | nil |

Follow Up of Agreed Actions

- 3.7 Veritau follow up all agreed actions on a regular basis, taking account of the timescales previously agreed with management for implementation. A new escalation procedure has been introduced to formalise the reporting process in the event that agreed actions are not implemented or management fail to provide

adequate information to enable an assessment to be made. At this stage in the year, there are no actions which have needed to be escalated. On the basis of the follow up work undertaken during the year to date, the Head of Internal Audit is therefore satisfied with the progress that has been made by management to implement previously agreed actions necessary to address identified control weaknesses.

4.0 RECOMMENDATION

4.1 Members are asked to note the progress made in delivering the 2016/17 Internal Audit programme of work and the variations agreed by the client officer.

Report prepared and presented by Max Thomas, Head of Internal Audit

Max Thomas
Head of Internal Audit
Veritau Limited
County Hall
Northallerton

13 February 2017

Background Documents: Relevant audit reports kept by Veritau at 50 South Parade, Northallerton.

PROGRESS AGAINST 2016/17 PERFORMANCE TARGETS (AS AT 31/1/2017)

| Indicator | Milestone | Position at 31/1/2017 |
|---|----------------|-----------------------|
| To deliver 93% of the agreed Internal Audit Plan | 93% by 30/4/17 | 54.33% |
| To achieve a positive customer satisfaction rating of 95% | 95% by 31/3/17 | 100% |
| To ensure 95% of Priority 1 recommendations made are agreed | 95% by 31/3/17 | 100% |
| To ensure 95% of FOI requests are answered within the Statutory deadline of 20 working days | 95% by 31/3/17 | 97.96% |

FINAL 2016/17 AUDIT REPORTS ISSUED TO DATE

| Audit Area | Directorate | Overall Opinion |
|---|--------------------|------------------------|
| Information security incidents x 4 | Corporate | N/A |
| Information security compliance (Jesmond House, Harrogate) | Corporate | Limited assurance |
| Information security compliance (Manor Road, Knaresborough) | Corporate | Limited assurance |
| Information security compliance (Technology and Change) | Corporate | Limited assurance |
| Information security compliance (Central Services) | Corporate | Limited assurance |
| Filey Junior School | CYPS | No assurance |
| Troubled Families | CYPS | High assurance |
| Contracts with Dalewood Trust | Contract | N/A |
| Best Value Forms compliance x 2 | Contract | N/A |
| Care home visit (The Orchards, Wistow) | HAS | Substantial assurance |
| Care home visit (Craegmore Priory) | HAS | High assurance |
| Care home visit (Henshaws, Harrogate) | HAS | Substantial assurance |
| Care home visit (Conroy Close, Easingwold) | HAS | High assurance |
| Wilf Ward Trust (Winton Road) | HAS | Substantial assurance |
| Wilf Ward Trust (Newsham Way) | HAS | Substantial assurance |
| Continuing healthcare | HAS | N/A |
| Court of Protection | HAS | Reasonable assurance |
| Local Welfare Assistance Scheme | CS | Substantial assurance |
| Members' allowances | CS | N/A |
| IT schools IT data centre (Highfield House) | CS | Limited assurance |
| NY2020 – benefits management | CS | Reasonable assurance |

NORTH YORKSHIRE COUNTY COUNCIL**AUDIT COMMITTEE****2 MARCH 2017****2017/18 INTERNAL AUDIT PLAN CONSULTATION****Report of the Head of Internal Audit****1.0 PURPOSE OF THE REPORT**

- 1.1 To seek Members' views on the priorities for internal audit in 2017/18, to inform the preparation of the annual audit plan.

2.0 BACKGROUND

- 2.1 In accordance with professional standards¹ and the County Council's Audit Charter, internal audit plans are prepared on the basis of a risk assessment. This is intended to ensure that limited audit resources are prioritised towards those systems and areas which are considered to be the most risky and/or which contribute the most to the achievement of the County Council's corporate priorities and objectives. Consultation with Members and senior council officers is an essential part of the risk assessment process. As in previous years, the Audit Committee is therefore being asked to identify any specific areas which should be considered a priority for audit.

3.0 AUDIT PLAN 2017/18

- 3.1 The risk assessment process takes account of the County Council's corporate and directorate risk registers, known risk areas (for example areas of concern highlighted by management), the results of recent audit work and other changes in County Council services and systems. The Committee will be asked to approve the final plan at the next meeting in June.
- 3.2 The Plan is intended to reflect the County Council's priorities for the coming year together with the financial and other pressures it faces. The Plan will include:

¹ As set out in the Public Sector Internal Audit Standards and specific guidance on the application of those standards for local government, issued by CIPFA.

- systems where the volume and value of transactions processed are significant, or where the possible impact of any system failure is high, making the continued operation of regular controls essential;
- areas of known concern, where a review of risks and controls will add value to operations;
- areas of significant change. This may include providing direct support / challenge to projects, reviewing project management arrangements, or consideration of the impact of those changes on the control environment for example where the reduction in resources may result in fewer controls.

In particular, continued support will be given to the 2020 North Yorkshire programme, individual transformation projects, ongoing data security compliance, health and social care integration, and increased commercial operations.

- 3.3 It is important that audit resources are used effectively and continue to focus on those areas which will add the most value. Continued dialogue and collaboration with management will therefore take place through the year to ensure that any new risks or changed priorities are identified and reflected in planned work. In addition, the audit approach will be increasingly forward looking, providing assurance to management in areas of change rather than concentrating on past events.
- 3.4 The views of senior management across the County Council are being canvassed in preparing the Plan. This consultation process is still ongoing and, where appropriate, the Plan will be amended to take their views into consideration. Indeed, the Plan will continue to evolve throughout the year to take account of changes in the Council's priorities and risk profile. The Plan should therefore be viewed as a relatively flexible document.
- 3.5 A Fraud and Loss Risk Assessment (included in a separate report on this agenda) has been prepared. Based on this Assessment, specific audits will also be included in the Plan to address areas where there is considered to be a greater risk of fraud and corruption.
- 3.6 The draft Plan is being discussed with the County Council's external auditor, KPMG so as to reduce the risk of overlap and to maximise the benefit of audit provision.
- 3.7 The outline Internal Audit Plan for 2017/18 is attached at **Appendix 1**. As consultation meetings are still ongoing this should not be regarded as the complete list of audits.

4.0 **RECOMMENDATION**

- 4.1 Members are requested to consider and comment on the outline Internal Audit Plan for 2017/18 and to identify any specific areas which should be considered a priority for audit.

MAX THOMAS
Head of Internal Audit
Veritau Limited
County Hall
Northallerton

1 February 2017

Background Documents: None

Report prepared and presented by Max Thomas, Head of Internal Audit

**NORTH YORKSHIRE COUNTY COUNCIL
DRAFT INTERNAL AUDIT PLAN – 2017/18****CORPORATE / CROSS CUTTING****Days****2020 North Yorkshire review of projects**

Ongoing advice, guidance and challenge to the 2020 NY programme. The allocation of time may include assurance on overall monitoring and governance arrangements or support to specific work streams and aspects of the programme.

Revenue budget management

A review of the effectiveness of the Council's revenue budget management arrangements. The review will focus on specific service areas to assess the adequacy of budget forecasting, monitoring and decision making.

Capital programme management

A review of the processes in place to prepare and monitor the delivery of the capital programme.

Performance management

A review of the effectiveness of the Council's performance management framework. This will include a review of the overall corporate reporting arrangements and a number of specific service areas to assess the effectiveness of their performance management systems.

Information governance (data breaches)

An allocation of time to investigate significant data security incidents and/or provide support to other internal investigations. The allocation will also include follow up reviews to ensure remedial action has been taken by service areas where appropriate.

Information governance (data security compliance)

A programme of unannounced information security compliance audits. The audits will cover a variety of council premises with a focus on those considered to be high risk.

Risk management

An audit of the Council's risk management processes. This will include a review of the corporate risk management arrangements and how specific service areas manage their risks.

Payroll / HR

An audit of payroll / HR controls and processing. The review will include the payment of overtime and allowances. We will use the IDEA data analysis tool to focus on a number of key risk areas.

Transition from children to adults

A review of the processes and controls which ensure the effective management of the transition of care provision from the Council's children's to adults' services.

Attendance management

A cross cutting review of processes to record, manage and report staff absences. The review will consider the accuracy and completeness of data, and the effectiveness of the overall arrangements.

IR35

From April 2017, local authorities and other public sector bodies will be responsible for collecting PAYE/NI for contractors and interim staff who work through limited companies. The audit will review the Council's processes for calculating deductions where such arrangements exist.

Volunteers

A review of the Council's arrangements for managing risks associated with the use of volunteers. The specific areas will be agreed with management but may include supervision, training, data protection, health and safety, insurance and expenses.

Commercial Operations

A review of the Council's arrangements for managing risks associated with its new commercial companies. The audit will examine the effectiveness of the overall governance arrangements but not the internal operations of the companies themselves.

Transparency

A review of the Council's compliance with the requirements of the Local Government Transparency Code.

IDEA data analytics and data matching

An allowance of time to undertake data matching and analytics to review large scale data sets to improve data quality and to identify data inconsistencies.

Total – Corporate / Cross cutting

HEALTH AND ADULT SERVICES

Days

Liquid Logic and ContrOCC

The audit will review a sample of key controls in the Liquid Logic and ContrOCC systems.

Provider Payment Portal

To provide practical support and challenge to the development project to automate payments to some providers through the use of a Provider Portal.

Direct payments

A review of the systems and procedures put in place by the Council to ensure Direct Payment Agreements are managed in line with the Council's approved policies.

Assessment, Billing and Contracts Project (ABC)

A review of the new systems and processes put in place for assessing charges and invoicing for adult social care.

Financial Assessments

A review of the effectiveness of key controls in place for undertaking financial assessments and relationships with the wider social care assessment processes.

Care Visits to Providers

To work closely with officers to develop the Council's internal control arrangements for managing and safeguarding the financial affairs of service users. To provide support and ad-hoc guidance to officers on specific cases involving financial matters. The allocation of time will also include visits to a small number of care providers to provide assurance that appropriate financial controls are in place and operating effectively.

In House Respite Care

The Council is undertaking a service review of in-house respite care in 2017/18. We will support that review by examining the processes and procedures used to provide the service. We will also examine the associated management information and performance systems.

Continuing Healthcare

A review of the management of risks, processes and controls in respect of the Council's responsibilities towards Continuing Healthcare.

Learning Disability accommodation

A review of the procurement arrangements in respect of Learning Disability accommodation.

Public Health

A review of the effectiveness of the strategy and delivery of smoking cessation services.

Market failure

A review of the arrangements in place to manage the potential risks of market failure in the care market.

Carers and Care Act

A targeted review of the Carer Sitting Service and related care assessments.

Total – Health and Adult Services

BUSINESS AND ENVIRONMENTAL SERVICES

Days

Highways maintenance contract

A review of the key risk areas in respect of the highways maintenance contract with Ringway.

Highways Inspection Manual / third party claims

A review of the process and controls that ensure effective repair of the highway and the management of risks arising from third party claims.

Allerton Waste Recycling Park

A review of the systems being developed by the Council to manage payments and enable effective management of the contract.

Integrated Passenger Transport (IPT)

An allocation of time to support the review and re-design of provider contract compliance processes within the IPT service.

Concessionary fares

A review of the arrangements to manage and control the payments of concessionary fares.

Fleet management

An allocation of time to review the adequacy of management information and to support the review of processes within the service.

Total – Business and Environmental Services

CENTRAL SERVICES

Days

Business Continuity and Disaster Recovery

A review of the Council’s business continuity and disaster recovery arrangements. The audit will follow up findings from previous audits.

Main accounting

A review of the arrangements for managing and maintaining the financial ledger.

Creditors

The audit will include a review of the new P2P processes and the roll-out of the system. We will provide support and challenge to the introduction of the new P2P processes to help the Council maximise the efficiency and other benefits of the system.

In addition we will review the existing systems to process creditor invoices and payments. The controls in place for managing changes to supplier’s bank details will also be examined.

Debtors and Income Management System

A review of the systems for raising debtor invoices and the arrangements for debt recovery.

Members Allowances

A provision of time to undertake audit compliance checks of a sample of claims for mileage and other allowable expenditure.

Total – Central Services

CHILDREN AND YOUNG PEOPLE'S SERVICES

Days

Partners in Practice

The Council has received £8m funding from the DfE as one of a small number of pilot areas to share good practice with other organisations. The audit will review the governance procedures in place to manage the delivery of the programme.

High Needs SEN

The Children and Families Act introduced new arrangements for assessing and supporting children with special educational needs and disabilities. The service area is currently subject to an internal review. The audit will examine the changes to controls and processes resulting from the review and the implementation of a new funding methodology. The audit will include a review of high needs funding arrangements

Commissioning

A review of the processes and controls in place to commission care packages for young people to ensure that need is assessed effectively and that services are procured, managed and monitored appropriately.

Home to school transport

Home to school transport costs over £20m per annum and currently expenditure exceeds budget. An audit was previously carried out in 2015/16. This audit will review the implementation of the actions previously agreed, but also other actions taken by management since then to improve control of the budget.

Direct payments

A review of the systems and procedures put in place by the County Council to monitor direct payment agreements for children and young people. The scope of the audit will specifically include monitoring, review and follow up procedures.

Developing Stronger Families

The Council receives funding from DCLG as part of the Troubled Families Programme. DCLG guidance expects internal audit to carry out a 10% check of each funding claim submitted.

Schools Financial Value Standard (SFVS)

Provision to review the returns made by schools and to undertake any necessary follow up.

Schools themed audits

Provision for 3 themed audits. Visits will be made to a number of schools to review their practices in each of the chosen areas with the aim of producing good practice guidance. Themed audits will cover the management of deficits and payroll. A third area will be chosen in consultation with CYPS management. There will also be a small additional allowance for visits to individual schools with known issues.

Audit support and advice to schools

An allocation of time to respond to requests for advice and support from schools.

Total – Children and Young People’s Services

COMPUTER AUDIT

Days

A programme of audits designed to review the management of IT related risks.

Provision to provide support and advice on IT audit matters.

Total – Computer Audit

PROCUREMENT AND CONTRACT AUDIT

Days

Support to the development of the Procurement Strategic Action Plan

To provide advice, guidance and challenge to the development and implementation of the procurement strategic action plan.

Serious Organised Crime – procurement risks

In December 2016, the Home Office reported on a pilot programme to explore the threat from Serious and Organised Crime to publicly procured services in Local Government. We will review the Council’s arrangements against the risk areas highlighted in the report.

Specific procurement and contract management based reviews

An allocation of time to undertake individual procurement and contract management reviews.

Total – Procurement and Contract Audit

NORTH YORKSHIRE PENSION FUND

Days

Pension Fund Investments

The audit will examine the controls in respect of Pension Fund investments.

Pension Fund Income

The audit will review the processes in place for the collection of income from member organisations and the information provided to enable the calculation of benefits under the various schemes.

Pension Fund Expenditure

The audit will review the processes for paying pensions, in particular reviewing payment of new pensions and changes to pension entitlement.

Total – North Yorkshire Pension Fund

COUNTER FRAUD AND CORRUPTION

Days

An allocation of time to support the provision of counter fraud services, including:

Data Matching

Provision to coordinate data submission, check data validity, assess referrals, and investigate potential frauds in relation to the National Fraud Initiative (NFI) and other local data matching exercises.

Fraud Awareness

Provision to deliver an overall programme of work to raise awareness of fraud issues. Activities include targeted fraud awareness training and organising counter fraud publicity (both internal and external).

Fraud Detection and Investigation

Provision to undertake investigations into suspected fraud, corruption or other wrongdoing. Examples of the types of investigation work that may be undertaken include internal, procurement and social care related fraud.

Other Counter Fraud Related Work

Provision to provide other counter fraud and corruption work including:

- review of council counter fraud arrangements and policies
- the provision of support and advice to directorates in relation to fraud issues
- reporting on outcomes from counter fraud work.

Total – Counter Fraud and Corruption

INFORMATION GOVERNANCE

Days

An allocation of time to support the provision of Information Governance services, including:

- the co-ordination of responses to Data Protection and Freedom of Information requests
- monitoring compliance with DP and FoI requirements
- assisting in the development and implementation of the Information Governance policy framework (including the preparation and update of Information Asset Registers, the preparation and review of data sharing agreements, the maintenance of data incident reporting systems, the development and delivery of training, and the provision of advice).

Total – Information Governance

OTHER CHARGEABLE AUDIT WORK

Days

Follow up

Provision to follow up previously agreed audit recommendations.

Corporate governance strategy

An allocation of time to support the development of the Council's corporate governance arrangements and the preparation of the Annual Governance Statement. The time allocation includes attendance at meetings of the Corporate Governance Officer Group.

Audit planning

A provision of time for the preparation of the Annual Audit Plan. Corporate Directors and service managers will be consulted as part of the planning process.

Audit support, advice and liaison

Provision to provide ongoing advice and support on the design, implementation and operation of appropriate controls and for the overall management of audit work in each directorate.

External audit liaison

Ongoing liaison with the external auditors to avoid duplication of effort and to maximise the overall benefit of the audit services provided to the County Council.

Audit Committee

A provision of time to prepare and present reports on internal audit and governance related work undertaken during the financial year. The reports will be presented in accordance with the agreed timetable of the Audit Committee. Time is also included to provide training to Members of the Audit Committee as and when required.

Contingency

Provision to undertake additional work in response to:

- specific requests from the Corporate Director – Strategic Resources (the S151 Officer) or other chief officers
- new or previously unidentified risks which impact on Audit Plan priorities

- significant changes in legislation, systems or service delivery arrangements
- requests from customers to audit specific services, systems or activities usually as a result of weaknesses in controls or processes being identified by management
- urgent or otherwise unplanned work arising from investigations into information breaches or suspected frauds which identify potential control risks.

Total – Other Chargeable Audit Work

SUMMARY OF AUDIT DAYS 2014/15 - 2017/18

| Audit Area | 2017/18 | 2016/17 | 2015/16 | 2014/15 |
|------------------------------------|----------------|----------------|----------------|----------------|
| Corporate / Cross cutting | | 240 | 180 | 290 |
| Health and Adult Services | | 215 | 205 | 130 |
| Business & Environmental Services | | 85 | 100 | 85 |
| Central Services | | 165 | 185 | 125 |
| Children & Young People's Services | | 214 | 240 | 445 |
| Computer Audit | | 100 | 100 | 100 |
| Procurement and Contract Audit | | 85 | 90 | 85 |
| Pension Fund | | 50 | 50 | 50 |
| Counter Fraud & Corruption | | 300 | 310 | 330 |
| Information Governance | | 612 | 700 | 745 |
| Other Chargeable Audit Work | | 136 | 158 | 185 |
| Non Audit Duties | | --- | --- | 10 |
| TOTAL DAYS | | 2202 | 2318 | 2580 |

NORTH YORKSHIRE COUNTY COUNCIL

AUDIT COMMITTEE

2 MARCH 2017

INTERNAL AUDIT WORK FOR THE CENTRAL SERVICES DIRECTORATE

Report of the Head of Internal Audit

1.0 PURPOSE OF THE REPORT

- 1.1 To inform Members of the **internal audit work** performed during the year ended 31 January 2017 for the Central Services directorate and to give an opinion on the systems of internal control in respect of this area.

2.0 BACKGROUND

- 2.1 The Audit Committee is required to assess the quality and effectiveness of the corporate governance arrangements operating within the County Council. In relation to the Central Services Directorate, the Committee receives assurance through the work of internal audit (as provided by Veritau), as well as receiving a copy of the latest directorate risk register and the relevant Statement of Assurance.
- 2.2 This agenda item is considered in two parts. This first report considers the work carried out by Veritau and is presented by the Head of Internal Audit. The second part is presented by the Corporate Director and considers the risks relevant to the directorate and the actions being taken to manage those risks.

3.0 WORK DONE DURING THE YEAR ENDED 31 JANUARY 2017

- 3.1 Details of the work undertaken for the directorate and the outcomes of these audits are provided in **Appendix 1**.
- 3.2 Veritau has also been involved in carrying out a number of other assignments for the directorate. This work has included;
- Providing advice on various control issues (including a review of fraud risks associated with Blue Badges);
 - Providing advice and comments as part of the review of Financial Procedure Rules;
 - Providing support to the Finance 2020 project including attendance at various project groups and providing advice and support to a variety of specific project leads;
 - Meeting regularly with Central Services management and maintaining ongoing awareness and understanding of key risk areas.

- 3.3 As with previous audit reports, an overall opinion has been given for each of the specific systems or areas under review. The opinion given has been based on an assessment of the risks associated with any weaknesses in control identified. Where weaknesses are identified then remedial actions will be agreed with management. Each agreed action has been given a priority ranking. The opinions and priority rankings used by Veritau are detailed in **Appendix 2**. Some of the audits undertaken in the period focused on the review of specific risks as requested by management so did not have an audit opinion assigned to them.
- 3.4 It is important that agreed actions are formally followed up to ensure that they have been implemented. Veritau follow up all agreed actions on a regular basis, taking account of the timescales previously agreed with management for implementation. **On the basis of the follow up work undertaken during the year, the Head of Internal Audit is satisfied with the progress that has been made by management to implement previously agreed actions necessary to address identified control weaknesses.**
- 3.5 All internal audit work undertaken by Veritau is based on an Audit Risk Assessment. Areas that are assessed as well controlled or low risk are reviewed less often with audit work instead focused on the areas of highest risk. Veritau's auditors work closely with directorate senior managers to address any areas of concern.

4.0 **AUDIT OPINION**

- 4.1 Veritau performs its work in accordance with the Public Sector Internal Audit Standards (PSIAS). In connection with reporting, the relevant standard (2450) states that the chief audit executive (CAE)¹ should provide an annual report to the board². The report should include:
- (a) details of the scope of the work undertaken and the time period to which the opinion refers (together with disclosure of any restrictions in the scope of that work)
 - (b) a summary of the audit work from which the opinion is derived (including details of the reliance placed on the work of other assurance bodies)
 - (c) an opinion on the overall adequacy and effectiveness of the organisation's governance, risk and control framework (ie the control environment)
 - (d) disclosure of any qualifications to that opinion, together with the reasons for that qualification
 - (e) details of any issues which the CAE judges are of particular relevance to the preparation of the Annual Governance Statement
 - (f) a statement on conformance with the PSIAS and the results of the internal audit Quality Assurance and Improvement Programme.
- 4.2 The overall opinion of the Head of Internal Audit on the framework of governance, risk management and control operating in the Central Services directorate is that it provides **substantial assurance**. There are no qualifications to this opinion

¹ The PSIAS refers to the chief audit executive. This is taken to be the Head of Internal Audit.

² The PSIAS refers to the board. This is taken to be the Audit Committee.

and no reliance was placed on the work of other assurance bodies in reaching that opinion.

5.0 RECOMMENDATION

- 5.1 That Members consider the information provided in this report and determine whether they are satisfied that the internal control environment operating in the Central Services Directorate is both adequate and effective.

MAX THOMAS
Head of Internal Audit

Veritau Ltd
County Hall
Northallerton

13 February 2017

BACKGROUND DOCUMENTS

Relevant audit reports kept by Veritau Ltd at 50 South Parade, Northallerton.

Report prepared by Ian Morton, Internal Audit Manager, Veritau and presented by Max Thomas, Head of Internal Audit.

FINAL AUDIT REPORTS ISSUED IN THE YEAR ENDED 31 JANUARY 2017

| System/Area | Audit Opinion | Areas Reviewed | Date Issued | Comments | Action Taken | |
|-------------|--------------------------------------|-----------------------|--|---------------|--|--|
| A | Main Accounting | Substantial Assurance | The audit reviewed the controls in place to ensure: <ul style="list-style-type: none"> • Access to the Oracle system was appropriately restricted • Journals were authorised before being uploaded onto the system • Bank reconciliations were undertaken • Checks were carried out to ensure budgets had been accurately uploaded • Budgets were being effectively monitored | February 2016 | The controls were found to be effective. The County Fund was reconciled on a daily basis by the Finance Officer but there was no evidence of secondary review. | One P2 and two P3 actions was agreed Responsible Officer Assistant Director Strategic Resources (Lead Business Partner to CDSR) Integrated Finance will implement more robust measures to review and approve bank reconciliations. The lack of independent checks has also been addressed and bolstered by Budget Managers taking responsibility for reviewing their allocated cost centres. |
| B | Budgetary preparation and management | Substantial Assurance | The Authority reviewed the budgeting procedures in line with the 2020 programme. The audit reviewed the processes in place to ensure that: <ul style="list-style-type: none"> • The budgeting process was documented and available to staff | May 2016 | The design and implementation of the revised budget setting process was a significant project. At the time of the audit the process was still undergoing change. The new budget preparation and management procedures are well documented. Appropriate guidance | One P2 and one P3 action was agreed Responsible Officer Corporate Director – Strategic Resources The current arrangements relating to Streetworks will be reviewed with recommended |

| System/Area | Audit Opinion | Areas Reviewed | Date Issued | Comments | Action Taken |
|-------------|-----------------|--|-------------|--|--|
| | | <ul style="list-style-type: none"> • Policies, procedures and guidance was being complied with • Budget procedures were robust and working effectively • Budgets were being monitored and regularly reported on by the relevant budget holders • Budget monitoring data was up to date and accurate. | | <p>was also being provided to budget managers.</p> <p>However, budget managers were only able to see budgetary information relating to the budgets they were responsible for. Not all cost centres had a responsible budget manager.</p> <p>A forecasting issue was identified in respect to the Fixed Penalty Notices issued by the Streetworks team, which were not being reconciled to actual payments made.</p> | <p>improvements. The issue has also been included in a wider review of Income and Debt Management commissioned by SRMT.</p> <p>All Lead Finance Business Partners have been tasked with identifying a named cost centre budget manager.</p> <p>This will be reviewed further as part of the 2016/17 audit</p> |
| C | Main Accounting | Substantial Assurance | June 2016 | <p>The audit found that bank reconciliations were being carried out frequently, responsibilities and processes for setting up codes, cost centres and journal entries are limited accordingly, and system users had been migrated over with the correct access levels.</p> <p>As noted in A above, there was no evidence that bank reconciliations for each account were being reviewed and authorised by a senior accountant.</p> <p>Journal authorisers were not being recorded.</p> | <p>One P2 and Two P3 actions were agreed</p> <p>Responsible Officer Systems Manager Principal Accountant</p> <p>Integrated Finance will implement robust measures to review and approve bank reconciliations as part of the 2016/17 work stream review process.</p> <p>All journals are now auditable and traceable in terms of who has inputted and posted a journal.</p> |

| System/Area | | Audit Opinion | Areas Reviewed | Date Issued | Comments | Action Taken |
|-------------|-----------|----------------------|--|-------------|---|---|
| | | | <p>the implementation of Oracle Version 12</p> <ul style="list-style-type: none"> Data migration had been completed and the integrity and security of the main accounting system is maintained | | Inactive users (over 56 days) were not being removed. | The alert module within the Oracle system has now been correctly configured and the outdated logon alert (56 days without logon) has now been activated to work as it was with v11i. |
| D | Creditors | Reasonable Assurance | <p>The audit reviewed the controls in place to ensure:</p> <ul style="list-style-type: none"> Duplicate payments were prevented Invoices were processed in accordance with relevant policies and procedures The goods ordered via the LAGAN/online form were placed in line with procedures stated in the Finance Manual Changes to creditor master file records were appropriately authorised | August 2016 | <p>In general the process in place to prevent duplicate payments operates effectively although there is an issue with emergency payments that avoid the normal duplicate checks.</p> <p>The use of the LAGAN system continues to cause problems as payments are made without evidence of good receipt, and the system does not reliably identify the source of the request.</p> <p>Checking of creditor bank account changes has improved, although there are still some inconsistencies.</p> | <p>Two P2 and two P3 actions were agreed</p> <p>Responsible Officer Head of Business Support</p> <p>Communication to be cascaded to all staff that emergency payments will not be accepted and invoices should be passed for payment in line with the SLA set out by exchequer services.</p> <p>Some of the issues with LAGAN will only be solved when P2P is fully implemented and LAGAN is no longer used for requesting orders. A risk based approach will be taken until then to enforce good receipting for higher value orders</p> <p>Further training will be given to the team to ensure that names</p> |

| | System/Area | Audit Opinion | Areas Reviewed | Date Issued | Comments | Action Taken |
|---|---|----------------------|---|----------------|--|--|
| | | | | | | and telephone numbers are recorded on AP10 forms. |
| E | Business Continuity & Disaster Recovery | Reasonable Assurance | A review was carried out to ensure that there is a full set of Business Continuity plans for the Council and all Directorates, and that corporate priorities have been identified | September 2016 | <p>Significant progress has been made in last 12-18 months in developing a more effective, complete and resilient set of Business Continuity plans. There is now an overarching Corporate Plan which outlines corporate priorities in the event of an emergency. This sits above the individual service area plans.</p> <p>A Business Impact Analysis (BIA) and Incident Management Plan (IMP) have yet to be completed for one service area, and other service areas BIAs and IMPs are incomplete or out of date.</p> <p>Access to the available plans is mainly limited at a high level and knowledge and understanding of plans is not yet adequately embedded.</p> | <p>Three P3 actions were agreed</p> <p>Responsible Officer Assistant Director (Policy and Partnerships)</p> <p>A quarterly check will be made at the Corporate Risk Management Group (CRMG) that current BIA and IMP information has been completed for all service areas.</p> <p>The Emergency Planning Unit (EPU) will liaise with NYCC Workforce Development to investigate methods of raising business continuity (BC) awareness for all staff. Each Directorate BC champion will be asked to report to the CRMG about the BC training given to their staff. EPU will arrange for a BC specific exercise for all Directorates in the next 12 months.</p> <p>The Corporate Business Continuity Plan will be used to inform senior management of</p> |

| | System/Area | Audit Opinion | Areas Reviewed | Date Issued | Comments | Action Taken |
|---|---------------------------------|-----------------------|---|----------------|--|---|
| | | | | | | <p>their corporate priorities during any specific incident and identify which critical services will be prioritised during a BC incident. EPU will run an exercise for senior management and Directorate BC champions in identifying BC priorities during an incident.</p> <p>Progress will be further reviewed as part of the 2016/17 Business Continuity audit.</p> |
| F | Local Welfare Assistance Scheme | Substantial Assurance | <p>In 2013, Community Care Grants and Crisis Loans previously provided by central government were replaced with the Local Welfare Assistance Scheme (LWAS). The responsibilities for the delivery of the new scheme were transferred to upper tier and unitary local authorities such as the County Council.</p> <p>From October 2015, the Council has had a contract with Connect Assist to deliver the service. We reviewed the current arrangements to ensure:</p> | September 2016 | <p>Overall we found the scheme is achieving the main objectives by delivering awards to vulnerable people across the county. In addition, following recent fraudulent applications the council has taken steps to improve controls and reduce any possible recurrence.</p> <p>We noted that personal data was sent between NYCC and Connect Assist using a less secure method than that required in the contract with Connect Assist.</p> <p>We noted a small number of clients (six) who had received more than the maximum allocation of awards. There was also one instance where</p> | <p>One P2 and three P3 actions were agreed</p> <p>Responsible Officer Assistant Director (Policy and Partnerships)</p> <p>Discussions were to be held with Connect Assist in respect of data transmission with a view to improving security.</p> <p>Further work will be performed to determine if there were valid reasons for the specific awards identified in the audit. If not then these cases will be discussed with Connect Assist.</p> |

| System/Area | Audit Opinion | Areas Reviewed | Date Issued | Comments | Action Taken |
|-------------|--------------------|--|---|--|--|
| | | <ul style="list-style-type: none"> • Procedures were in place to prevent fraudulent applications from being accepted • The LWAS budget was monitored and necessary actions are taken to address any over spends • The requirements set out in the contract between Connect Assist and NYCC were being fulfilled <p>We also reviewed the applicants' data using data analysis software to identify possible trends in fraudulent applications.</p> | | the applicant did not provide the supporting documentation but Connect Assist still processed the application and awarded the applicant. | |
| G | Members Allowances | No opinion | <p>Member's complete travel and expenses claims through MyView. Council policy expects these to be completed on a monthly basis but at least every three months. The claims are not subject to any further authorisation.</p> <p>Following the 2015/16 audit, the Corporate Director - Strategic Resources recognised the need for internal checking procedures to be improved. Some additional checks were therefore agreed.</p> | <p>November 2016</p> <p>We noted there were no clear written instructions setting out the checks to be carried out by officers. Some potential checks were also not being undertaken. For example there were no checks completed on subsistence claims or retention of receipts.</p> <p>There were also some weaknesses with the mileage report being used as part of the checking procedures.</p> | <p>Three actions were agreed</p> <p>Responsible Officer Corporate Director – Strategic Resources</p> <p>The specific checks to be undertaken would be agreed and documented.</p> <p>ESS to review the report produced on member's expenses claims to ensure the data is sufficiently accurate to</p> |

| System/Area | Audit Opinion | Areas Reviewed | Date Issued | Comments | Action Taken | |
|-------------|----------------------|---|---|--------------|---|--|
| | | Our work in 2016/17 assessed the extent to which appropriate checks on member's expenses were now being completed. The audit did not include any testing or review of individual member's claims. | | | be used for checking purposes. | |
| H | Pensions Investments | High Assurance | The audit reviewed the insurance cover, control reports and annual reports for all investment managers, and the external audit of investment fund control procedures. | May 2016 | No significant control issues were identified | One P3 action was agreed Responsible Officer Senior Accountant – Pensions Fund Managers will be contacted to facilitate future information gathering. |
| I | Pension Fund Income | No opinion given | Following the introduction of the Career Average Revalued Earnings (CARE) scheme, scheme employers are required to submit two year end files to the pension fund to provide details under the old and new schemes. Following issues with submissions, the audit reviewed the processes used by a sample of employers to identify common issues and areas of best practice to share with employers to improve future submissions | October 2016 | Some employers have experienced difficulties due to problems with their payroll system, or where system information is downloaded by someone who is not a payroll specialist. Employers with more reliable returns have generally produced additional reports internally and have carried out a number of checks prior to submission of their data. Others have submitted returns as downloaded from the payroll system without any checks | Information obtained by the audit is to be used for future training for employers, with the possibility of introducing a checklist to ensure data is in the correct format and the level of pre-submission checking is identified. |

| | System/Area | Audit Opinion | Areas Reviewed | Date Issued | Comments | Action Taken |
|--|--------------------|----------------------|-----------------------|--------------------|--|---------------------|
| | | | | | Some employers did not submit data in the correct format in terms of column order and to the correct decimal place as requested. | |

Audit Opinions and Priorities for Actions

| Audit Opinions | |
|--|---|
| <p>Audit work is based on sampling transactions to test the operation of systems. It cannot guarantee the elimination of fraud or error. Our opinion is based on the risks we identify at the time of the audit.</p> <p>Our overall audit opinion is based on 5 grades of opinion, as set out below.</p> | |
| Opinion | Assessment of internal control |
| High Assurance | Overall, very good management of risk. An effective control environment appears to be in operation. |
| Substantial Assurance | Overall, good management of risk with few weaknesses identified. An effective control environment is in operation but there is scope for further improvement in the areas identified. |
| Reasonable Assurance | Overall, satisfactory management of risk with a number of weaknesses identified. An acceptable control environment is in operation but there are a number of improvements that could be made. |
| Limited Assurance | Overall, poor management of risk with significant control weaknesses in key areas and major improvements required before an effective control environment will be in operation. |
| No Assurance | Overall, there is a fundamental failure in control and risks are not being effectively managed. A number of key areas require substantial improvement to protect the system from error and abuse. |

| Priorities for Actions | |
|-------------------------------|--|
| Priority 1 | A fundamental system weakness, which presents unacceptable risk to the system objectives and requires urgent attention by management. |
| Priority 2 | A significant system weakness, whose impact or frequency presents risks to the system objectives, which needs to be addressed by management. |
| Priority 3 | The system objectives are not exposed to significant risk, but the issue merits attention by management. |

NORTH YORKSHIRE COUNTY COUNCIL

AUDIT COMMITTEE

2 MARCH 2017

INTERNAL CONTROL MATTERS FOR THE CENTRAL SERVICES DIRECTORATE

Report of the Corporate Director – Strategic Resources

1.0 PURPOSE OF THE REPORT

- 1.1 To provide an update to members of progress against the areas for improvement identified in the Central Services (CS) Directorate's Statement of Assurance.
- 1.2 To provide details of the latest Risk Register for the CS Directorate.

2.0 BACKGROUND

- 2.1 The Audit Committee is required to assess the quality and effectiveness of the corporate governance arrangements operating within the County Council. In relation to the CS Directorate, the Committee receives assurance through the work of internal audit (detailed in a separate report to the Committee), details of the Statement of Assurance provided by the Corporate Director, together with the Directorate Risk Register.

3.0 STATEMENT OF ASSURANCE

- 3.1 Management Board, the Chief Executive and each Corporate Director produce a Statement of Assurance (SoA) at the end of each financial year. In this statement the Corporate Director identifies those items that may give rise to internal control or performance risk issues for the Directorate in the coming financial year. These issues feed into the process to produce the Annual Governance Statement prepared for the County Council.
- 3.2 The SoA for the CS Directorate identified a number of areas for improvement during 2016/17 together with proposed actions. These areas were considered at the meeting of this Committee on 23 June 2016. The relevant part of the SoA is attached as **Appendix A** together with comments and updates on progress since that meeting.

4.0 DIRECTORATE RISK REGISTER

- 4.1 The Directorate Risk Register (DRR) is produced initially from a review of risks at Service Unit level, which are then aggregated via a sieving process to Directorate level. This end product similarly aggregates these Directorate level risks into the Corporate Risk Register.
- 4.2 The Risk Prioritisation System adopted to derive risk registers categorises risks as follows:
- Category 1 and 2 are high risk (RED)
 - Category 3 and 4 are medium risk (AMBER)

- Category 5 is low risk (GREEN)

The DRR represents the principal risks that may materially impact on the performance and financial outcomes of the Directorate.

4.3 The latest detailed DRR is shown at **Appendix B** illustrating key risks with existing and additional actions to avoid or minimise them.

4.4 Central Services covers a range of front line and support services as follows -

Frontline Services

- Libraries
- Archives, Registration and Coroners support
- Customer Services Centre

Support Services

- The Chief Executive and Unit
- HR
- Legal and Democratic Services
- Business Support
- Finance
- Property
- Technology and Change
- Communications
- Policy and Partnerships

4.5 The Risk Register reflects the range of the above services but also includes many Corporate initiatives given the leadership role of Central Services on such issues as the 2020 North Yorkshire Programme and Performance Management.

4.6 The main changes to the risk register since March 2016 (date of last progress report to the Committee) are as follows:

- One risk was deleted from the register at the last review. This was SmartSolutions (this risk is still included on the Strategic Resources risk register).
- Two risks have significantly changed:
 - The Ensuring Legality risk has corporate governance included in it and is known as Corporate Governance and Ensuring Legality
 - The Reconfiguration of Libraries risk is now known as Library Service Transfer to Community Ownership
- 3 risks have been added:
 - Property Service
 - Commercialisation and
 - Major Emergencies in the Community.

This last risk now resides on the Central Services risk register rather than the Corporate risk register.

- Ranking changes occurred on the Information Governance and Performance Management risks. Although they are not shown as increasing on this 6 month report, these 2 risks worsened in their post risk reduction assessment at the annual review in September 2016 and have remained the same at the 6 month review.

4.7 Some examples of actions that have been completed relating to particular risks since the last report to the Committee include:

- Business plans have been developed for nearly all of the community libraries.
- A wholly owned Property Service company has been set up for property design and estate management.
- In the Commercialisation risk, commercial challenge sessions were carried out for all traded services. And financial targets were formulated in all traded services' business plans.
- For Major Emergencies an NYCC action plan, based on a debrief report's recommendations following the Christmas 2015 flooding incident, was developed and implemented.
- Related to the NY Change Programme, a review of the Behaviour and Skills framework and other relevant key documents was carried out, and a review of governance and areas of future focus of the Programme Board was completed.
- Linked to the NY Change Programme, an LGA corporate peer review was carried out and a subsequent action plan is being implemented.

Unsurprisingly there is a high degree of correlation between the Directorate Risk Register and the Statement of Assurance.

5.0 RECOMMENDATION

5.1 That the Committee:

- i) Note the position on the Central Services Directorate Statement of Assurance;
- ii) Note the Directorate Risk Register for the Central Services Directorate; and
- iii) Provide feedback and comments on the Statement of Assurance and Directorate Risk Register and any other related internal control issues.

GARY FIELDING
Corporate Director, Strategic Resources

March 2017

**STATEMENT OF ASSURANCE 2015/16
BY CHIEF EXECUTIVE – CENTRAL SERVICES**

The County Council is responsible for ensuring that its business is conducted in accordance with the law and proper standards, and that public money is safeguarded and properly accounted for and used economically, efficiently and effectively. In discharging this accountability, all Members and senior officers of the County Council are responsible for putting in place proper risk management processes and internal controls to ensure the proper stewardship of the resources at its disposal.

As Chief Executive and member of the Management Team, I have corporate responsibility for maintaining a system of sound internal controls and risk management processes within the County Council and service management responsibility for maintaining a system of sound internal controls and risk management processes within the Central Services Directorate that support the achievement of both Corporate and the Directorate's objectives.

The system of internal controls is based on an ongoing process designed to identify the principal risks to the achievement of these objectives, to evaluate the nature and extent of those risks and to manage them efficiently, effectively and economically.

The system of internal controls is designed to manage rather than eliminate the risk of failure to achieve these objectives; it can therefore only provide reasonable and not absolute assurance of effectiveness.

As Chief Executive, I have responsibility for reviewing the effectiveness of the system of internal control and risk management processes in the Central Services Directorate. My review of the effectiveness of the system of internal controls has taken into account the following:-

- adequacy and effectiveness of management review processes
- outcomes from the formal risk assessment and evaluation process (Directorate Risk Register)
- relevant self-assessments of key service areas within the Directorate
- relevant internal audit reports and results of follow ups regarding implementation of recommendations
- outcomes from reviews of services by other bodies including Inspectorates, external auditors etc
- the framework of controls that operate in relation to individual partnerships where some aspects of the necessary controls are the responsibility of the partner to operate / apply

I also confirm that Central Services Directorate understands the importance of keeping sensitive information secure and has the appropriate policies and procedures in place.

I am satisfied that a sound system of internal control has been in place for the financial year ended 2015/16 in the Central Services Directorate. Nevertheless, during the year my review work has identified some areas for further development and these are set out in the *attached schedule*. I propose to take steps to address the matters so identified which should enhance the system of internal controls. I will be monitoring to ensure their effective implementation and operation.

I also understand that this Statement of Assurance will be relied upon by those Members and Officers signing the Annual Governance Statement 2015/16 (the "Document") and by the Audit Committee reporting on the Document.

I therefore confirm that I am not aware of any material statement in, or omission from, the Document which would make the Document misleading. In respect of the Directorate for which I am responsible I can confirm that I have made due and careful inquiry and that the statements relating to my Directorate, in particular those contained in Section 3 of the Document, fairly represent the key elements of the internal control environment within my Directorate. I also confirm that there are no matters relating to my Directorate omitted from Section 7 of the Document which, in my view, merited inclusion.

The assurances given above are all based upon the information that has been made available to me.

Signed:

Richard Flinton
Chief Executive – Central Services

Date:

**AREAS FOR FURTHER DEVELOPMENT IDENTIFIED
CENTRAL SERVICES DIRECTORATE**

| Areas for Development as Identified in 2016 | Action Proposed | Action Taken |
|--|--|---|
| <p>Medium Term Financial Strategy</p> <p>The MTFS, as agreed in February 2016 identified a £14m funding gap up to 2020.</p> <p>The government's Spending Review now extends to 2020 and the Council needs to decide whether it accepts the government's offer of a multi-year settlement.</p> | <p>a) Decision to be made by 14 October 2016 as to whether to accept the government's offer of a multi-year settlement as part of an overall efficiency plan.</p> <p>b) In April 2016, proposals to help achieve the £14m funding gap over the period to 2020 were submitted and then a decision on which proposals to be taken forward was made. Subsequent to that process, it is now required to work the proposals to be taken forward to have a project brief created which will outline the benefits achievable and therefore how the £14m funding gap can be bridged. Target completion for project briefs is by December 2016.</p> <p>c) In order to deliver the projects identified, through the above process, and the existing 2020 projects, the Council needs to consider availability of resource. Through this consideration, a proposal for additional resource will be set out in the budget in February 2017 and / or quarterly reports throughout 2016/17.</p> <p>d) Review of and feed in to the government's proposals for business rates retention and possible "needs review" for local</p> | <ul style="list-style-type: none"> • The County Council have accepted the draft multi-year settlement however at time of writing, the final settlement figure has not been announced • The County Council signed off proposed Budget including revised savings initiatives on 15th February. • The MTFS has been updated accordingly which now shows £9.8m gap over the period to 2020. Further work being undertaken to identify additional opportunities. • £1m of resource has been agreed for the year 2017/18 to continue support for the 2020 Programme. |





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| | <p>government funding, with consultation response by autumn 2016.</p> <p>Monitoring of agreed plan for 2016/17 Better Care Fund and preparation for potential 2017/18 Plan through Health & Wellbeing Board.</p> | |
| <p>2020 North Yorkshire Programme</p> <p>2015/16 was the first full year of the 2020 North Yorkshire Programme and for 2016/17 it is a case of continue to run the programme to reap the benefits expected.</p> <p>Central Services plays a critical role within the Programme, in addition to the Directorate getting direct benefits, it acts as the Programme Management Office providing support and leadership to the Programme and thus ensuring benefits are achieved across NYCC.</p> | <p>a) Building on the comments from the LGA Peer review, further develop good practice in production of business cases, ensuring a consistent application across the council will be complete by April 2017.</p> <p>b) Strategic Investment Board to ensure quality business cases are developed and investment is aligned with the council's corporate objectives.</p> <p>c) Refresh the council's Vision for 2020, ensuring it remains relevant and focused, by December 2016.</p> | <ul style="list-style-type: none"> • A 12 month review of Strategic Investment Board has been undertaken, in has found that overall the governance arrangements have improved the quality of business cases. • The Council Plan was approved by County Council on 15th February. This strategy sets out 4 key ambitions for the Council. |
| <p>Property</p> <p>Plans have now been formulated for rationalising large parts of the Council's property estate as part of the 2020 Modern Council programme. However the plans require investment and more detailed plans.</p> <p>In addition, there is also a need for the new arrangements relating to property design and management to bed-in. This includes the contract</p> | <p>a) Following expiry of the Jacobs contract in April 2016, the team were tasked to establish effective delivery of property design / management and estates management with the new provider, Mouchel.</p> <p>Further review of property actions required post mobilisation of Mouchel contract.</p> <p>b)The property rationalisation business case continues to be completed with a target date of March 2017 for when efficiencies can be gained.</p> | <ul style="list-style-type: none"> • The North Yorkshire Property Services company was created in order to bring the property design services previously being delivered by Mouchel into a Local Authority Trading Company. It has been successfully operating since November 2016. • The property rationalisation business case is now expected in May 2017. |






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| <p>with Mouchel and the internalisation of some service delivery.</p> | | |
| <p>Superfast North Yorkshire</p> <p>Whilst the rollout of Superfast Broadband continues across North Yorkshire with the existing BT contract, there remains a shortfall of up to 10% which will require further intervention.</p> | <p>a) SFNY undertaking a procurement with £20.5m funding from NYCC/BDUK and ERDF to secure further coverage. Procurement will complete by May 2017 in line with project plan (with key milestones).</p> <p>b) Subsequent to the procurement a delivery plan has been produced to manage roll-out of superfast broadband. The plan is targeting coverage of superfast broadband that will exceed 95% on completion of any Phase 3 contract in 2018/19.</p> | <ul style="list-style-type: none"> • The procurement has commenced and is on track to hold negotiations with suppliers in March. |
| <p>SmartSolutions / Commercial</p> <p>The Council's commercial arm, SmartSolutions, is transforming the way in which NYCC transacts services with external partners. The LGA peer review remarked that the Council is moving in the right direction with commerciality and should push on.</p> <p>The Council's commercial strategy, as informed by SmartSolutions, is creating two broad work streams:</p> <ul style="list-style-type: none"> • 'Universal offer' – which aims to increase commercial awareness across all staff, including cost consciousness, innovation and an | <p>a) For the universal offer, the workforce development team have targeted a date of March 2017 to roll out procured training packages to appropriate staff. This training will be delivered through a range of online and classroom based modules.</p> <p>b) For the business planning aspects, there are additional steps required by November 2016 to further understand the market position & context which will help inform the current opportunity.</p> | <ul style="list-style-type: none"> • The procurement has been awarded for the workforce commercial training, teams/individuals have been identified and the training will start from March/April. • A series of commercial challenge sessions have been held reviewing the quality of business plans put forward. These sessions will help in a number of areas: <ul style="list-style-type: none"> ○ Greater clarity on how commercial targets will be achieved in the MTFS ○ Additional insight to aid shaping the commercial strategy ○ Challenge back to service areas to act in a more commercial way |





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| <p>entrepreneurial culture</p> <ul style="list-style-type: none"> • 'Market offer' – which is a business plan around how the authority will target growth of profitable income | | |
| <p>Strategic Support</p> <p>Central Services had identified an opportunity to improve use of data across the council, including decision making and strategy setting. This was reinforced by the LGA peer review, who commented that data can be a powerful tool to drive performance improvements.</p> <p>Strategic Support covers the functions of Strategy, Performance Management and Data & Intelligence</p> | <ul style="list-style-type: none"> a) The project brief was signed off by May 2016 which summarised the options for the Strategic Support functions and a decision was taken on which direction to take. b) Subsequent to that the outline business case was signed off by August 2016. This has now focused the project towards a single solution which can be worked towards. c) Implement the solution by end June 2017. | <ul style="list-style-type: none"> • Staff consultation on restructure of Strategic Support concludes on 28th February. Project still on track for implementation on 1st July. |
| <p>Information Governance</p> <p>Ensure effective information governance arrangements are in place across the Council and where sensitive information is shared with other organisations</p> | <ul style="list-style-type: none"> a) Review and update service information asset registers in line with policy guidelines by March 2017 b) Work within services in a prioritised order to ensure information is secure and transferred securely by March 2017 c) Ensure individual information sharing agreements are completed for each data sharing activity (some agreements are already in place and this work will continue) | <ul style="list-style-type: none"> • A desktop review of service information asset registers has been carried out. A full review and refinement of IARs will take place over the next 4 months. • Further unannounced compliance audits have been carried out in service areas handling sensitive information. Further guidance and training has taken place and 'tools' have been provided (eg. secure e mail facilities) to increase information security. • The majority of key partners in North Yorkshire have signed the Multi Agency |

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| | <p>d) Continue communications to staff to ensure good Information Governance including messages from Management Board and associated campaigns</p> <p>e) Review existing training approach and investigate additional team based reviews to embed practice. Review to be completed by December 2016 and new approach implemented thereafter.</p> | <p>Overarching Information Sharing Protocol. Discussions are ongoing with other organisations that have been identified as potential signatories.</p> <ul style="list-style-type: none"> • Communications to staff continue to highlight the importance of information security and examples of potential breaches. • The training approach and changing the culture of employees has been reviewed. Services handling sensitive information are being assisted initially. Further discussions about the improvement of the training framework and existing training continues. |
| <p>Delivery of savings / improvements across Central Services</p> <p>Various savings projects and initiatives are being led within Central Services which are contributing to 2020 North Yorkshire and related initiatives.</p> | <p>a) Identify and implement opportunities for savings and improvements between the County Council and Selby District Council as part of the Better Together Programme.</p> <p>b) Implementation of the 2020 Finance Programme to improve financial systems and priorities financial support to greatest areas of risk.</p> <p>c) Pursue opportunities to rationalise business support staffing and make further savings through smarter procurement where spending can be aggregated and centralised.</p> <p>d) Joining up of support services so that Managers across the council find it easier (for example by using feedback)</p> | <ul style="list-style-type: none"> • The Selby Better Together programme has moved forward with the definition of three workstreams: <ul style="list-style-type: none"> ○ Customer & Community ○ Shared ICT ○ Smarter Working / Regeneration & Investment • Technical implementation of Oracle Financials concluded with many budget managers now accurately forecasting. Remaining areas of work have been identified in order to tackle the remaining budget managers who are unable to produce a forecast. |

APPENDIX B

| Identity | | | Person | | Classification | | | | | | | | | | | | Fallback Plan | | | |
|---|---|---|------------|---------------|----------------|-----|-----|------|-----|-----|-----|-------------|------|-----|-----|------|---------------|-----|--------|----------------|
| Change | Risk Title | Risk Description | Risk Owner | Risk Manager | Pre | | | | | | RR | | Post | | | | | | FBPlan | Action Manager |
| | | | | | Prob | Obj | Fin | Serv | Rep | Cat | RRs | Next Action | Prob | Obj | Fin | Serv | Rep | Cat | | |
|  | 15/11 - 2020 North Yorkshire Change Programme and beyond | Failure to successfully implement the Programme and Modern Council ways of working resulting in inability to meet financial savings requirements, sub-optimal decision making and poorer quality of services. | Chief Exec | CSD SR AD T&C | H | H | H | H | H | 1 | 17 | 31/03/2017 | M | H | H | H | M | 2 | Y | All Mgt Board |
|  | 15/161 - Information Governance | Ineffective information governance arrangements lead to unacceptable levels of unauthorised disclosure of personal and sensitive data, poor quality or delayed responses to Fol requests, and inability to locate key data upon which the Council relies resulting in loss of reputation, poor decision making, fine, etc | Chief Exec | CD SR | H | L | M | L | H | 1 | 6 | 31/03/2017 | M | L | M | L | H | 2 | Y | CD SR |
|  | 15/186 - Stronger Communities | Failure to develop and implement greater community capacity to provide sustainable local support and services, within the context of reduced government funding, resulting in further reduced services in the community, missed opportunities relating to community libraries, universal provision for children, young people and families, community transport and prevention services for older and vulnerable adults | Chief Exec | CSD AD PP | M | L | H | M | M | 2 | 8 | 31/03/2017 | L | L | H | M | M | 3 | Y | CSD PP HoSC |
|  | 15/166 - Organisational Performance Management | Failure to align the performance management framework with the Council strategy and/or use the correct metrics to measure performance results in reduction in service performance, efficiency and effectiveness; reduction in value for money; loss of reputation and suboptimal financial savings | Chief Exec | CD SR | M | H | M | H | M | 2 | 10 | 31/01/2017 | L | H | M | M | M | 3 | Y | CD SR |

| Identity | | | Person | | Classification | | | | | | | | | | | | Fallback Plan | | | |
|---|---|--|------------|--------------|----------------|-----|-----|------|-----|-----|-----|-------------|------|-----|-----|------|---------------|----------------|-----|---------------------|
| Change | Risk Title | Risk Description | Risk Owner | Risk Manager | Pre | | | | | RR | | Post | | | | | FBPlan | Action Manager | | |
| | | | | | Prob | Obj | Fin | Serv | Rep | Cat | RRs | Next Action | Prob | Obj | Fin | Serv | | | Rep | Cat |
|  | 15/202 - Property Service | Failure to provide effective and efficient management of property including the transition to an internally managed company (comprising asset management, corporate accommodation, investment and delivery, traded services, property design and estate management) that meets the requirement of the County Council leading to less efficient management and maintenance of the corporate estate, ineffective project delivery and missed opportunities including additional trading. | Chief Exec | CD SR | H | M | M | M | M | 2 | 7 | 31/03/2017 | M | M | M | M | M | 4 | Y | AD SR (CYPS) & Prop |
|  | 15/162 - Capacity and Skills | A lack of capacity and skills within Central Services leads to a significant decline in service quality &/or insufficient progress in carrying out required developments. | Chief Exec | CSD Mgt Team | H | M | L | M | L | 2 | 5 | 31/03/2017 | M | M | L | M | L | 4 | Y | CSD Mgt Team |
|  | 15/180 - Customer Programme | Failure to develop and implement Customer Programme that meets the needs and demands of our customers and supports the NYCC's (and Selby's) necessary service redesigns, savings and improves performance and customer satisfaction | Chief Exec | CSD AD LC&CS | M | M | M | H | M | 2 | 8 | 31/03/2017 | M | M | M | M | M | 4 | Y | CSD AD LC&CS |
|  | 15/201 - Commercialisation | Failure to successfully secure commercial opportunities within Central Services resulting in lost net income to support budget savings, unresilient service, unskilled and insecure workforce | Chief Exec | CSD Mgt Team | H | M | M | M | L | 2 | 3 | 31/03/2017 | M | M | M | M | L | 4 | Y | CSD Mgt Team |
|  | 15/179 - Library Service Transfer to Community Ownership | Failure to deliver new Community Libraries by 1st April 2017 resulting in impact on customer service in this and other areas, missed opportunities to strengthen communities and unmet savings targets | Chief Exec | CSD AD LC&CS | M | L | M | H | H | 2 | 5 | 31/03/2017 | L | L | L | M | M | 5 | Y | CSD AD LC&CS |

| Identity | | | Person | | Classification | | | | | | | | | | | | Fallback Plan | | | |
|---|---|--|------------|-----------------|----------------|-----|-----|------|-----|-----|-----|-------------|------|-----|-----|------|---------------|----------------|-----|-------------------|
| Change | Risk Title | Risk Description | Risk Owner | Risk Manager | Pre | | | | | RR | | Post | | | | | FBPlan | Action Manager | | |
| | | | | | Prob | Obj | Fin | Serv | Rep | Cat | RRs | Next Action | Prob | Obj | Fin | Serv | | | Rep | Cat |
|  | 15/183 - Health & Safety | Major Corporate Health and Safety failure resulting in injuries, claims, reputational and service delivery impact and possible prosecution | Chief Exec | CD SR | L | M | M | M | H | 3 | 10 | 31/03/2017 | L | M | M | M | H | 3 | Y | CSD SR HoH SRM |
|  | 15/200 - Major Emergencies in the Community | Failure to plan, respond and recover effectively to major emergencies in the community resulting in risk to life and limb, impact on statutory responsibilities, impact on financial stability and reputation | Chief Exec | Chief Exec | L | L | H | L | H | 3 | 3 | 31/08/2017 | L | L | H | L | M | 3 | Y | Chief Exec |
|  | 15/29 - Corporate Governance and Ensuring Legality | Failure to ensure adequate Corporate Governance arrangements across the County Council to ensure that the Council acts lawfully in its operations and decision making resulting in inadequate control and stewardship, challenge and non delivery of decisions, financial implications and loss of reputation particularly given service and statutory obligations | Chief Exec | CSD ACE LDS | M | L | M | M | M | 4 | 9 | 30/06/2017 | M | L | M | M | M | 4 | Y | CSD ACE LDS |
|  | 15/184 - Central Services Savings Plan | Failure to deliver the Central Services savings plan for the duration of the Change Programme (up to 2019) resulting in inability to meet the budget, rationalise support services and enable the change programme | Chief Exec | CSD Mgt Team | M | M | M | M | M | 4 | 4 | 31/07/2017 | M | M | M | M | M | 4 | Y | Chief Exec |

NORTH YORKSHIRE COUNTY COUNCIL

AUDIT COMMITTEE

2 March 2017

ACCOUNTING POLICIES

Report of the Corporate Director – Strategic Resources

1.0 PURPOSE OF THE REPORT

- 1.1 To review the changes to the County Council's Accounting Policies for the current financial year 2016/17
- 1.2 To note potential changes in the pipeline that are likely to impact on future year's Accounting Policies and the Statement of Final Accounts.

2.0 BACKGROUND

- 2.1 Part of the Audit Committee's Terms of Reference is to review changes in accounting policy.
- 2.2 The County Council's accounting policies are set out in the annual Statement of Final Accounts (SOFA) and have been developed to comply with the *Code of Practice on Local Authority Accounting in the United Kingdom* issued by the Chartered Institute of Public Finance and Accountancy (CIPFA). An updated Code of Practice, applicable for 2016/17, was issued in April 2016.
- 2.3 In addition to considering required changes to the County Council's accounting policies for 2016/17, there are further changes which CIPFA have been consulting with local authorities, which are in the pipeline for future years (2017/18 and beyond), to bring to the Committee's attention.

3.0 CHANGES IN ACCOUNTING POLICY FOR 2016/17

- 3.1 The need for changes in accounting policy can arise from:
 - (i) mandatory changes under the annual *Code of Practice on Local Authority Accounting* which require a new or revised accounting policy to be adopted by all local authorities

- (ii) changes within the overall framework of the *Code of Practice* but where the policy to be adopted is discretionary and is dependent upon interpretation of local circumstances

- 3.2 Changes required to the County Council's accounting policies for 2016/17, therefore arise as a result of the updated IFRS based *Code of Practice on Local Authority Accounting* issued by CIPFA in April 2016.
- 3.3 Further updates to the 2016/17 *Code of Practice* have also been issued to reflect developments regarding statutory accounting and disclosure requirements which have taken place since its publication in April 2016.
- 3.4 Changes reflected in the 2016/17 updated Code and any subsequent supplementary updates do, on the whole, have to be incorporated into the County Council's accounts but do not necessarily impact on the County Council's accounting policies. This is because the changes are principally around additional or changed disclosure notes, points of clarification and additional guidance etc.
- 3.5 There are no changes to the *Code of Practice* that impact on the County Council's 2016/17 Accounting Policies. However, the Accounting Policies ultimately determined for 2016/17 will be reported to Members on 13 July 2017 as part of the report accompanying the draft SOFA for 2016/17. At this stage, therefore, Members are asked to note the current position.
- 3.6 **Appendix A** lists other key (but limited) changes to the latest 2016/17 *Code of Practice on Local Authority Accounting* which will need to be considered and, where appropriate, reflected in the SOFA for 2016/17 or subsequent years.

4.0 **POTENTIAL CHANGES IN THE PIPELINE FOR FUTURE YEARS**

- 4.1 CIPFA have recently consulted on a draft *Code of Practice on Local Authority Accounting* for 2017/18 and provisional changes for future years beyond 2016/17, with the key potential changes set out in **Appendix B**. The key change relates to Transport Infrastructure Assets.
- 4.2 The extent to which future changes will actually be fully implemented by CIPFA remains uncertain however and will be subject to further confirmation and guidance.

5.1 **RECOMMENDATION**

5.2 That Members:

- (i) review the update on accounting policy (**paragraph 4.5** and **Appendix A**).
- (ii) note potential changes to the SOFA and accounting policies which are in the pipeline for future years (2017/18 onwards) (**paragraph 5.1** and **Appendix B**).

GARY FIELDING

Corporate Director – Strategic Resources

County Hall
Northallerton

15 February 2017

CHANGES TO THE CODE OF PRACTICE ON LOCAL AUTHORITY ACCOUNTING 2016/17

1.0 Introduction

- 1.1 There have been few significant changes made to the IFRS-based Code of Practice on Local Authority Accounting for 2016/17.
- 1.2 There are no changes to the Code of Practice that impact on the County Council's 2016/17 Accounting Policies.

2.0 Code of Practice Changes Resulting in Changes to the SOFA in 2016/17

CIPFA's 'Telling the Story' Review

- 2.1 The Code of Practice on Local Authority Accounting in the United Kingdom (the Code) has been updated in 2016/17 to reflect the new formats and reporting requirements for the Comprehensive Income and Expenditure Statement, the Movement in Reserves Statement, and the introduction of the new Expenditure and Funding Analysis (EFA) as a result of the 'Telling the Story' review of the presentation of local authority financial statements.
- 2.2 The changes allow local authorities to report within the Statement of Accounts on the same basis as the business is operated and managed by removing the requirement for the Service Reporting Code of Practice (SeRCOP) to be applied to the Comprehensive Income and Expenditure Statement (CIES). In practice this means that the CIES will report income and expenditure by Directorate.
- 2.3 Furthermore, changes in the 2016/17 Code have introduced an Expenditure and Funding Analysis (EFA) which provides a direct reconciliation between the way local authorities are funded and prepare their budget and the CIES. This analysis is supported by a streamlined Movement in Reserves Statement (MIRS) and replaces the current segmental reporting note. Two further EFA notes will provide greater detail on the statutory adjustments and specific Income & Expenditure items (e.g. revenue from external customers, depreciation).

CIPFA Code of Practice on the Highways Network Asset

- 3.1 It was expected that CIPFA would instruct Local authorities to adopt the requirements of the Code of Practice on the Highways Network Asset in the 2016/17 Accounts.
- 3.2 However, CIPFA announced in November 2016 that it would postpone the full implementation of the move to measuring the Highways Network Asset at Depreciated Replacement Cost in local authority financial statements, with a view to implementation in 2017/18.

- 3.3 While has CIPFA recognised the commitment and work of local authorities in preparing for implementation as well as the engagement of local auditors, it has identified some detailed key issues as implementation has progressed.
- 3.4 CIPFA in particular have highlighted that a key, final, part of implementation was the provision of central Gross Replacement Cost rates (to be used as part of the valuation process). However, the rates to be used on implementation were originally developed at the start of the project and are now over five years old. While CIPFA have been working with the relevant stakeholders for the last eighteen months, it became clear that the rates would not be ready in time for the 2016/17 financial statements. As a result the implementation has been postponed.

**POTENTIAL CHANGES TO THE CODE OF PRACTICE ON LOCAL AUTHORITY
ACCOUNTING POLICIES IN THE PIPELINE
FOLLOWING RECENT CIPFA CONSULTATION:**

1.0 Introduction

1.1 CIPFA have consulted and confirmed on some of the proposed changes to the 2017/18 Code of Practice (to be issued in April 2017), and have also provided indications of further potential changes that are likely to be reflected in updates to the 2017/18 Code and beyond. Some of these key changes outlined below however have been reported to the Audit Committee in March 2016 as being in the pipeline.

2.0 Highways Network Assets

2.1 It is now anticipated that the 2017/18 Code will adopt the measurement requirements of the Code of Practice on the Highways Network Asset i.e. measurement on a Depreciated Replacement Cost basis and move away from valuing Transport Infrastructure Assets on the basis of historical cost. This will represent a significant change in accounting policy from 1 April 2017. However CIPFA have indicated that no prior period restatement will be required.

2.2 This change will require the establishment of a separate class of assets for transport infrastructure assets in accordance with the types of assets classified in the Code of Practice on Transport Infrastructure assets. The Code also requires separate sub-divisions of transport infrastructure asset category for disclosure in the statement of financial accounts. Assets will be categorised into the following broad categories:

- Carriageways
- Footways and cycle tracks
- Structures
- Street lighting
- Street furniture
- Traffic Management Systems
- Land

2.4 The County Council have continually complied with the additional reporting requirements of valuing highways network assets at depreciated related cost for the purposes of providing additional information for Whole of Government Accounts and maintained a state of readiness to address future developments in this area.

3.0 Early Accounts Closure from 2017/18

3.1 As a result of the implementation of the new 2015 Accounts and Audit Regulations from 2017/18, the 2017/18 Statement of Accounts process must be completed in an earlier timeframe. The changes reflected in the new 2015 Accounts and Audit Regulations which will be in effect in 2017/18 are as follows.

- (a) Certification of the Accounts by the S151 Officer (currently 30 June) and publication on the authority's website by 31 May from 2017/18 to comply with the new public rights of inspection provisions;

- (b) The full SOFA, including Annual Governance Statement has to be re-certified by the S151 Officer, approved by Members (this Committee), the external audit opinion to be issued and both published (currently 30 September) by 31 July 2017/18;
- (c) Where the Audit of Accounts has not been concluded by 31 July a notice must be put on the authority's website stating that it has not been able to publish the statement of accounts and the reasons for this and then subsequently publish the accounts as soon as reasonably practical after the receipt of any report from the auditor;
- (d) The public's right of objection and inspection of the accounts and questioning of the auditor will be through a single 30 working day period which must include the first 10 working days of June;
- (e) A narrative statement must be included in the SOFA which must include comments by the authority on its financial performance and economy, efficiency and effectiveness in its use of resources;
- (f) The SOFA must be available for public access for a period of not less than 5 years.

4.0 Leases

- 4.1 CIPFA are considering the implications of adopting IFRS 16 – Leases. However, it is anticipated that IFRS 16 would not be introduced until 2019/20.
- 4.2 It is anticipated that as a result of any changes relating to IFRS 16 the definition of a finance lease would be extended, which may create an accounting implication that the associated lease needs to be capitalised as an asset (with a corresponding liability extending over the life of the lease) on the lessee's balance sheet.
- 4.3 Exceptions may be granted for leases of small value assets and for very short term leases, but an increased number of existing operating leases may need to be reclassified as finance leases, which could potentially have prudential borrowing implications for the County Council.

NORTH YORKSHIRE COUNTY COUNCIL**AUDIT COMMITTEE****2 March 2017****INFORMATION GOVERNANCE – PROGRESS REPORT****Report of the Corporate Director – Strategic Resources****1.0 PURPOSE OF THE REPORT**

- 1.1 To update Members on the progress made to further develop the County Council's Information Governance arrangements.

2.0 BACKGROUND

- 2.1 Since 2010, the County Council has had a comprehensive policy framework covering all aspects of Information Governance (IG). Significant work has been undertaken since then in order to raise awareness of the policy requirements and ensure compliance. Information is a key asset for the Council (like money, property, or the skills of its staff) and must be protected accordingly. Much has been achieved in this area but there is a continuing need to maximise compliance and embed a culture of sound information governance, particularly in relation to information security.
- 2.2 According to the Terms of Reference of the Audit Committee, its role in respect of information governance is:
- (i) to review all corporate policies and procedures in relation to Information Governance
 - (ii) to oversee the implementation of Information Governance policies and procedures throughout the County Council
- 2.3 Information governance remains a high risk area as identified on the Corporate Risk Register. This is, in part, due to the ever increasing risks in a hi-tech environment and the behavioural challenges encountered. The current view is that this will be an area of on-going high risk despite the Council's actions to mitigate those risks.

3.0 STRATEGIC OVERVIEW AND PRIORITISATION OF WORK

- 3.1 In September 2016 the Corporate Information Governance Group carried out a review of the objectives set out in the Information Governance Policy and Strategy to enable better realignment with the current priorities for information governance. The outcome of the exercise is that the Group will now focus on the following areas:

- Information Asset Registers
- Information Security and Transferring Information Securely
- Training and Changing Culture
- Data Sharing with Partner Agencies

This has enabled the work to be more focused on these particular areas however other issues are included when required and it is appropriate to do so.

4.0 INFORMATION ASSET REGISTERS

- 4.1 An Information Asset Register (IAR) is a working reference document for identifying and organising information assets. It should be used to identify governance and risk issues affecting each item, such as sensitive, or sensitive personal, data; retention and deletion periods, data sharing and most importantly the Information Asset Owner responsible for managing those risks.
- 4.2 Recent guidance and best practice from the Information Commissioners Office and Local Government Association on recording and managing information assets in an IAR has been considered, and an updated template with categories of information has been produced to take this into account. A full review and refinement of existing Directorate and Service IARs will take place over the next 4 months to ensure compliance with the updated requirements.
- 4.3 Once the registers have been updated, training and support will be targeted at those IAOs responsible for those information assets which represent the greatest risk (for example, where personal sensitive data is routinely shared with partners).
- 4.4 As previously mentioned, IARs are regarded as a working document subject to change to reflect new and emerging risks, changing priorities and/or service developments. Review of IARs will therefore be on going and be subject to change as we gain a better understanding of the cross-cutting risks and priorities.

5.0 INFORMATION SECURITY COMPLIANCE

Information Security Compliance Checks

- 5.1 Internal Audit has been carrying out unannounced compliance audits relating to information security for some time. Out of the 6 audits that have been carried out in the past year, 5 have been classified as 'Limited Assurance'. Examples of non-compliance include:
 - Sensitive data relating to children and adults being left unsecured, such as SEN review lists, school admission forms, details of health and wellbeing, individual placement agreements, clients' files and lists containing other personal details.
 - Sensitive data relating to staff being left unsecured, such as interview and application forms, staff supervision, disciplinary and appraisal files, and photocopies of passports.

- Security related information, such as usernames and passwords, safe codes and bank account details
- Unsecured laptop and other electronic devices, and keys.

5.2 Where non-compliance has been identified this has been brought to the attention of the relevant managers promptly with appropriate remedial action taken as necessary. Details of non-compliance have also been reported to the Corporate Information Governance Group (CIGG) and directorate information governance champions so as to help develop further guidance, training and other awareness raising measures. Information security is now regularly considered by directorate management teams and a number of services have instigated their own ongoing compliance checks.

5.3 There are also examples of good practice such as at Thirsk Highways Area Office where the audit was classified as 'High Assurance'.

Data Security Incidents

5.4 97 data security incidents were reported in the first 9 months of 2016/17. All reported incidents are investigated with the most serious ones being referred to Internal Audit. The majority of these incidents have been caused by human error. Typical examples include:

- Documents sent to incorrect recipients by email or post (often because information recorded on systems was not updated and address or email details were not properly verified);
- Documents containing personal information left in unsecure locations;
- E-mail recipients addresses disclosed because the blind copy function was not used;

5.5 The number of incidents has increased significantly since the last report. On the surface this may not be seen as a positive sign but it does indicate that there is heightened awareness of the issues. Staff are encouraged to quickly flag breaches and data security incidents so that recovery arrangements can be made and lessons subsequently learned. It is accepted that human error will never be eradicated but care and attention is essential when handling sensitive data. For this reason, work is ongoing to raise awareness, provide guidance and the necessary tools (for example secure e-mail facilities) and test compliance.

Information Commission Office Self Referrals

5.6 Although there is no legal obligation on data controllers to report breaches of security which result in loss, release or corruption of personal data, the Information Commissioner believes serious breaches should be brought to the attention of his Office. The nature of the breach or loss can then be considered together with whether the data controller is properly meeting his responsibilities under the Data Protection Act. 'Serious breaches' are not defined however, data controllers consider the potential detriment to data subjects together with the volume and sensitivity of personal data involved in deciding whether breaches should be reported.

- 5.7 During the last year, the Council has self-reported 3 data breaches to the Information Commissioner's Office. One of these reports was subsequently withdrawn as further investigations showed that it was not as serious as initially thought. The other 2 referrals were investigated by the Information Commissioner's Office which concluded that the Council's actions and planned actions following the breaches were appropriate.

6.0 TRAINING AND CULTURE

- 6.1 Training and changing the culture of the employees of the organisation in relation to information security continues to be challenging. This is not because employees maliciously jeopardise the security of information but more as a result of human error and lack of care and attention when handling sensitive data. This is demonstrated in **paragraph 5.4 on Data Security Incidents** above.

Mandatory Training

- 6.2 There has been mandatory training in place for some time. The 3 in depth mandatory online learning courses have recently received a minimal refresh. Posts required to carry out the 3 in depth courses have been identified and this includes the majority of employees in the Council.
- 6.3 For other employees that are not required to carry out in depth training because they do not routinely manage sensitive data, there is an Introduction to Handling Information. This forms part of the induction process for an employee. A refresher course is being developed to follow on from the introductory course
- 6.4 The online courses have helped employees to understand their responsibilities in relation to personal and sensitive information. However, further discussions about the training framework and how we update existing training are taking place. This is to help ensure that the connection between the training and the application of the knowledge learnt by employees continues to increase. Work is being scheduled with some "high risk" teams on IG matters to determine if there are practical actions that can be taken to help teams to minimise the risks of error. There is therefore a balanced approach being pursued to push compliance.

Phishing Trial

- 6.5 As with any organisation the Council is under constant threat of cyber-attack and one of the most common is a phishing email. Phishing is the attempt to obtain sensitive information such as usernames, passwords, and credit card details (and sometimes, indirectly, money), often for malicious reasons. If a user's credentials are provided to a real phishing email there are a number of outcomes. One outcome could be the Council email details are used to send spam. This could lead to the Council email address '@northyorks.gov.uk' being blacklisted. If this happens it means that emails sent by Council users may not be received by the intended recipient impacting on service delivery.
- 6.6 The Council has systems in place to reduce the number of these phishing emails that get into an email inbox. However, to identify any further potential weakness relating to phishing e mails that do manage to enter an email inbox, an email of the type often used by hackers was created and sent to a sample of email accounts.

6.7 This exercise has helped to highlight where further support and training on this subject is required. There will be further phishing email exercises carried out in the future to test the effectiveness of the support and training provided and will hopefully show an improvement in user awareness and behaviour.

7.0 DATA SHARING WITH PARTNER AGENCIES

7.1 There is a need for the Council to share information with a variety of external partners. Whether this is between social care and health, District Councils or the Police, the information governance requirements and standards that have to be adhered to are the same.

7.2 It is accepted that there is already a great wealth of information sharing practice happening within the council and externally with key partners. However, there is also a need to align our processes to ensure we are sharing information appropriately, at the right time, with the right people and by the correct means.

7.3 In response to this, a collaborative Multi Agency Overarching Information Sharing Protocol (the "Protocol") has been produced. The Protocol helps to create a positive culture of sharing information and facilitate more effective data sharing practices between partner agencies, with the ultimate aim of improving service delivery and resident outcomes. Refusing to share data can be a risk just as much as sharing too much data.

7.5 The Protocol applies to all information being shared by signatory partner agencies, with the aim of establishing the types of data which these agencies will share, how data is handled and the legislation which allows the information to be shared, and outlining processes for developing individual Information Sharing Agreements.

7.6 The majority of key partners in North Yorkshire have signed the Protocol, however there are still some organisations which have been identified as potential signatories. Discussions are ongoing with these.

8.0 RECOMMENDATIONS

8.1 Members are asked to note the progress made on information governance issues.

GARY FIELDING
Corporate Director – Strategic Resources

County Hall
Northallerton
March 2017

Authors of report: Fiona Sowerby, Corporate Risk and Insurance Manager and Max Thomas, Head of Internal Audit
Tel 01609 532400 and 01609 532143

Background papers: None

NORTH YORKSHIRE COUNTY COUNCIL

AUDIT COMMITTEE

2 MARCH 2017

COUNTER FRAUD AND ASSOCIATED MATTERS

Report of the Head of Internal Audit

Discussion of Appendices 2 and 3 to this report are likely to include exempt information of the description in paragraph 7 of Part 1 of Schedule 12A to the Local Government Act 1972 as amended by the Local Government [Access to Information] [variation] Order 2006

1.0 PURPOSE OF THE REPORT

- 1.1 To report on the number and type of investigations undertaken by Veritau Limited during 2016/17 to date.
- 1.2 To consider proposed changes to the County Council's money laundering policy prior to approval.
- 1.3 To consider the Annual Fraud Risk Assessment for the County Council.

2.0 BACKGROUND

- 2.1 In the current economic climate, all organisations are at an increased risk of fraud and corruption. The true cost of fraud is difficult to quantify but the most recent fraud indicator report¹ suggests that annual UK fraud could be £193 billion. Public sector fraud accounts for £37.5 billion of this total of which approximately £7.4 billion is committed against local government. The main types of local government fraud continue to be housing tenancy, council tax/NNDR, procurement, social care and 'internal' fraud. The recent CIPFA annual fraud and corruption tracker identified procurement and right to buy as significant growth areas. CIPFA also highlighted fraud where this is no immediate financial impact, for example, data manipulation and recruitment, as areas which should not be overlooked.
- 2.2 Reduced resources mean that local authorities have less capacity to investigate suspected fraud or undertake proactive counter fraud activities. In addition, responsibility for benefit fraud investigation transferred from local authorities to the Department for Work and Pensions in 2015/16. Many local authorities lost their in-house expertise and no longer have access to qualified and experienced fraud investigators. Whilst Veritau maintains a corporate fraud team, outside London only a limited number of councils are believed to have such arrangements in place.
- 2.3 Fraudsters are also adapting their methods and looking for new opportunities to perpetrate fraud. Local authorities are increasingly being targeted by organised

¹ University of Portsmouth/PKF/Experian – Annual Fraud Indicator Report 2016

criminals, including individuals and groups based outside the UK. Cross boundary fraud is also an increasing problem, particularly in the larger cities. This is at a time when the wider public sector is facing budget reductions, undergoing significant transformational change and increasing demand for services.

2.4 In July 2014, CIPFA established a new 'centre of excellence' to combat fraud. The centre is working closely with the Department for Communities and Local Government (DCLG), the Cabinet Office, the National Crime Agency (NCA) and other agencies to develop policies, tools and guidance to help public sector organisations to identify and address fraud. One of its first outputs was the Code of Practice on managing the risks of fraud and corruption. The Code highlighted five key principles which public sector organisations should consider:

- Acknowledge responsibility

Corporate leaders should acknowledge their responsibility for ensuring that the risks associated with fraud and corruption are managed effectively across all parts of the organisation;

- Identify risks

Fraud risks should be identified in order to understand specific exposures to risk, changing patterns in fraud and corruption threats and the potential consequences to the organisation and its service users;

- Develop a strategy

Each organisation should adopt a counter fraud strategy setting out its approach to managing its risks and defining responsibilities for action;

- Provide resources

Each organisation should make available appropriate resources to support the counter fraud strategy;

- Take action

Each organisation should put in place the policies and procedures to support the counter fraud and corruption strategy and take action to prevent, detect and investigate fraud.

2.5 An updated national fraud strategy '*Fighting Fraud and Corruption Locally*' was published in March 2016. The strategy is aimed at all those charged with governance in local authorities. The strategy calls for a greater emphasis on prevention and the recovery of losses. It also highlights the need for local authorities to retain a resilient response to fraud based on the sharing of services and specialist resources. The strategy sets out three principles, as follows:

- Acknowledging and understanding fraud risks

Assessing and understanding fraud risks, committing support and resource to tackling fraud, and maintaining a robust anti-fraud response

- Preventing and detecting more fraud

Making better use of information and technology, enhancing fraud controls and processes, and developing a more effective anti-fraud culture.

- Being stronger in punishing fraud / recovering losses

Prioritising fraud recovery and the use of civil sanctions, developing capability and capacity to punish fraudsters, and collaborating with law enforcement.

2.6 Whilst the County Council has a good record in maintaining standards of probity and propriety, it is essential that its arrangements for reducing the risk of loss from fraud and corruption remain effective. As a consequence the policy framework is kept under review and updated to reflect best practice as required.

2.7 In addition, the County Council in partnership with the City of York Council, Ryedale District Council, Richmondshire District Council, Hambleton District Council, and Selby District Council successfully bid for additional government funding to combat fraud. The funding was made available by the Department for Communities and Local Government (DCLG) and was intended to improve capacity in this area. The total allocation was £170k over two years and this is being used to investigate social care, council tax/NNDR and procurement related fraud across the partner councils.

3.0 THE COUNTER FRAUD POLICY FRAMEWORK

Background

3.1 The counter fraud policy framework includes the Counter Fraud Strategy, the Whistleblowing Policies and the Anti Money Laundering Policy.

3.2 The Counter Fraud Strategy was updated in March 2015 to reflect the best practice guidance contained in the Code of Practice. In addition, a new Fraud Prosecution and Loss Recovery policy, setting out the measures that can be taken to recover fraud losses, was approved. A revised Whistleblowing Policy was approved in March 2016. The related guidance for managers was also updated.

3.3 The Anti Money Laundering Policy has been reviewed and updated to take account of changes in the regulatory environment and best practice guidance. A copy of the revised Policy is attached as **Appendix 1** with the proposed amendments shown as tracked changes. New Money Laundering Regulations to implement the Fourth Directive on Money Laundering are anticipated later this year and will no doubt necessitate further amendments to the Anti Money Laundering Policy, which will be brought to the Committee for consideration. No other amendments are considered necessary to the current anti-fraud policy framework at this time.

4.0 INVESTIGATIONS UNDERTAKEN IN 2016/17

4.1 Concerns and allegations of possible fraudulent or corrupt working practices are raised with Veritau via the County Council's whistleblowing arrangements or directly by management and staff. Not all investigations result in sufficient evidence being obtained to support the allegations whilst other concerns prove to be unfounded. However, where evidence is found of fraud or wrongdoing, the following factors are often relevant:

- the need for managers and staff to remain vigilant and to question unusual transactions or patterns of behaviour;
- the need for staff to protect physical and information assets;
- the importance of sharing information about possible fraud risks with other councils and/or with other agencies;
- the importance of pro-active counter fraud measures to help prevent and detect fraud;
- the need for managers and staff to report concerns to Veritau at the earliest opportunity.

4.2 **Appendix 2** provides a summary of the number and type of investigations undertaken by Veritau during 2016/17 to date. Details of the cases investigated in the previous three years are provided for comparison purposes.

5.0 **FRAUD RISK ASSESSMENT**

5.1 Internal Audit completes an annual Fraud Risk Assessment, designed to identify the activities and areas within the County Council, which present the greatest risk of loss. This Risk Assessment is informed by the history of events and losses suffered by the County Council together with the results of recent investigations into suspected fraud, corruption and other irregularities. National issues and trends are also taken into account. The results of the Assessment are used by:

- management to develop or strengthen existing fraud prevention and detection measures;
- Veritau to further revise the Counter Fraud Policy Framework;
- Veritau to focus future audit and counter fraud work (as set out in the Annual Audit Plan).

5.2 **Appendix 3** provides the outcomes of the 2016/17 Annual Fraud Risk Assessment exercise.

6.0 **RECOMMENDATIONS**

Members are asked to:

- 6.1 note the investigations carried out by Veritau in 2016/17 to date, and the outcome of the annual Fraud Risk Assessment.
- 6.2 approve the proposed changes to the County Council's Anti Money Laundering Policy.

M A THOMAS
Head of Internal Audit

BACKGROUND DOCUMENTS

Relevant audit reports kept by Veritau Ltd at 50, South Parade

Report prepared and presented by Max Thomas, Head of Internal Audit.

County Hall
Northallerton

10 February 2017

NORTH YORKSHIRE COUNTY COUNCIL

ANTI-MONEY LAUNDERING POLICY

July-March 2017

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1.0 INTRODUCTION

- 1.1 Most organised criminal activity is directly or indirectly aimed at making money. The ability to 'launder' this money into apparently legitimate proceeds and to clean the trail of its origins to prevent it being associated with criminal activity is a major concern for criminals or organised criminal groups. The proceeds of most crime are usually generated as cash, however, this represents a considerable risk to criminals: it increases the possibility of exposure, theft by rival criminals and/or seizure by law enforcement agencies (as when cash enters the legitimate economy, it is easier to identify). Cash is also bulky and cumbersome to handle in large quantities.
- 1.2 To avoid this, criminals take action to prevent this cash from attracting suspicion, for example, they may move it to other locations, including abroad, or use it to buy other assets or try and introduce it into the legitimate economy through businesses with a high cash turnover.
- 1.3 Historically, the statutory framework seeking to prevent the laundering of the proceeds of criminal activity was aimed at professionals in the financial and investment sector, however it was subsequently recognised that those involved in criminal conduct were able to "clean" the proceeds of crime through a wider range of businesses and professional activities. A detailed regulatory compliance framework has therefore developed over time, aimed at preventing the use of the world's financial system for the purposes of money laundering and terrorist financing.
- 1.4 The legislation concerning money laundering (the Proceeds of Crime Act 2002, the Terrorism Act 2000 and the Money Laundering Regulations 2007 (all as amended) and supporting legislation) has broadened the definition of money laundering and increased the range of activities and organisations/individuals brought within the statutory framework. As a result, the obligations now impact on certain areas of local authority business. Some parts of the anti-money laundering framework apply, potentially, to everybody whereas other parts only apply to particular organisations which are in the regulated sector or carrying out certain regulated activities. It has long been unclear whether or not local authorities undertaking regulated activities are technically caught by the framework (despite legislative amendments designed to clarify that they are excluded). Guidance from supervisory bodies such as CIPFA has urged caution and advised an approach that complies with the spirit of the legislation.
- 1.5 The County Council has therefore introduced proportionate procedures designed to prevent the use of its services for money laundering, which are set out in this Policy. The Policy forms part of the Council's suite of counter-fraud policies.
- 1.6 — and is published on the Council's intranet (Finance and Central Services, Internal Audit pages) and can be accessed by following the link below:
- 1.7 —
- 1.8 — http://intranet/directorate/fcs/central_finance/internal_audit/Pages/Home.aspx
- 1.91.6 Whilst the concept of 'money laundering' being applicable to the Council may, at first, seem strange, it is easier to understand after seeing the breadth of the definition of money laundering (essentially any involvement with criminal property, ie that which represents a person's benefit from virtually any crime). So, for the majority of us, it will usually mean a suspicion that someone we know, or know of, is benefiting financially from dishonest and criminal activities. Potentially any member of staff could commit a money laundering offence if they suspect money laundering and either become involved with it in some way (without reporting it to, and seeking permission from, the Council's Money Laundering Reporting Officer ("MLRO") to continue in the transaction) and/or do nothing about it. This Policy sets out how to report such concerns.

2.0 SCOPE OF THE POLICY

2.1 This Policy applies to all employees of the ~~County~~ Council and aims to maintain the high standards of conduct which currently exist within the ~~County~~ Council by preventing criminal activity through money laundering.

2.2 All staff MUST be aware of the content of this Policy, to enable the ~~County~~ Council to comply with its legal obligations. Failure by a member of staff to comply with the procedures set out in this Policy may lead to disciplinary action being taken against them and may also constitute a criminal offence. Any disciplinary action will be dealt with in accordance with the ~~County~~ Council's Disciplinary Policy and Procedure.

3.0 WHAT IS MONEY LAUNDERING?

3.1 Under the legislation there are two main types of offences which may be committed: primary money laundering offences and failure to report money laundering offences.

Primary money laundering offences:

3.2 Money laundering means:

- concealing, disguising, converting, transferring criminal property or removing it from the UK (section 327 of the 2002 Act); or
- entering into or becoming concerned in an arrangement which you know or suspect facilitates the acquisition, retention, use or control of criminal property by or on behalf of another person (section 328); or
- acquiring, using or possessing criminal property (section 329); or
 - an attempt, conspiracy or incitement to commit such an offence; or
 - aiding, abetting, counselling or procuring such an offence; or
- becoming concerned in an arrangement facilitating concealment, removal from the jurisdiction, transfer to nominees or any other retention or control of terrorist property (section 18 of the Terrorist Act 2000);²⁷

These are the primary money laundering offences and are prohibited acts under the legislation. The provisions apply to everyone. There are certain defences, including making a disclosure to the Council's Money Laundering Reporting Officer (MLRO) and obtaining consent to continue to act.

3.3 "Criminal property" is widely defined: it is ~~property representing that which represents~~ a person's benefit from criminal conduct where you know or suspect that that is the case. It includes all property (situated in the UK or abroad) real or personal, including money, and also includes an interest in land or a right in relation to property other than land.

3.4 "Terrorist property" means money or other property which is likely to be used for the purposes of terrorism, proceeds of the commission of acts of terrorism,²⁷ and of acts carried out for the purposes of terrorism.

3.5 Money laundering therefore goes beyond major drug money laundering operations, terrorism and serious crime and now covers a range of activities (which do not necessarily need to involve money or laundering) regarding the proceeds of potentially any crime, no matter how minor and irrespective of the size of the benefit gained, for example "an illegally obtained sum of £10 is no less susceptible to the definition of criminal property than a sum of £1million." (P v P, 2003). Legitimate organisations coming into contact with criminals and the proceeds of their crimes may therefore inadvertently contravene the legislation.

Failure to report money laundering offences:

- 3.6 In addition to the primary money laundering offences, the legislation sets out further offences of failure to report suspicions of money laundering activities (to which there are certain defences). These are concerned with a person's actions (or lack of them) where money laundering activity is suspected. Such offences are committed where, in the course of conducting business in the regulated sector:
- you know or suspect, or have reasonable grounds to do so (even if you did not actually know or suspect), that another person is engaged in money laundering;
 - you can identify the money launderer or the whereabouts of the laundered property (or you believe, or it is reasonable to expect you to believe, that the information you have will assist you to identify the person/property); and
 - you do not disclose this as soon as is practicable to the MLRO (section 330 of the 2002 Act and section 21A of the 2000 Act).
- 3.7 The broad definition of money laundering means that the Act applies to a very wide range of everyday activities within the authority and therefore potentially any member of staff (irrespective of what sort of ~~County~~ Council business they are undertaking) could be caught by the money laundering provisions if they suspect money laundering and become involved with it in some way. In short, the money laundering offences apply to your own actions and to matters in which you become involved. If you become aware that your involvement in a matter through your work may amount to money laundering under the 2002 Act then you must discuss it with the MLRO and not take any further action until you have received, through the MLRO, the consent of ~~SOC~~the National Crime Agency (NCA). The failure to report money laundering obligations, referred to above, relates also to your knowledge or suspicions of others, through your work. If you know or suspect, through the course of your work, that anyone is involved in any sort of criminal conduct then it is highly likely, given the wide definition of money laundering, that s/he is also engaged in money laundering and a report to the MLRO will be required.
- 3.8 Whilst the risk to the ~~County~~ Council of contravening the legislation is low, **it is extremely important that all employees are familiar with their legal responsibilities: serious criminal sanctions may be imposed for breaches of the legislation**. Any person found guilty of a money laundering offence is liable to imprisonment (maximum of 14 years), a fine or both. However, an offence is not committed if the suspected money laundering activity is reported to the Council's MLRO and, where necessary, official permission obtained to continue in the transaction. Certain other defences are also available.

Possible signs of money laundering

- 3.9 It is impossible to give a definitive list of ways in which to spot money laundering or how to decide whether to make a report to the MLRO. The following are types of risk factors which may, either alone or cumulatively with other factors, suggest the possibility of money laundering activity:
- (a) **General**
- A new client;
 - A secretive client: eg, refuses to provide requested information without a reasonable explanation;
 - A client you have not met;

- Difficulties in establishing the identity of the client:
- Concerns about the honesty, integrity, identity or location of a client eg a client who is not present in the area and there is no good reason why they would instruct us, or information reveals that the client is linked with criminality;
- Complex or unusually large transactions/systems;
- Illogical third party transactions from the third party's perspective: eg, unnecessary routing or receipt of funds from third parties or through third party accounts;
- The source or destination of funds differs from the original details given by the client;
- Involvement of an unconnected third party without logical reason or explanation;
- Payment of a substantial sum in cash (over £10,000);
- Overpayments by a client (or money given on account); care will need to be taken, especially with requests for refunds eg a significant overpayment which results in a repayment should be properly investigated and authorised before payment;
- Absence of an obvious legitimate source of the funds;
- Movement of funds overseas, particularly to a higher risk country or tax haven;
- Providing assistance in setting up trusts or company structures, which could be used to obscure ownership of property;
- Where, without reasonable explanation, the size, nature and frequency of transactions or instructions (or the size, location or type of a client) is out of line with normal expectations;
- Unusual patterns of transactions which have no apparent economic, efficient or visible lawful purpose;
- The cancellation or reversal of an earlier transaction (where the client is likely to request the return of previously deposited monies);
- Requests for release of client account details other than in the normal course of business;
- Companies and trusts: extensive use of corporate structures and trusts in circumstances where the client's needs are inconsistent with the use of such structures;
- Poor business records or internal accounting controls;
- A previous transaction for the same client which has been, or should have been, reported to the MLRO;
- Any other activity which by its nature is likely to be related to money laundering or terrorist financing;

(b) **Property Matters**

- A cash buyer;

- Sudden change of buyer;
- The client's financial profile does not fit;
- Unusual property investment transactions if there is no apparent investment purpose or rationale;
- Instructions to receive and pay out money where there is no linked substantive property transaction involved (surrogate banking);
- Re property transactions, funds received for deposits or prior to completion from an unexpected source or where instructions are given for settlement funds to be paid to an unexpected destination;
- No clear explanation as to the source of funds along with lack of clarity as to how the client would be in a position to finance the purchase;
- Money comes in from an unexpected source.

3.10 Property transactions are a ~~slightly~~ higher risk for the ~~County~~ Council. For example, if the ~~County~~ Council agrees to sell a parcel of land to a developer or other third party, at a price that is far in excess of its estimated value, or the buyer offers to pay the full price in cash, then this may be evidence of money laundering activity. In addition, if a buyer has no legal representation, then client identification must be sought before business is conducted (see later in this Policy). If the buyer does have legal representation then that representative is responsible for undertaking the required identification.

3.11 Facts which tend to suggest that something odd is happening may be sufficient for a reasonable suspicion of money laundering to arise. Employees need to be on the look-out for anything out of the ordinary. **If something seems unusual, stop and question it.** If you are unsure, seek guidance from the MLRO.

4.0 WHAT ARE THE OBLIGATIONS ON THE COUNTY COUNCIL?

4.1 Organisations in the “**regulated sector**” and which undertake particular types of **regulated activity** (see paragraph 4.2) must:

- appoint a Money Laundering Reporting Officer (“MLRO”) to receive disclosures from employees of money laundering activity (their own or anyone else's);
- implement a procedure to enable the reporting of suspicions of money laundering;
- apply customer due diligence measures in certain circumstances;
- obtain information on the purpose and nature of certain proposed transactions/business relationships;
- conduct ongoing monitoring of certain business relationships;
- maintain record keeping and other specified procedures on a risk sensitive basis;
- train relevant staff;

the aim being to require such organisations to know their clients and the detail of the transaction being entered into and to monitor the use of their services by clients.

4.2 Not all of the business of the ~~County~~ Council is caught by the above preventative requirements: it is mainly the accountancy and treasury management, ~~tax and audit~~ services carried out by Finance, ~~and Central Services~~ and certain financial, company and property transactions undertaken by Legal and Democratic Services, and payroll services provided by Employment Support Services (and possibly others within NYCC).

Regulated activities

- ◆ participating in financial or real property transactions concerning:
 - the buying and selling of real property or business entities;
 - the managing of client money, securities or other assets;
 - the opening or management of bank, savings or securities accounts;
 - the organisation of contributions necessary for the creation, operation or management of companies; or
 - the creation, operation or management of trusts, companies or similar structures;

(a person participates in a transaction by assisting in the planning or execution of the transaction or otherwise acting for a client in relation to it);
- ◆ forming companies or other legal persons;
- ◆ acting, or arranging for another person to act:
 - as a director or secretary of a company;
 - as a partner of a partnership; or
 - in a similar position in relation to other legal persons;
- ◆ providing a registered office, business address, correspondence or administrative address or other related services for a company, partnership or any other legal person or arrangement;
- ◆ acting, or arranging for another person to act, as:
 - a trustee of an express trust or similar legal arrangement; or
 - a nominee shareholder for a person other than a company whose securities are listed on a regulated market.

4.24.3 It is clear that from recent regulations and supervisory body guidance that local authorities and in-house lawyers and accountants are not intended to be caught within the regulated sector: however, although these officers ~~ose business units~~ are not external/independent advisers to the ~~County~~ Council, they are to the external clients for whom they may undertake such work under contract. Such external work may, therefore, bring the ~~County~~ Council within the regulated sector.

4.34.4 Under the legislation, certain offences (eg failure to report money laundering activity) may only be committed in the course of a business in the regulated sector however, the safest way to ensure compliance with the law and consistency throughout the Council is to apply most of the requirements to all areas of work undertaken by the ~~County~~ Council; therefore, **all staff are required to comply with the reporting procedure set out in section 6 below.** The Customer Due Diligence Procedure and other internal procedures referred to later are only required to be followed by those engaging in regulated business as defined above.

4.44.5 Failure to comply with the above preventative requirements is a criminal offence for which you may be liable to imprisonment for up to 2 years, a fine or both.

4.54.6 The following sections of this Policy provide further detail about the requirements listed in **paragraph 4.1**.

5.0 MONEY LAUNDERING REPORTING OFFICER

5.1 The officer nominated to receive disclosures about suspected money laundering/terrorist financing activity within the ~~County~~ Council is the Head of Internal Audit, who can be contacted as follows:

Max Thomas
Director and Head of Internal Audit

Veritau Limited
[West Offices](#)
[Station Rise](#)
[York](#)
[YO1 6GAPO-Box 31](#)
[Library Square](#)
[York](#)
[YO1 7DU](#)

Telephone: City of York Council - 01904 552940

North Yorkshire County Council
County Hall
Racecourse Lane
NORTHALLERTON
North Yorkshire DL7 8AL
Telephone: North Yorkshire County Council - 01609 532143

[Mobile number - 07500766321](#)
e-mail – max.thomas@veritau.co.uk

~~(based part week at each location)~~

5.2 In the absence or unavailability of the MLRO, the Assistant Chief Executive (Legal and Democratic Services), ~~Carole Dunn~~[Barry Khan](#), is authorised to deputise for him. ~~Carole Barry~~ can be contacted at County Hall, Northallerton (see above address) or on telephone number 01609 532173 (direct line).

6.0 DISCLOSURE PROCEDURE – All employees to comply with

Reporting to the Money Laundering Reporting Officer

6.1 Where you know or suspect that money laundering activity is taking/has taken place, or you become concerned that your involvement in a matter may amount to a prohibited act under the legislation (see **paragraph 3.2** above), you **must** disclose this as soon as possible to the MLRO.

6.2 Your disclosure should be made to the MLRO using the proforma report attached at **Appendix 1**. The report must include as much detail as possible, for example:

- full details of the people involved (including yourself, if relevant), eg name, date of birth, address, company names, directorships, phone numbers, etc;
- full details of the property involved and its whereabouts (if known);

- full details of the nature of their/your involvement:
 - if you are concerned that your involvement in the transaction would amount to a prohibited act under the legislation, then your report must include all relevant details, as you will need consent from the ~~Serious Organised National~~ Crime Agency (SOGANCA), via the MLRO, to take any further part in the transaction - this is the case even if the client gives instructions for the matter to proceed before such consent is given;
 - you should therefore make it clear in the report if such consent is required and clarify whether there are any deadlines for giving such consent eg a completion date or court deadline;
- your suspicions of the types of money laundering activity involved (if you are aware of possible particular offences, please cite the relevant section number(s) if known);
- the dates of such activities, including:
 - whether the transactions have happened, are ongoing or are imminent;
- where they took place;
- how they were undertaken;
- the (likely) amount of money/assets involved;
- why, exactly, you are suspicious – SOGA-NCA will require full reasons;

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

- 6.3 Once you have reported the matter to the MLRO you must follow any directions s/he may give you. **You must NOT make any further enquiries into the matter yourself:** any necessary investigation will be undertaken by SOGANCA. Simply report your suspicions to the MLRO who will refer the matter on to SOGA-NCA if appropriate. All members of staff will be required to co-operate with the MLRO and the authorities during any subsequent money laundering investigation.
- 6.4 Similarly, **at no time and under no circumstances should you voice any suspicions** to the person(s) whom you suspect of money laundering (or anyone else), even if SOGA-NCA has given consent to a particular transaction proceeding, without the specific consent of the MLRO; otherwise, you may commit a criminal offence of “tipping off” (s333A POCA and s21D TA).
- 6.5 Do not, therefore, make any reference on a client file to a report having been made to the MLRO – should the client exercise their right to see the file, then such a note will obviously tip them off to the report having been made and may render you liable to prosecution. The MLRO will keep the appropriate records in a confidential manner.

Consideration of the disclosure by the Money Laundering Reporting Officer

- 6.6 Upon receipt of a disclosure report, the MLRO must note the date of receipt on his/her section of the report and acknowledge receipt of it. S/he should also advise you of the timescale within which s/he expects to respond to you.
- 6.7 The MLRO will consider the report and any other available internal information s/he thinks relevant eg:

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

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

6.8 Once the MLRO has evaluated the disclosure report and any other relevant information, s/he must make a timely determination as to whether:

- there is actual or suspected money laundering taking place, or
- there are reasonable grounds to know or suspect that is the case;
- s/he knows the identity of the money launderer or the whereabouts of the property involved or they could be identified or the information may assist in such identification, and
- whether s/he needs to seek consent from SOCA-NCA for a particular transaction to proceed.

6.9 Where the MLRO does so conclude, then s/he must disclose the matter as soon as practicable to SOCA-NCA via their secure on-line reporting system, **unless** s/he has a reasonable excuse for non-disclosure to SOCA-NCA (for example, if you are a lawyer and you wish to claim legal professional privilege for not disclosing the information).

6.10 Where the MLRO suspects money laundering but has a reasonable excuse for non-disclosure, then s/he must note the report accordingly; s/he can then immediately give his/her consent for any ongoing or imminent transactions to proceed.

6.11 In cases where legal professional privilege may apply, the MLRO must liaise with the legal adviser to decide whether there is a reasonable excuse for not reporting the matter to SOGANCA.

6.12 Where consent is required from SOCA-NCA for a transaction to proceed, then the transaction(s) in question must not be undertaken or completed until SOCA-NCA has specifically given consent, or there is deemed consent through the expiration of the relevant time limits without objection from NCASOGA.

6.13 Where the MLRO concludes that there are no reasonable grounds to suspect money laundering then s/he shall mark the report accordingly and give his/her consent for any ongoing or imminent transaction(s) to proceed.

6.14 All disclosure reports referred to the MLRO and reports made by him/her to NCA SOGA must be retained by the MLRO in a confidential file kept for that purpose, for a minimum of five years.

6.15 **The MLRO commits a criminal offence if s/he knows or suspects, or has reasonable grounds to do so, through a disclosure being made to him/her, that another person is engaged in money laundering of whom s/he knows the identity or the whereabouts of laundered property in consequence of the disclosure, that the person or property's whereabouts can be identified from that information, or s/he believes, or it is**

reasonable to expect him/her to believe, that the information will or may assist in such identification and s/he does not disclose this as soon as practicable to **NCASOGA**.

7.0 **CUSTOMER DUE DILIGENCE PROCEDURE – relevant to those undertaking regulated business**

7.1 Where the ~~County~~ Council is carrying out certain activities which might fall within the definition of **regulated business** (accountancy, [treasury management and payroll](#) ~~audit and tax services and legal services re financial, company or property transactions~~ – see [paragraph 4.2](#)) and:

- a) forms an ongoing business relationship with a client (which is expected to have an element of duration);
- b) undertakes an occasional transaction amounting to 15,000 Euro (approximately £11,000) or more whether carried out in a single operation or several linked ones;
- c) suspects money laundering or terrorist financing, or
- d) doubts the veracity or adequacy of information previously obtained for the purposes of client identification or verification;

then customer due diligence measures must be applied and this Customer Due Diligence Procedure must be followed **before** the establishment of the relationship or carrying out of the transaction. Customer due diligence measures must also be applied at other times to existing clients on a risk-sensitive basis.

7.2 Applying customer due diligence means:

- identifying the client and verifying the client’s identity on the basis of documents, data or information obtained from a reliable and independent source:
 - Where the client is acting or appears to be acting for someone else, reasonable steps must also be taken to establish the identity of that other person (although this is unlikely to be relevant to the ~~County~~ Council).
- identifying the beneficial owner (where s/he or it is not the client) so that we are satisfied that we know who the beneficial owner is; ~~including, in the case of a legal person, trust or similar legal arrangement, measures to understand the ownership and control structure of the person, trust or arrangement, and~~
 - Where there is a beneficial owner who is not the client, adequate measures should be taken, on a risk-sensitive basis, to verify the beneficial owner’s identity, so that you are satisfied that you know who they are, including, in the case of a legal person, trust or similar legal arrangement, measures to understand the ownership and control structure of the person, trust or arrangement. In terms of clients for whom Finance, [Employment Support Services](#) ~~and Central Services~~ and Legal Services provide services, “beneficial owner” would include bodies corporate (eg our public authority clients) and any individual who exercises control over the management of the body (eg Chief Executive Officer).
- obtaining information on the purpose and intended nature of the business relationship.

Please note that unlike the reporting procedure, the Customer Due Diligence Procedure is restricted to those employees undertaking relevant business, (eg

Finance, Employment Support Services and Central Services and Legal and Democratic Services).

7.3 In the above circumstances, staff in the relevant Service Unit of the ~~County~~ Council must obtain satisfactory evidence of the identity of the prospective client, and full details of the purpose and intended nature of the relationship/transaction, as soon as practicable after instructions are received and before the establishment of the business relationship or carrying out of the occasional transaction. **However**, the legislation does allow organisations to vary customer due diligence and monitoring according to the risk of money laundering or terrorist financing which depends on the type of customer, business relationship, product or transaction. This recognises that not all clients present the same risk. Satisfactory evidence of identity is that which:

- is capable of establishing, to the satisfaction of the person receiving it, that the client is who they claim to be; and
- does in fact do so.

7.4 In the ~~County~~ Council, details of proposed transactions are usually, as a matter of good case management practice, recorded in writing in any event and proposed ongoing business relationships are usually the subject of Terms of Business Letters, Service Level Agreements or other written record which will record the necessary details.

7.5 There is also ~~now~~ an ongoing legal obligation to check the identity of existing clients and the nature and purpose of the business relationship with them at appropriate times. Opportunities to do this will differ, however one option is to review these matters as part of the ongoing monitoring of the business arrangements, as is usually provided for in the Terms of Business Letter, Service Level Agreement or other written record. The opportunity should also be taken at these times to scrutinise the transactions undertaken throughout the course of the relationship (including, where necessary, the source of funds) to ensure they are consistent with your knowledge of the client, its business and risk profile. Particular scrutiny should be given to the following:

- complex or unusually large transactions;
- unusual patterns of transactions which have no apparent economic or visible lawful purpose; and
- any other activity particularly likely by its nature to be related to money laundering or terrorist financing.

7.6 ~~County~~ Council staff conducting regulated business need to be able to demonstrate that they know their clients and the rationale behind particular instructions and transactions.

7.7 Once instructions to provide regulated business have been received, and it has been established that any of **paragraphs 7.1 (a) to (d)** apply, or it is otherwise an appropriate time to apply due diligence measures to an existing client, evidence of identity and information about the nature of the particular work should be obtained/checked as follows:

Internal clients:

7.8 Internal clients are part of the ~~County~~ Council. Under the legislation, there is **no need to apply customer due diligence measures where the client is a UK public authority**. However, as a matter of good practice, identity of internal clients should continue to be checked as before by ensuring that signed, written instructions on ~~County~~ Council headed notepaper or via email on the internal ~~County~~ Council email system are obtained at the outset of a particular matter. Such correspondence should then be placed on the ~~County~~ Council's client file along with a prominent note explaining which correspondence constitutes the

evidence and where it is located. Full details about the nature of the proposed transaction should be recorded on the client file.

External Clients

7.9 Most of the external clients to whom the ~~County~~ Council provides potentially regulated business services are UK public authorities and consequently, as above, there is no need to apply customer due diligence measures. However, again as a matter of good practice, full details about the nature of the proposed transaction should be recorded on the client file or suitable central record (kept by the relevant Service Unit), and the identity of such external clients should continue to be checked, along with other external clients (eg designated public bodies), using the following procedure.

~~7.10 The MLRO will maintain a central file of general client identification evidence regarding the external organisations to whom Finance and Central Services and Legal and Democratic Services provide professional services, (eg the North York Moors National Park Authority, the Yorkshire Dales National Park Authority, North Yorkshire Police, North Yorkshire Fire and Rescue Authority, the North Yorkshire Probation Board, District/Borough Councils). You should check with the MLRO that the organisation in respect of which you require identification is included in the MLRO's central file and check the precise details contained in relation to that organisation.~~

7.10~~4~~ You should also then obtain the appropriate additional evidence: For external clients, appropriate additional evidence of identity will be written instructions on the organisation's official letterhead at the outset of the matter or an email from the organisation's e-communication system. Such correspondence should then be placed on the ~~County Council's relevant~~ client file or central record along with a prominent note explaining which correspondence constitutes the evidence and where it is located ~~(and including a reference to a search of the MLRO's central file, if undertaken).~~

7.11~~2~~ In some circumstances, however, enhanced due diligence (eg obtaining additional evidence of identity or source of funds to be used in the relationship/transaction) must be carried out, for example where:

- the client is not physically present when being identified. This situation is however unlikely to occur as the ~~County~~ Council normally only undertakes its regulated business for other local authorities and designated public bodies (not individuals) and therefore instructions will usually be given in writing;
- the client is a "politically exposed person" (an individual who at any time in the preceding year has held a prominent public function outside of the UK, and EU or international institution/body, their immediate family members or close associates). This is unlikely to ever be relevant to the ~~County~~ Council but the provision must be included in local procedures;

7.12~~3~~ With instructions from new clients, or further instructions from a client not well known to you, you may wish to seek additional evidence of the identity of key individuals in the organisation and of the organisation itself, for example:

- checking the organisation's website to confirm the identity of key personnel, its business address and any other details;
- conducting an on-line search via Companies House to confirm the nature and business of the client (including any registered office and registration number) and to confirm the identities of any directors;
- attending the client at their business address;

• ~~a search of the telephone directory;~~

- asking the key contact officer and/ or any individual who exercises control over the management of the body (eg the Chief Executive Officer) to provide evidence of their personal identity and position within the organisation, for example:
 - passport;
 - photocard driving licence;
 - birth certificate;
 - medical card;
 - utility bill
 - bank/building society statement (but not if used to prove address and no older than 3 months);

 - National Insurance number;

 - signed, written confirmation from their Head of Service or Chair of the relevant organisation that such person works for the organisation.

If such additional evidence is obtained, then copies should be retained on the relevant client file or a suitable central record. ~~sent to the MLRO for his/her central client identification file.~~

7.134 In all cases, the due diligence evidence should be retained for at least five years from the **end** of the business relationship or transaction(s). This could be used in any future money laundering investigation. Such personal data should be recorded and stored carefully and in compliance with the Council's information governance requirements.

7.145 **If satisfactory evidence of identity is not obtained and verified at the outset of the matter then generally the business relationship or one off transaction(s) cannot proceed any further and any existing business relationship with that client must be terminated.**

8.0 ONGOING MONITORING AND RECORD KEEPING PROCEDURES

8.1 Each Service Unit of the ~~County~~ Council conducting potentially regulated business (see paragraph 4.2) must monitor, on an ongoing basis, their business relationships in terms of scrutinising transactions undertaken throughout the course of the relationship (including, where necessary, the source of funds) to ensure that the transactions are consistent with ~~the~~ their knowledge of the client, its business and risk profile.

8.2 We must also maintain records of:

- client identification/verification evidence obtained (or references to it), and
- details of all regulated business transactions carried out for clients;

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

8.3 The precise nature of the records is not prescribed by law however they must be capable of providing an audit trail during any subsequent investigation, for example distinguishing the client and the relevant transaction and recording the source of, and in what form, any funds were received or paid. In practice, the Service Units of the ~~County~~ Council will be routinely making records of work carried out for clients in the course of normal business and these should suffice in this regard. See also **paragraphs 7.4 to 7.6.**

9.0 TRAINING

9.1 The Council will take appropriate measures to ensure that all employees are made aware of the law relating to money laundering and will arrange targeted, ongoing, training to key individuals most likely to be affected by the legislation.

10.0 RISK MANAGEMENT AND INTERNAL CONTROL

10.1 The risk to the ~~County~~ Council of contravening the anti-money laundering legislation will be assessed on a periodic basis and the adequacy and effectiveness of the Anti-Money Laundering Policy will be reviewed in light of such assessments.

10.2 The adequacy and effectiveness of, promotion of, and compliance by employees with, the documentation and procedures will also be monitored through the ~~County~~ Council's Corporate Governance and Counter Fraud Policy frameworks.

11.0 CONCLUSION

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

11.2 Should you have any concerns whatsoever regarding any transactions then you should contact the MLRO.

12.0 REVIEW OF THE POLICY

12.1 The Policy will be subject to review as and when required.

~~11 April~~ March 2017~~4~~

CONFIDENTIAL

Report to Money Laundering Reporting Officer
re money laundering activity

To: MAX THOMAS, Head of Internal Audit, NYCC Money Laundering Reporting Officer

From:
[insert name of employee]

Directorate:
[insert post title and Business Unit]

Ext/Tel No:.....

DETAILS OF SUSPECTED OFFENCE:

Name(s) and address(es) of person(s) involved:
[if a company/public body please include details of nature of business]

Nature, whereabouts, value and timing of activity/property involved:
[Please include full details eg what, when, where, how. Please also include details of current whereabouts of the laundered property, so far as you are aware. Continue on a separate sheet if necessary]

Nature of suspicions regarding such activity:

[Please continue on a separate sheet if necessary]

Has any investigation been undertaken (as far as you are aware)?

[Please tick the relevant box]

Yes

No

If yes, please include details below:

Have you discussed your suspicions with anyone else?

[Please tick the relevant box]

Yes

No

If yes, please specify below, explaining why such discussion was necessary:

Have you consulted any supervisory body guidance re money laundering? (e.g. the Law Society) *[Please tick the relevant box]*

Yes

No

If yes, please specify below:

Do you feel you have a reasonable excuse for not disclosing the matter to NCASOCA? (e.g. are you a lawyer and wish to claim legal professional privilege?) *[Please tick the relevant box]*

Yes

No

If yes, please set out full details below:

Are you involved in a transaction which might be a prohibited act (under sections 327- 329 of the 2002 Act or section 18 of the 2000 Act) and which requires appropriate consent from **NCASOCA**?
[Please tick the relevant box]

Yes

No

If yes, please enclose details in the box below:

Please set out below any other information you feel is relevant:

Signed:.....

Dated:.....

Please do not discuss the content of this report with anyone you believe to be involved in the suspected money laundering activity described. To do so may constitute a tipping off offence, which carries a maximum penalty of 5 years' imprisonment.

THE FOLLOWING PART OF THIS FORM IS FOR COMPLETION BY THE MLRO

Date report received:

Date receipt of report acknowledged:

CONSIDERATION OF DISCLOSURE:

Action plan:

OUTCOME OF CONSIDERATION OF DISCLOSURE:

**Are there reasonable grounds for suspecting money laundering activity?
Do you know the identity of the alleged money launderer or the whereabouts of the property concerned?**

If there are reasonable grounds for suspicion, will a report be made to **NCA SOGA**? *[Please tick the relevant box]*

Yes

No

If yes, please confirm date of report to **NCA SOGA**:
and complete the box below:

Details of liaison with **NCA SOGA regarding the report:**

Notice Period: to

Moratorium Period: to

Is consent required from **NCA SOGA** to any ongoing or imminent transactions which would otherwise be prohibited acts?

Yes

No

If yes, please confirm full details in the box below:

Date consent received from **NCA SOGA**:

Date consent given by you to employee:

If there are reasonable grounds to suspect money laundering, but you do not intend to report the matter to **NCA SOGA**, please set out below the reason(s) for non-disclosure:

[Please set out any reasonable excuse for non-disclosure]

Date consent given by you to employee for any prohibited act transactions to proceed:

Other relevant information:

Signed:..... Dated:.....

THIS REPORT TO BE RETAINED FOR AT LEAST FIVE YEARS

NORTH YORKSHIRE COUNTY COUNCIL**AUDIT COMMITTEE**

2 March 2017

ANNUAL TREASURY MANAGEMENT STRATEGY 2017/18**Report of the Corporate Director – Strategic Resources****1.0 PURPOSE OF THE REPORT**

- 1.1 To recommend to the County Council an updated Annual Treasury Management Strategy for the financial year 2017/18 which incorporates:
- a) the Annual Investment Strategy;
 - b) a Minimum Revenue Provision Policy;
 - c) a policy to cap Capital Financing costs as a proportion of the annual Net Revenue Budget.

2.0 INTRODUCTION AND BACKGROUND

- 2.1 The County Council is required to operate a balanced budget, which broadly means that cash raised during the year will meet cash expenditure. Part of the treasury management operation is to ensure that this cash flow is adequately planned, with cash being available when it is needed. Surplus monies are invested in low risk counterparties or instruments commensurate with the County Council's low risk appetite, providing adequate liquidity initially before considering investment return.
- 2.2 The second main function of the treasury management service is the funding of the County Council's capital plans. These capital plans provide a guide to the borrowing need of the County Council, essentially the longer term cash flow planning, to ensure that the County Council can meet its capital spending obligations. This management of longer term cash may involve arranging long or short term loans, or using longer term cash flow surpluses. On occasion, any debt previously drawn may be restructured to meet County Council risk or cost objectives.
- 2.3 CIPFA defines treasury management as:
"The management of the local authority's investments and cash flows, its banking, money market and capital market transactions; the effective control of the risks associated with those activities; and the pursuit of optimum performance consistent with those risks."

3.0 TREASURY MANAGEMENT POLICY STATEMENT

- 3.1 The CIPFA Code of Practice on Treasury Management (as updated in 2011) requires the County Council to approve:

- a) a **Treasury Management Policy Statement** (TMPS) stating the County Council's policies, objectives and approach to risk management of its Treasury Management activities;
- b) a framework of suitable **Treasury Management Practices** (TMPs) setting out the manner in which the County Council will seek to achieve the policies and objectives set out in (a) and prescribing how it will manage and control those activities. The Code recommends 12 TMPs.

3.2 The TMPS referred to in **paragraph 3.1 (a)** is attached as **Appendix A** and reflects only very minor changes for 2017/18.

3.3 The 12 TMPs recommended by the code referred to in **paragraph 3.1 (b)** which were originally submitted to Members in March 2004 were updated and approved by the Audit Committee on 6 December 2012.

4.0 **ANNUAL TREASURY MANAGEMENT AND INVESTMENT STRATEGY AND MINIMUM REVENUE PROVISION POLICY 2017/18**

4.1 **TREASURY MANAGEMENT STRATEGY**

4.2 The County Council's "Authorised Limit for External Debt" is £393.1m for 2017/18, which is the maximum that can be borrowed in the year. The County Council's "Operational Boundary" is £373.1m for 2017/18, which is the maximum amount that is expected to be borrowed. Prudential indicators are a number of key indicators, which are set to ensure that the County Council operates its activities within well-defined limits. These indicators include :-

- a) a borrowing limit on fixed interest rate exposure of 60% to 100% of outstanding principal sums
- b) a limit on variable interest rate exposure of 0% to 40% of outstanding principal sums;
- c) borrowing from the money market for capital purposes is to be limited to 30% of external debt outstanding at any one point in time; and
- d) an investment limit on fixed interest rate exposure of 0% to 30% of outstanding principal sums; and
- e) a limit on variable interest rate exposure of 70% to 100% of outstanding principal sums;

Long Term Debt Position

4.3 In **Section 10 of Appendix B**, reference is made to the long term debt position of the County Council and the attempts being made to reduce the consequential interest charge impact on the annual Revenue Budget.

- 4.4 The long term debt position of the County Council is essentially related to the level of capital expenditure undertaken. The forecast for the County Council's long term outstanding debt is demonstrated by the following table:-

| @ Year End | Debt Outstanding £m |
|-------------------|--------------------------------|
| 2014 actual | 344.6 |
| 2015 actual | 319.8 |
| 2016 actual | 316.6 |
| 2017 forecast | 328.2 |
| 2018 forecast | 326.6 |
| 2019 forecast | 319.9 |
| 2020 forecast | 318.8 |

The figures above exclude other long term liabilities such as PFI contracts and finance leases which are regarded as debt outstanding for Prudential Indicator purposes.

- 4.5 The current Long Term debt position reflects the policy of internally financing capital expenditure from cash balances which, at some stage, will have to be reversed. Furthermore, the forecasts for 31 March 2017 and subsequent years and the Prudential Indicators relating to external debt are based on an assumption that the annual capital borrowing requirements for the years 2016/17 to 2019/20 being taken externally each year. Consideration will be given, however, to delaying external borrowing throughout this period and funding annual borrowing requirements from revenue cash balances (i.e. running down investments). This has the potential for achieving short term revenue savings and also has the benefit of reducing investment exposure to credit risk.
- 4.6 The revenue cost of servicing the debt which impacts directly on the Revenue Budget / Medium Term Financial Strategy will be about £26.6m in 2017/18; this consists of interest payments of £13.2m and a revenue provision for debt repayment of £13.4m.
- 4.7 The debt outstanding levels of the County Council based on the current Capital Plan. This assumes that the Government continues to fund future capital approvals through grants rather than the previous mix of grant and supported borrowing approvals. These debt levels could be reduced further by :-
- (a) curtailing fresh capital investment and removing/reducing Capital Plan provisions that remain funded from external prudential borrowing;
 - (b) significantly increasing the Revenue Budget/MTFS provision for debt repayment above the agreed Prudential policy (about 4% of debt) that is currently made;
 - (c) removing Capital Plan schemes funded by capital receipts and using those receipts, together with future additional receipts and the current corporate capital pot, for debt repayment, rather than new capital investment;
 - (d) funding total annual borrowing requirements from internal cash balances and running down investments, and
 - (e) external debt could also be prematurely repaid from internal cash balances and also running down investments.

4.8 MINIMUM REVENUE PROVISION (MRP) POLICY

The County Council is required to determine the amount of MRP it considers prudent for each financial year. The MRP Policy is based on the Government's statutory guidance and following review of this policy, no changes are proposed at this time.

4.9 ANNUAL INVESTMENT STRATEGY

Credit Rating Criteria

4.10 The criteria for monitoring and assessing organisations (counterparties) to which the County Council may make investments (i.e. lend) are incorporated into the detailed Treasury Management Practices (TMPs) that support the Treasury Management Policy Statement (TMPS). Applying these criteria enables the County Council to produce an Approved Lending List of organisations in which it can make investments, together with specifying the maximum sum that at any time can be placed with each. The Approved Lending List is prepared, taking into account the advice of the County Council's Treasury Management Advisor, Capita Asset Services – Treasury Solutions.

4.11 In order to minimise the risk to investments, the County Council will continue to apply a minimum acceptable credit criteria in order to generate a list of highly creditworthy counterparties which also enables diversification and avoidance of concentration risk. This approach has reflected the following:-

a) a system of scoring each organisation using the Capita Asset Services – Treasury Solutions (Capita) enhanced creditworthiness service. This service, revised to reflect continuing regulatory changes, uses a sophisticated modelling system that includes:

- credit ratings published by the three credit rating agencies (Fitch, Moodys and Standard and Poor) which reflect a combination of components (long term and short term);
- credit watches and credit outlooks from the rating agencies;
- credit Default Swaps (CDS) spreads to give early warnings of likely changes in credit ratings; and
- other information sources, including, share price and other such information pertaining to the banking sector in order to establish the most robust scrutiny process on the suitability of potential investment counterparties.

All this information is then converted into a weighted credit score for each organisation and only those organisations with an appropriate score will fulfil the County Council's minimum credit criteria. The score is then converted into the end product of a colour code which is used to determine the maximum investment term for an organisation

b) sole reliance is not placed on the information provided by Capita. In addition the County Council also uses market data and information available from other sources such as the financial press and other agencies and organisations

- c) in addition to the above, the following measures also continue to be actively taken into consideration:
- institutions will be removed or temporarily suspended from the Approved Lending List if there is significant concern about their financial standing or stability;
 - investment exposure will be concentrated with higher rated institutions wherever possible.

4.12 It is, therefore, proposed that the lending criteria, above, be utilised for 2017/18. These criteria are set out in full in the Annual Treasury Management and Investment Strategy 2017/18 (Appendix B).

Debt Management Office Deposit Account

4.13 The Debt Management Office (DMO) Deposit Account is an investment facility introduced several years ago by the Government specifically for public authorities. This facility is AAA rated as it is part of the HM Treasury Operations and can be regarded as lending to the Government. It is, therefore, a 100% safe house lending option. Its standard interest rate of around 0.15% is below what could realistically be achieved elsewhere for similar short term investments.

4.14 This investment option is included in the County Council's current approved lending list with a maximum investment limit of £100m. The facility was not utilised for a number of years and no investments are anticipated in 2016/17. However, The DMO account will remain on the County Council's approved Lending List as a precaution.

Approved Lending List

4.15 The current Approved Lending List is attached to this report as **Schedule C** to the Annual Treasury Management and Investment Strategy 2017/18 (**Appendix B**). The List, however, continues to be monitored on an ongoing basis and changes made as appropriate by the Corporate Director – Strategic Resources to reflect credit rating downgrades/upgrades, mergers or market intelligence and rumours that impact on the credit 'score' and colour coding.

The changes reflected in the latest Approved Lending List compared with that submitted for 2016/17 in February 2016 are listed below. Please note that the analysis below is between the version provided last year and the proposed list for 2017/18 – it is a snapshot at a point in time. It is therefore possible that there will be in year changes that are not identified in this snapshot.

- (a) organisations included on the Approved Lending List which will NOT be included for 2017/18

| Organisation | Reason |
|---------------------|---------------|
| None | |

- (b) organisations who continue to be included on the 2017/18 Approved Lending List, but whose Maximum Investment Duration will remain as nil until Credit Ratings and market sentiment improve

| Organisation | Reason |
|---|-------------------------------|
| Clydesdale Bank (Trading as the Yorkshire Bank) | Due to fall in Credit Ratings |
| Deutsche Bank | |

- (c) organisations added to the Approved Lending List during 2016/17

| Organisation | Reason |
|--------------------|---------------------------------|
| Standard Chartered | Increase diversity of portfolio |

4.16 Local Authorities will continue to be included on the Approved Lending List for 2017/18, although suitable investment opportunities with them are limited. As a result of the way they are financed and their governance arrangements, Local Authorities are classed as having the highest credit rating.

Specified and Non Specified Investments

4.17 Utilising the assessment of credit quality, the criteria and investment limits for **specified investments** (a maximum of 364 days) are:

- institutions which are partially owned by the UK Government, (Nationalised Banks), being limited to £85m
- other institutions achieving suitable credit scores and colour banding being limited to a maximum investment limit of between £20m and £75m (actual duration and investment limit dependant on final score/colour)
- all foreign bank transactions are in sterling and are undertaken with UK based offices

4.18 The criteria for **Non Specified Investments** (for periods of more than 364 days) are:

- investments over 1 year to a maximum of 2 years with institutions which have suitable credit score
- the maximum amount for all non-specified investments is £5m with any one institution

Additional Types of Investment

4.19 The County Council may use various financial instruments for the prudent management of its treasury balances. These are listed in the list of Specified and Non Specified Investments at **Schedule B** of **Appendix A**. Deposits include a variety of products including fixed term deposits, Certificates of Deposit, Money Market Funds, Gilts, Bonds and Collateralised Deposits.

4.20 In addition, further alternative investment options are continually monitored and reviewed. Treasury Management staff are currently investigating a number of further investments

options to assess whether they meet the Council's investment priorities and criteria list. The investment options currently under investigation include, but are not limited to, Enhanced Money Market Funds, Property Funds and Corporate Bonds.

Other Sources of Income

4.21 The County Council has made a number of loans in recent years to third parties for policy reasons (as opposed to Treasury Management reasons) under the Localisation Act 2011 and the general power of wellbeing in the Local Government Act 2003. These include loans to County Council's limited companies, Yorwaste and NYnet. Further consideration will be given to providing additional loan facilities to other third parties in future. These loans will not, however, be classed as investments and will instead be classed as capital expenditure and as such will be approved, financed and accounted for accordingly.

Further Options

4.22 Because of the stringent credit rating criteria being adopted, there are relatively few organisations remaining on the County Council's Approved Lending List. The impact of future downgradings, mergers and other market intelligence could, therefore, reduce the list even further and present operational difficulties in placing investments. Under these circumstances, options that could be considered at some point in the future are as follows:-

- (a) continue to run down investments through taking no new borrowing;
- (b) running down investments through repaying existing debt prematurely subject to debt repayment premium constraints;
- (c) increasing the lending limits again for those high quality UK banks remaining on the Approved Lending List;
- (d) actively looking to invest with other local authorities although demand is variable and interest rates being offered are relatively low;

These elements cover the requirements of the Local Government Act 2003, the CIPFA Prudential Code, CLG MRP Guidance, the CIPFA Treasury Management Code and CLG Investment Guidance.

5.0 TRAINING

5.1 The CIPFA Code also requires that Members with responsibility for treasury management receive adequate training in treasury management. This especially applies to Members responsible for scrutiny (i.e. the Audit Committee). An in-house training course for Members (which was also attended by officers) was provided by Capita Asset Services – Treasury Solutions in September 2013.

5.2 The training needs of the County Council's staff involved in investment management are monitored, reviewed and addressed on an on-going basis and are discussed as part of the staff appraisal process. In practice most training needs are addressed through attendance at courses and seminars provided by CIPFA, the LGA and others on a regular ongoing basis.

6.0 TREASURY MANAGEMENT CONSULTANTS

- 6.1 The County Council uses Capita Asset Services - Treasury solutions as its external treasury management advisors.
- 6.2 The County Council recognises that responsibility for treasury management decisions remains with the organisation at all times and will ensure that undue reliance is not placed upon our external service providers. It also recognises that there is value in employing external providers of treasury management services in order to acquire access to specialist skills and resources. The County Council will ensure that the terms of their appointment and the methods by which their value will be assessed are properly agreed and documented, and subjected to regular review.

7.0 REVIEW BY AUDIT COMMITTEE

- 7.1 In its scrutiny role of the County Council's Treasury Management policies, strategies and day to day activities, the Audit Committee receives regular Treasury Management reports. These reports provide Audit Committee Members with details of the latest Treasury Management developments, both at a local and national level and enable them to review Treasury Management arrangements and consider whether they wish to make any recommendations to the Executive.
- 7.2 As the County Council is required to approve an up to date Annual Treasury Management and Investment Strategy before the start of the new financial year, it is therefore not realistic for the Audit Committee to review this document in advance of its submission to Executive and the subsequent consideration by County Council on 15 February 2017.
- 7.3 As in recent years it is therefore proposed that the Treasury Management Policy Statement (**Appendix A**) and updated Annual Treasury Management and Investment Strategy for 2017/18 (**Appendix B**) is submitted for review by the Audit Committee on 2 March 2017. Any resulting proposals for change would then be considered at a subsequent meeting of the Executive. If any such proposals were accepted and required a change to the (by then) recently approved Strategy document the Executive would submit a revised document to the County Council at its meeting on 23 May 2017.

8.0 ARRANGEMENTS FOR MONITORING / REPORTING TO MEMBERS

- 8.1 Taking into account the matters referred to in this report, the monitoring and reporting arrangements in place relating to Treasury Management activities are now as follows:
- a) an annual (i.e. this) report to Executive and County Council as part of the Budget process that sets out the County Council's **Treasury Management Strategy and Policy** for the forthcoming financial year;
 - b) an annual report to Executive and County Council as part of the Budget process that sets the various **Prudential Indicators**, together with a mid year update of these indicators as part of the Q1 Performance Monitoring report submitted to the Executive (see **(d)** below);

- c) **annual outturn reports** to the Executive for both Treasury Management and Prudential Indicators setting out full details of activities and performance during the preceding financial year;
- d) a quarterly report on Treasury Management matters to Executive as part of the **Quarterly Performance and Budget Monitoring** report;
- e) **periodic meetings** between the Corporate Director – Strategic Resources, the Corporate Affairs portfolio holder and the Chairman of the Audit Committee to discuss issues arising from the day to day management of Treasury Management activities; and
- f) reports on proposed changes to the County Council’s Treasury Management activities are submitted as required to the **Audit Committee** for consideration and comment.

9.0 RECOMMENDATIONS

9.1 That Members recommend to the County Council

- a) the Treasury Management Policy Statement as attached as **Appendix A**;
- b) the Annual Treasury Management and Investment Strategy for 2017/18 as detailed in **Appendix B** and in particular;
 - (i) an authorised limit for external debt of £393.1m in 2017/18;
 - (ii) an operational boundary for external debt of £373.1m in 2017/18;
 - (iii) the Prudential and Treasury Indicators
 - (iv) a limit of £20m of the total cash sums available for investment (both in house and externally managed) to be invested in Non Specified Investments over 364 days;
 - (v) a 10% cap on capital financing costs as a proportion of the annual Net Revenue Budget;
 - (vi) a Minimum Revenue Provision (MRP) policy for debt repayment to be charged to Revenue in 2017/18
 - (vii) the Corporate Director – Strategic Resources to report to the County Council if and when necessary during the year on any changes to this Strategy arising from the use of operational leasing, PFI or other innovative methods of funding not previously approved by the County Council;
- c) that the Audit Committee be invited to review **Appendices A and B** and submit any proposals to the Executive for consideration at the earliest opportunity.

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|---------------------------------------|
| NORTH YORKSHIRE COUNTY COUNCIL |
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| TREASURY MANAGEMENT POLICY STATEMENT |
|---|

1.0 BACKGROUND

- 1.1 The County Council has adopted the **CIPFA Code of Practice on Treasury Management in the Public Services** as updated in 2011. This Code sets out a framework of operating procedures to reduce treasury risk and improve understanding and accountability regarding the Treasury position of the County Council.
- 1.2 The CIPFA Code of Practice on Treasury Management requires the County Council to adopt the following four clauses of intent:
- (a) the County Council will create and maintain as the cornerstone for effective Treasury Management
 - (i) a strategic **Treasury Management Policy Statement (TMPS)** stating the policies, objectives and approach to risk management of the County Council to its treasury management activities;
 - (ii) a framework of suitable **Treasury Management Practices (TMPs)** setting out the manner in which the County Council will seek to achieve those policies and objectives, and prescribing how it will manage and control those activities. The Code recommends 12 TMPs;
 - (b) the County Council (full Council and/or Executive) will receive reports on its Treasury Management policies, practices and activities including, as a minimum, an annual strategy and plan in advance of the year, a mid year review and an annual report after its close, in the form prescribed in the TMPs;
 - (c) the County Council delegates responsibility for the implementation and regular monitoring of its Treasury Management policies and practices to the Executive and for the execution and administration of Treasury Management decisions to the Corporate Director – Strategic Resources who will act in accordance with the Council's TMPS, TMPs, as well as CIPFA's Standard of Professional Practice on Treasury Management;
 - (d) the County Council nominates the Audit Committee to be responsible for ensuring effective scrutiny of the Treasury Management Strategies and Policies.
- 1.3 The **CIPFA Prudential Code for Capital Finance in Local Authorities** (updated in 2011) and the terms of the **Local Government Act 2003**, together with 'statutory' Government Guidance, establish further requirements in relation to treasury management matters, namely
- (a) the approval, on an annual basis, of a set of **Prudential Indicators**;

- (b) the approval, on an annual basis, of an **Annual Treasury Management Strategy**, an **Annual Investment Strategy**, and an annual **Minimum Revenue Provision (MRP)** policy statement with an associated requirement that each is monitored on a regular basis with a provision to report as necessary both in-year and at the financial year end.

1.4 This current Treasury Management Policy Statement (TMPS) was approved by County Council on 15 February 2017.

2.0 **TREASURY MANAGEMENT POLICY STATEMENT (TMPS)**

2.1 Based on the requirements detailed above a TMPS stating the policies and objectives of the treasury management activities of the County Council is set out below.

2.2 The County Council defines the policies and objectives of the treasury management activities of the County Council as follows:-

- (a) the management of the County Council's investments and cash flows, its banking, money market and capital market transactions, the effective control of the risks associated with those activities, and the pursuit of optimum performance consistent with those risks;
- (b) the identification, monitoring and control of risk will be the prime criteria by which the effectiveness of the treasury management activities will be measured. Accordingly, the analysis and reporting of treasury management activities will focus on their risk implications for the County Council and any financial instrument entered into to manage these risks;
- (c) effective treasury management will provide support towards the achievement of the business and service objectives of the County Council as expressed in the Council Plan. The County Council is committed to the principles of achieving value for money in treasury management, and to employing suitable comprehensive performance measurement techniques, within the context of effective risk management.

2.3 As emphasised in the Treasury Management Code of Practice, responsibility for risk management and control of Treasury Management activities lies wholly with the County Council and all officers involved in Treasury Management activities are explicitly required to follow Treasury Management policies and procedures.

3.0 **TREASURY MANAGEMENT PRACTICES (TMPs)**

3.1 The CIPFA Code of Practice on Treasury Management requires a framework of Treasury Management Practices (TMPs) which:

- (a) set out the manner in which the County Council will seek to achieve the policies and objectives; and
- (b) prescribe how the County Council will manage and control those activities;

3.2 The CIPFA Code of Practice recommends 12 TMPs. These were originally approved by Members in March 2004 and have recently been updated in the light of the new Codes from CIPFA and Statutory Guidance from the Government. These updated documents were approved by the Audit Committee on 6 December 2012.

3.3 A list of the 12 TMPs is as follows:-

TMP 1 Risk management

TMP 2 Performance measurement

TMP 3 Decision-making and analysis

TMP 4 Approved instruments, methods and techniques

TMP 5 Organisation, clarity and segregation of responsibilities, and dealing arrangements

TMP 6 Reporting requirements and management information arrangements

TMP 7 Budgeting, accounting and audit arrangements

TMP 8 Cash and cash flow management

TMP 9 Money Laundering

TMP 10 Training and qualifications

TMP 11 Use of external service providers

TMP 12 Corporate governance

4.0 PRUDENTIAL INDICATORS

4.1 The Local Government Act 2003 underpins the Capital Finance system introduced on 1 April 2004 and requires the County Council to “have regard to” the **CIPFA Prudential Code for Capital Finance in Local Authorities**. This Code which was last updated in November 2011, requires the County Council to set a range of Prudential Indicators for the next three years

(a) as part of the annual Budget process, and;

(b) before the start of the financial year;

to ensure that capital spending plans are affordable, prudent and sustainable.

4.2 The Prudential Code also requires appropriate arrangements to be in place for the monitoring, reporting and revision of Prudential Indicators previously set.

4.3 The required Prudential Indicators are as follows

- Capital Expenditure - Actual and Forecasts
- estimated ratio of capital financing costs to the Net Revenue Budget
- estimates of the incremental impact of capital investment decisions on Council Tax
- Capital Financing Requirement
- Gross Debt and the Capital Financing Requirement
- authorised Limit for External Debt
- operational Boundary for External Debt
- Actual External Debt
- Adoption of the CIPFA Code of Practice for Treasury Management
- Interest Rate Exposures
- Maturity Structure of Borrowing
- Total Principal Sums Invested for periods longer than 364 days

4.4 The County Council will approve the Prudential Indicators for a three year period alongside the annual Revenue Budget/Medium Term Financial Strategy at its February meeting each year. The Indicators will be monitored during the year and necessary revisions submitted as necessary via the Quarterly Performance and Budget Monitoring reports.

4.5 In addition to the above formally required Prudential Indicators, the County Council has also set two local ones as follows:

- (a) to cap Capital Financing costs to 10% of the net annual revenue budget; and
- (b) a 30% limit on money market borrowing as opposed to borrowing from the Public Works Loan Board.

5.0 **ANNUAL TREASURY MANAGEMENT AND INVESTMENT STRATEGY**

5.1 A further implication of the Local Government Act 2003 is the requirement for the County Council to set out its Treasury Management Strategy for borrowing and to approve an Annual Investment Strategy (which sets out the County Council's policies for managing its investments and for giving priority to the security and liquidity of those investments).

5.2 The Government's guidance on the Annual Investment Strategy, updated in 2009, states that authorities can combine the Treasury Management Strategy Statement and Annual Investment Strategy into one report. The County Council has adopted this combined approach.

5.3 Further statutory Government guidance, last updated with effect from April 2012, is in relation to an authority's charge to its Revenue Budget each year for debt repayment. A Minimum Revenue Provision (MRP) policy statement must be prepared each year and submitted to the full Council for approval before the start of the financial year.

5.4 The County Council's Annual Treasury Management and Investment Strategy will therefore cover the following matters:

- treasury limits in force which will limit the treasury risk and activities
- Prudential and Treasury Indicators
- the current treasury position
- the Borrowing Requirement and Borrowing Limits
- borrowing Policy
- prospects for interest rates
- borrowing Strategy
- capping of capital financing costs
- review of long term debt and debt rescheduling
- minimum revenue provision policy
- annual investment strategy
- other treasury management issues
- arrangements for monitoring / reporting to Members

5.5 The County Council will approve this combined Annual Strategy alongside the annual Revenue Budget/Medium Term Financial Strategy at its February meeting each year.

6.0 REVIEW OF THIS POLICY STATEMENT

6.1 Under Financial Procedure Rule 14, the Corporate Director – Strategic Resources is required to periodically review this Policy Statement and all associated documentation. A review of this Statement, together with the associated annual strategies, will therefore be undertaken annually as part of the Revenue Budget process, together with a mid year review as part of the Quarterly Treasury Management reporting process and at such other times during the financial year as considered necessary by the Corporate Director – Strategic Resources.

Approved by County Council 15 February 2017

| |
|--------------------------------|
| NORTH YORKSHIRE COUNTY COUNCIL |
|--------------------------------|

| |
|---|
| ANNUAL TREASURY MANAGEMENT AND INVESTMENT STRATEGY 2017/18 |
|---|

1.0 INTRODUCTION

1.1 Treasury Management is defined as

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

1.2 The Local Government Act 2003, and supporting regulations, require the County Council to have regard to the CIPFA Prudential Code and the CIPFA Treasury Management Code of Practice to set Prudential Indicators for the next three years to ensure that the County Council’s capital investment plans are affordable, prudent and sustainable.

1.3 The Act also requires the County Council to set out its **Annual Treasury Management Strategy** for borrowing and to prepare an **Annual Investment Strategy** (as required by Investment Guidance issued subsequent to the Act) which sets out the County Council’s policies for managing its investments and for giving priority to the security and liquidity of those investments. For practical purposes these two strategies are combined in this document.

1.4 This Strategy document for 2017/18 therefore covers the following

- treasury limits in force which will limit the treasury risk and activities of the County Council (**Section 2**)
- Prudential indicators (**Section 3**)
- current treasury position (**Section 4**)
- borrowing requirement and borrowing limits (**Section 5**)
- borrowing policy (**Section 6**)
- prospects for interest rates (**Section 7**)
- borrowing strategy (**Section 8**)
- capping of capital financing costs (**Section 9**)
- review of long term debt and debt rescheduling (**Section 10**)
- minimum revenue provision policy (**Section 11**)

- annual investment strategy (**Section 12**)
- other treasury management issues (**Section 13**)
- arrangements for monitoring/reporting to Members (**Section 14**)
- specified investments (**Schedule A**)
- non-specified investments (**Schedule B**)
- approved lending list (**Schedule C**)
- approved countries for investments (**Schedule D**)

1.5 It is a statutory requirement under Section 33 of the Local Government Finance Act 1992, for the County Council to produce a balanced Annual Revenue Budget. In particular, Section 32 requires a local authority to calculate its Budget requirement for each financial year to include the revenue costs that flow from capital financing decisions. This means that increases in capital expenditure must be limited to a level whereby additional charges to the Revenue Budget arising from:-

- (a) increases in interest and principal charges caused by increased borrowing to finance additional capital expenditure, and/or;
- (b) any increases in running costs from new capital projects

are affordable within the projected revenue income of the County Council for the foreseeable future.

1.6 These issues are addressed and the necessary assurances provided by the Section 151 officer (the Corporate Director – Strategic Resources) in the 2017/18 Revenue Budget and Medium Term Financial Strategy report considered separately by the Executive on 31 January 2017 and approved by the County Council on 15 February 2017.

1.7 This Strategy document was approved by the County Council on 15 February 2017.

2.0 **TREASURY LIMITS FOR 2017/18 TO 2019/20**

2.1 It is a statutory duty under Section 3 of the Local Government Act 2003 and supporting regulations for the County Council to determine and keep under review how much it can afford to borrow. The amount so determined is termed the **Affordable Borrowing Limit**.

2.2 The County Council must have regard to the Prudential Code when setting the Affordable Borrowing Limit, which essentially requires it to ensure that total capital investment remains within sustainable limits and, in particular, that the impact upon future Council Tax levels is acceptable. In practice, it is equivalent to the Authorised Limit as defined for the Prudential Indicators.

2.3 Whilst termed an Affordable Borrowing Limit, the spending plans to be considered for inclusion incorporate financing by both external borrowing and other forms of liability such

as credit arrangements. The Affordable Borrowing Limit has to be set on a rolling basis for the forthcoming financial year and two successive financial years.

3.0 PRUDENTIAL INDICATORS FOR 2017/18 TO 2019/20

- 3.1 A separate Report incorporating an updated set of Prudential Indicators for the three year period to 31 March 2020, as required by the CIPFA Prudential Code for Capital Finance in Local Authorities, was also approved by the County Council on 15 February 2017.
- 3.2 These Prudential Indicators include a number relating to external debt and treasury management that are appropriately incorporated into this Annual Treasury Management Strategy for 2017/18.
- 3.3 Full details of the Prudential Indicators listed below are contained in the separate **Revision of Prudential Indicators** report.
- 3.4 The following Prudential Indicators are relevant for the purposes of setting an integrated Annual Treasury Management Strategy.

(a) **Capital Expenditure - Actual and Forecasts**

| | £m |
|------------------|-----------|
| 2015/16 actual | 114.9 |
| 2016/17 estimate | 116.6 |
| 2017/18 estimate | 105.1 |
| 2018/19 estimate | 93.8 |
| 2019/20 estimate | 62.7 |

(b) **Estimated ratio of capital financing costs to the Net Revenue Budget**

- (i) formally required indicator net of interest earned

| | |
|------------------|------|
| 2015/16 actual | 7.6% |
| 2016/17 probable | 7.3% |
| 2017/18 estimate | 7.2% |
| 2018/19 estimate | 7.0% |
| 2019/20 estimate | 6.7% |

- (ii) Local Indicator capping capital financing costs to 10% of the annual Net Revenue Budget

| | |
|------------------|------|
| 2015/16 actual | 7.9% |
| 2016/17 probable | 7.6% |
| 2017/18 estimate | 7.4% |
| 2018/19 estimate | 7.1% |
| 2019/20 estimate | 6.9% |

(c) **Estimates of the incremental impact of capital investment decisions on the Council Tax requirement**

| | |
|--------------------------|------------|
| For a Band D Council Tax | £ p |
| 2017/18 estimate | 0.63 |
| 2018/19 estimate | 1.38 |
| 2019/20 estimate | 1.93 |

(d) **Capital Financing Requirement (as at 31 March)**

| | Borrowing £m | Other Long Term Liabilities £m | Total £m |
|------------------------|-------------------------|---|---------------------|
| 31 March 2016 actual | 347.1 | 5.5 | 352.6 |
| 31 March 2017 probable | 330.7 | 5.3 | 336.0 |
| 31 March 2018 estimate | 321.6 | 5.1 | 326.7 |
| 31 March 2019 estimate | 308.9 | 4.7 | 313.6 |
| 31 March 2020 estimate | 301.8 | 4.4 | 306.2 |

(e) **Gross Debt and the Capital Financing Requirement**

In order to ensure that over the medium term debt will only be for Capital purposes, the County Council should ensure that debt does not, except in the short term, exceed the total of the Capital Financing Requirement in the preceding year, plus the estimate of any additional capital financing requirement for 2017/18 and the next two financial years.

The Corporate Director – Strategic Resources confirms that the County Council had no difficulty in meeting this requirement up to 2015/16 nor are any difficulties envisaged for the current or future financial years covered by this PI update to 2019/20. For subsequent years, however, there is the potential that the County Council may not be able to comply with this requirement as a result of the potential for the annual Minimum Revenue Provision (MRP) reducing the Capital Financing Requirement below gross debt. This potential situation will be monitored closely.

(f) **Authorised Limit for external debt**

| | External Borrowing £m | Other Long Term Liabilities £m | Total Borrowing Limit £m |
|---------|--------------------------------------|---|---|
| 2016/17 | 375.8 | 5.3 | 381.1 |
| 2017/18 | 388.0 | 5.1 | 393.1 |
| 2018/19 | 362.4 | 4.8 | 367.2 |
| 2019/20 | 380.8 | 4.4 | 385.2 |

(g) **Operational Boundary for external debt**

| | External Borrowing £m | Other Long Term Liabilities £m | Total Borrowing £m |
|---------|--------------------------------------|---|-----------------------------------|
| 2016/17 | 355.8 | 5.3 | 361.1 |
| 2017/18 | 368.0 | 5.1 | 373.1 |
| 2018/19 | 342.4 | 4.8 | 347.2 |
| 2019/20 | 360.8 | 4.4 | 365.2 |

(h) **Actual External Debt**

| | Borrowing £m | Other Long Term Liabilities £m | Total £m |
|---------------------------|-------------------------|---|---------------------|
| at 31 March 2016 actual | 316.6 | 5.5 | 322.1 |
| at 31 March 2017 probable | 328.2 | 5.3 | 333.5 |
| at 31 March 2018 estimate | 326.6 | 5.1 | 331.7 |
| at 31 March 2019 estimate | 319.9 | 4.8 | 324.7 |
| at 31 March 2020 estimate | 318.8 | 4.4 | 323.2 |

(i) **Limit of Money Market Loans** (Local Indicator)

Borrowing from the money market for capital purposes is to be limited to 30% of the County Council's total external debt outstanding at any one point in time.

(j) **Adoption of CIPFA Code of Practice for Treasury Management in the Public Services**

The County Council agreed to adopt the latest updated Code issued in November 2011 on 15 February 2012.

(k) **Interest Rate exposures**

| Borrowing | %age of outstanding principal sums |
|---|---|
| Limits on fixed interest rate exposures | 60 to 100 |
| Limits on variable interest rate exposures | 0 to 40 |
| Investing | |
| Limits on fixed interest rate exposures | 0 to 30 |
| Limits on variable interest rate exposures | 70 to 100 |
| Combined net borrowing/investment position | |
| Limits on fixed interest rate exposures | 160 to 300 |
| Limits on variable interest rate exposures | -60 to -200 |

(l) **Maturity Structure of borrowing**

| | | |
|--|--------------------|--------------------|
| The amount of projected borrowing maturing in each period as a percentage of total projected borrowing that is fixed rate. | | |
| | Lower Limit | Upper Limit |
| | % | % |
| under 12 months | 0 | 50 |
| 12 months and within 24 months | 0 | 15 |
| 24 months and within 5 years | 0 | 45 |
| 5 years and within 10 years | 0 | 75 |
| 10 years and within 25 years | 10 | 100 |
| 25 years and within 50 years | 10 | 100 |

(m) **Total principal sums invested for periods longer than 364 days**

Based on estimated levels of funds and balances over the next three years, the need for liquidity and day-to-day cash flow requirements, it is forecast that a maximum of £20m of 'core cash funds' available for investment can be held in aggregate in Non-Specified Investments over 364 days.

4.0 CURRENT TREASURY POSITION

4.1 The County Council's treasury portfolio position at 31 March 2016 consisted of:

| Item | Principal £m | Average Rate at 31 March 2016 % |
|-------------------------|-------------------------|--|
| Debt Outstanding | | |
| Fixed Rate funding | | |
| PWLB | 296.6 | 4.43 |
| Variable Rate funding | | |
| Market LOBO's | 20.0 | 3.95 |
| Total Debt Outstanding | 316.6 | 4.40 |
| Investments | | |
| Managed in house | 261.1 | 0.64 |
| Net Borrowing | 55.5 | |

5.0 BORROWING REQUIREMENT AND BORROWING LIMITS

5.1 The County Council's annual borrowing requirement consists of the capital financing requirement generated by capital expenditure in the year plus replacement borrowing for debt repaid less a prudent Minimum Revenue Provision charged to revenue for debt payment. These borrowing requirements are set out below.

| Year | Basis | £m | Comment |
|---------|-------------|------|---|
| 2015/16 | actual | 0 | No actual external borrowing was undertaken in 2015/16. The total requirement was £19.5m (including the rolled forward requirement from previous years) which was all financed internally from cash balances. |
| 2016/17 | requirement | 19.2 | Includes £19.5m capital borrowing requirement rolled over from 2015/16 |
| 2017/18 | estimate | 19.8 | The much higher figures for 2017/18 and 2019/20 include 'refinancing' significant PWLB loan repayments in those years. |
| 2018/19 | estimate | -4.3 | |
| 2019/20 | estimate | 20.9 | |

5.2 The Prudential Indicators include an Authorised Limit (f) and Operational Boundary (g) for external debt for each of the three years to 2019/20.

5.3 The **Operational Boundary** reflects an estimate of the most likely, prudent but not worst case scenario of external debt during the course of the financial year. The **Authorised Limit** is based on the same estimate as the **Operational Boundary** but allows sufficient headroom (£20m) over this figure to allow for unusual cash movements.

5.4 The **Authorised Limit** therefore represents the maximum amount of external debt which the County Council approves can be incurred at any time during the financial year and includes both capital and revenue requirements. It is not, however, expected that the County Council will have to borrow up to the Limit agreed.

5.5 The agreed **Operational Boundary** and **Authorised Limits** for external debt up to 2019/20 are derived as follows:

| Item | 2016/17 probable £m | 2017/18 estimate £m | 2018/19 estimate £m | 2019/20 estimate £m |
|--|---------------------------|---------------------------|---------------------------|---------------------------|
| Debt outstanding at start of year | | | | |
| PWLB | 296.6 | 328.2 | 326.6 | 319.9 |
| Other Institutions | 20.0 | | | |
| Sub-total | 316.6 | 328.2 | 326.6 | 319.9 |
| + External borrowing requirements | | | | |
| Capital borrowing requirement | -2.6 | 4.1 | 0.2 | 5.5 |
| Replacement borrowing | 7.6 | 21.4 | 2.5 | 22.0 |
| MRP charged to Revenue etc | -13.8 | -13.2 | -13.0 | -12.6 |
| Borrowing rolled over from 2015/16 | 19.5 | - | - | - |
| Internally funded variations | 8.5 | 7.5 | 5.9 | 6.0 |
| Sub-total | 19.2 | 19.8 | -4.3 | 20.9 |
| - External debt repayment | -7.6 | -21.4 | -2.5 | -22.0 |
| = Forecast debt outstanding at end of year | 328.2 | 326.6 | 319.9 | 318.8 |
| + Other 'IFRS' long term liabilities which are regarded as debt outstanding for PIs | | | | |
| PFI | 4.2 | 4.0 | 3.7 | 3.3 |
| Leases | 1.1 | 1.1 | 1.1 | 1.1 |
| = Total debt outstanding including 'other long term liabilities' (PI7) | 333.5 | 331.7 | 324.7 | 323.2 |
| + Provision for | | | | |
| Debt rescheduling | 15.0 | 15.0 | 15.0 | 15.0 |
| Potential capital receipts slippage | 5.0 | 5.0 | 5.0 | 5.0 |
| New borrowing taking place before principal repayments made | 7.6 | 21.4 | 2.5 | 22.0 |
| = Operational Boundary for year (PI7) | 361.1 | 373.1 | 347.2 | 365.2 |
| + Provision to cover unusual cash movements | 20.0 | 20.0 | 20.0 | 20.0 |
| = Authorised Limit for year (PI6) | 381.1 | 393.1 | 367.2 | 385.2 |

5.6 The 2017/18 Limits are as follows:

| | £m |
|---|--------------|
| Operational Boundary for external debt | 373.1 |
| + provision to cover unusual cash movements during the year | 20.0 |
| = Authorised Limit for 2017/18 | 393.1 |

5.7 All the debt outstanding estimates and the Prudential Indicators relating to external debt are based on annual capital borrowing requirements being taken externally and therefore increasing debt outstanding levels. Consideration will be given, however, to delaying external borrowing throughout this period and funding annual borrowing requirements from revenue cash balances (i.e. running down investments).

6.0 **BORROWING POLICY**

- 6.1 The policy of the County Council for the financing of capital expenditure is set out in Treasury Management Practice Note 3 which supports the Treasury Management Policy Statement.
- 6.2 In practical terms the policy is to finance capital expenditure by borrowing from the Public Works Loan Board (for periods up to 50 years) or the money markets (for periods up to 70 years) whichever reflects the best possible value to the County Council. Individual loans are taken out over varying periods depending on the perceived relative value of interest rates at the time of borrowing need and the need to avoid a distorted loan repayment profile. Individual loans are not linked to the cost of specific capital assets or their useful life span. Decisions to borrow are made in consultation with the County Council's Treasury Management Advisor (Capita Asset Services – Treasury Solutions).
- 6.3 In addition to the PWLB the County Council can borrow from the money market (principally banks and building societies) and this is usually effected via a LOBO (Lender Option, Borrower Option). Such loans feature an initial fixed interest period followed by a specified series of calls when the lender has the option to request an interest rate increase. The borrower then has the option of repaying the loan (at no penalty) or accepting the higher rate.
- 6.4 Borrowing from the money market for capital purposes is limited to 30% of the County Council's total external debt outstanding at any one point in time (per **Prudential Indicator 9**).
- 6.5 The County Council will always look to borrow from the PWLB and money markets at the most advantageous rate. The Corporate Director – Strategic Resources will monitor this situation closely throughout the year to determine whether at any stage, money market loans are more appropriate and advantageous to the County Council than PWLB loans.
- 6.6 At present all County Council long term borrowing is from the PWLB or via equally advantageous money market loans. However some short term money market borrowing may take place during the financial year in order to take advantage of low interest rates or to facilitate any debt restructuring exercise.
- 6.7 Depending on the relationship between short term variable interest rates and the fixed term PWLB or LOBO rates for longer periods, some capital expenditure may be financed by short term borrowing from either the County Council's revenue cash balances or outside sources.

Policy on borrowing in advance of need

- 6.8 The Prudential Code allows external 'borrowing for capital purposes' in advance of need within the constraints of relevant approved Prudential Indicators. Taking estimated capital borrowing requirements up to 31 March 2020 any time after 1 April 2017 is allowable under the Prudential Code. There are risks, however, in such borrowing in advance of need and the County Council has not taken any such borrowing to date and there are no current plans to do so. Furthermore the County Council will not borrow more than, or in advance of, its needs purely in order to profit from the investment of the extra sums borrowed.

6.9 Any decision to borrow in advance of need will only be considered where there is

- a clear business case for doing so for the current Capital Plan
- to finance future debt maturity repayments
- value for money can be demonstrated
- the County Council can ensure the security of such funds which are subsequently invested

6.10 Any future consideration of whether borrowing will be undertaken in advance of need the County Council will:

- ensure that there is a clear link between the Capital Plan and maturity of the existing debt portfolio which supports the need to take funding in advance of need
- ensure the ongoing revenue liabilities created, and the implications for the future plans and budgets have been considered
- evaluate the economic and market factors that might influence the manner and timing of any decision to borrow
- consider the merits and demerits of alternative forms of funding
- consider the alternative interest rate bases available, the most appropriate periods to fund and repayment profiles to use
- consider the impact of borrowing in advance (until required to finance capital expenditure) on temporarily increasing investment cash balances and the consequent increase in exposure to counter party risk and other risks, and the level of such risks given the controls in place to minimise them.

7.0 PROSPECTS FOR INTEREST RATES

7.1 Whilst recognising the continuing volatility and turbulence in the financial markets, the following paragraphs present a pragmatic assessment of key economic factors as they are likely to impact on interest rates over the next three years.

7.2 In terms of the key economic background and forecasts, looking ahead the current position is as follows:

(a) The UK Economy

- UK GDP growth rates in 2013 – 2015 were some of the strongest rates among the G7 countries and growth is expected to have strengthened in 2016. The latest Bank of England forecast for growth in 2016 as a whole is +2.2%.
- The referendum vote in June 2016 delivered an immediate shock fall in confidence indicators and business surveys at the beginning of August, which were interpreted

by the Bank of England in its August Inflation Report as pointing to an impending sharp slowdown in the economy. However, the following monthly indicators/surveys showed an equally sharp recovery in confidence so that it is generally expected that the economy will post reasonably strong growth numbers through 2016 and 2017, albeit at a slower pace than in the first half of 2016.

- The Bank of England GDP forecasts in the November quarterly Inflation Report were as follows, 2016 +2.2%, 2017 +1.4%, 2018 +1.5%. There has, therefore, been a sharp increase in the forecast for 2017 and a small decline in growth, now being delayed until 2018, as a result of the impact of Brexit.
- The Chancellor has said he will do 'whatever is needed' to promote growth and there are two main options he can follow – fiscal policy e.g. cut taxes, increase investment allowances for businesses, and/or increase government expenditure on infrastructure, housing etc. This will mean that the Public sector borrowing requirement (PSBR) deficit elimination timetable will need to slip further into the future as promoting growth, (and ultimately boosting tax revenues in the longer term), will be a more urgent priority.
- The Monetary Policy Committee, (MPC), meeting of 4th August was dominated by countering the expected sharp slowdown and resulted in a package of measures that included a cut in Bank Rate from 0.50% to 0.25%, a renewal of quantitative easing, with £70bn made available for purchases of gilts and corporate bonds, and a £100bn tranche of cheap borrowing being made available for banks to use to lend to businesses and individuals.
- The MPC meeting of 3 November left Bank Rate (0.25%) and other monetary policy measures unchanged. This was in line with market expectations, but a major change from the previous quarterly Inflation Report MPC meeting in August, which had given a strong steer that it was likely to cut Bank Rate again by the end of the year if economic data turned out as forecast by the Bank.
- The latest MPC decision included a forward view that Bank Rate could go either up or down depending on how economic data evolves in the coming months. Capita's view remains that Bank Rate will remain unchanged at 0.25% until the first increase to 0.50% in mid-2019 (unchanged from the previous forecast). However, the risk of a cut in Bank Rate cannot be discounted if economic growth were to take a significant dip downwards.
- Consumer expenditure has very much stayed in a 'business as usual' mode and there has been no sharp downturn in spending; it is consumer expenditure that underpins the services sector which comprises about 75% of UK GDP.

(b) Global Economy

- **Eurozone (EZ).** In 2015, the ECB commenced its €1.1 trillion programme of quantitative easing at a rate of €60bn per month which was intended to run until September 2017. In early 2016 the ECB also progressively cut its deposit facility rate to reach -0.4% and its main refinancing rate from 0.05% to zero. These measures have struggled to make a significant impact. As a result, during 2015 and 2016 the ECB increased its monthly asset purchases to €80bn and extended the programme until the end of March 2017 (but then continuing at a pace of €60 billion until the end

of December 2017) or until there is a sustained adjustment in the path of inflation. If the outlook does become less favourable, it is expected that the Governing Council will increase the programme further in terms of size and/or duration.

- **Greece and Spain.** Greece continues to cause major stress in the EU due to its reluctance to implement key reforms required by the. Spain has had two inconclusive general elections in 2015 and 2016, both of which failed to produce a workable government, which is a potentially a highly unstable situation, particularly given the need to deal with an EU demand for implementation of a package of austerity cuts which will be highly unpopular.
- **European Union (EU).** Given the number and type of challenges the EU faces in the next eighteen months, (including elections in the Netherlands, France and Germany) there is an identifiable risk for the EU project to be called into fundamental question. The risk of an electoral revolt against the EU establishment has gained traction after the results of the UK referendum and the US Presidential election, but it remains to be seen whether any shift in sentiment will gain sufficient traction to produce any further shocks within the EU.
- **USA.** The American economy saw sharp swings in the quarterly growth rate in late 2015 and early 2016. However, quarter 3 (3.2%) signalled a rebound to strong growth. The Fed. embarked on its first increase in interest rates at its December 2015 meeting. At that point, confidence was high that there would be further increases in 2016. Since then, more downbeat news internationally has caused a delay in the timing of the second increase. Overall, the US is still probably the best positioned of the major world economies to make solid progress towards a combination of strong growth, full employment and rising inflation. The result of the presidential election in November is expected to lead to a strengthening of US growth if Trump's election promise of a major increase in expenditure on infrastructure is implemented. However, although the Republicans now have a President and a majority in both Congress and the Senate, there is by no means any certainty that the politicians will implement the more extreme policies outlined during the election campaign.
- **Asia.** Economic growth in Japan is still patchy, at best, and skirting with deflation, despite successive rounds of huge monetary stimulus and massive fiscal action to promote consumer spending. Economic growth in China has been slowing down and this, in turn, has been denting economic growth in emerging market countries dependent on exporting raw materials to China. Medium term risks have been increasing in China e.g. a dangerous build up in the level of credit compared to the size of GDP, plus there is a need to address a major over supply of housing and surplus industrial capacity, which both need to be eliminated. This needs to be combined with a rebalancing of the economy from investment expenditure to consumer spending.
- **Emerging Countries.** There have been major concerns around the vulnerability of some emerging countries exposed to the downturn in demand for commodities from China or to competition from the increase in supply of American shale oil and gas reaching world markets. The ending of sanctions on Iran has also brought a further significant increase in oil supplies into the world markets. While these concerns have subsided during 2016, if interest rates in the USA do rise substantially over the next few years, (and this could also be accompanied by a rise in the value of the dollar in

exchange markets), this could cause significant problems for those emerging countries with large amounts of debt denominated in dollars.

(c) Capita Asset Services Forward View

- Economic and interest rate forecasting remains difficult with so many external influences weighing on the UK. The above forecasts, (and MPC decisions), will be liable to further amendment depending on how economic data and developments in financial markets transpire over the next year. Geopolitical developments, especially in the EU, could also have a major impact. Forecasts for average investment earnings beyond the three-year time horizon will be heavily dependent on economic and political developments
- The overall longer run trend is for gilt yields and PWLB rates to rise, albeit gently. It has long been expected that at some point, there would be a start to a switch back from bonds to equities after a historic long term trend over about the last twenty five years of falling bond yields. The action of central banks since the financial crash of 2008, in implementing substantial quantitative easing purchases of bonds, added further impetus to this downward trend in bond yields and rising prices of bonds. The opposite side of this coin has been a rise in equity values as investors searched for higher returns and took on riskier assets. PWLB rates and gilt yields have been experiencing exceptional levels of volatility that have been highly correlated to geopolitical, sovereign debt crisis and emerging market developments. It is likely that these exceptional levels of volatility could continue to occur for the foreseeable future.
- The overall balance of risks to economic recovery in the UK is to the downside, particularly in view of the current uncertainty over the final terms of Brexit and the timetable for its implementation.
- Downside risks to current forecasts for UK gilt yields and PWLB rates currently include:
 - monetary policy action by the central banks of major economies reaching its limit of effectiveness;
 - major national polls in Italy, Spain, The Netherlands, France and Germany;
 - a resurgence of the Eurozone sovereign debt crisis;
 - weak capitalisation of some European banks, especially Italian;
 - geopolitical risks in Europe, the Middle East and Asia;
 - UK economic growth and increases in inflation are weaker than we currently anticipate; and
 - weak growth or recession in the UK's main trading partners - the EU and US.
- The potential for upside risks to current forecasts for UK gilt yields and PWLB rates, especially for longer term PWLB rates include: -
 - UK inflation rising to significantly higher levels than in the wider EU and US, causing an increase in the inflation premium in gilt yields;
 - a rise in US Treasury yields as a result of Fed. funds rate increases and rising inflation expectations in the USA;
 - the pace and timing of increases in the Fed. funds rate; and
 - a downward revision to the UK's sovereign credit rating undermining investor confidence in holding sovereign debt (gilts).

7.3 The County Council has appointed Capita Asset Services – Treasury Solutions as its treasury management advisor and part of their service is to assist in formulating a view on interest rates. By drawing together a number of current city forecasts for short term (Bank rate) and longer fixed interest rates a consensus view for bank rate, PWLB borrowing rates and short term investment rates is as follows:-

| | Bank Rate | PWLB Borrowing Rates | | | | Short Term Investment Rates | |
|-----------|-----------|----------------------|---------|---------|---------|-----------------------------|--------|
| | | 5 year | 10 year | 25 year | 50 year | 3 Months | 1 Year |
| | % | % | % | % | % | % | % |
| Mar 2017 | 0.25 | 1.60 | 2.30 | 2.90 | 2.70 | 0.30 | 0.70 |
| June 2017 | 0.25 | 1.60 | 2.30 | 2.90 | 2.70 | 0.30 | 0.70 |
| Sept 2017 | 0.25 | 1.60 | 2.30 | 2.90 | 2.70 | 0.30 | 0.70 |
| Dec 2017 | 0.25 | 1.60 | 2.30 | 3.00 | 2.80 | 0.30 | 0.70 |
| Mar 2018 | 0.25 | 1.70 | 2.30 | 3.00 | 2.80 | 0.30 | 0.70 |
| June 2018 | 0.25 | 1.70 | 2.40 | 3.00 | 2.80 | 0.30 | 0.80 |
| Sept 2018 | 0.25 | 1.70 | 2.40 | 3.10 | 2.90 | 0.30 | 0.80 |
| Dec 2018 | 0.25 | 1.80 | 2.40 | 3.10 | 2.90 | 0.40 | 0.90 |
| Mar 2019 | 0.25 | 1.80 | 2.50 | 3.20 | 3.00 | 0.50 | 1.00 |
| June 2019 | 0.50 | 1.90 | 2.50 | 3.20 | 3.00 | 0.60 | 1.10 |
| Dec 2019 | 0.75 | 2.00 | 2.60 | 3.30 | 3.10 | 0.80 | 1.30 |

7.4 Based on the above

Bank Rate

- bank rate currently set at 0.25% underpins investment returns and is not expected to start increasing until mid 2019
- it is then expected to continue rising by further 0.25% increases reaching 0.75% by December 2019 (0.50% in June 2019)
- as economic forecasting remains difficult with so many external influences weighing on the UK, bank rate forecasts will be liable to further amendments depending on how economic data transpires in the future
- in addition there are significant potential risks from the Eurozone and from financial flows from emerging market in particular so continuing caution must be exercised in respect of all interest rate forecasts at present

PWLB Rates

- fixed interest PWLB borrowing rates are based on UK gilt yields
- the overall longer run trend for gilt yields and PWLB rates is to rise due to the high volume of gilt issuance in the UK and of bond issuance in other major Western countries. Over time, an increase in investors' confidence in world economic recovery is also likely to compound this effect as recovery will further encourage investors to switch from bonds to equities
- there are however a number of downside and upside risks to UK gilt yields and PWLB rates, especially for longer term PWLB rates

- PWLB rates are seen to be on a rising trend with a forecast to rise gradually throughout the next three years in all periods as follows:-

| Period | March 2017 | March 2020 | Increase |
|----------|------------|------------|----------|
| | % | % | % |
| 5 years | 1.60 | 2.00 | + 0.40 |
| 10 years | 2.30 | 2.70 | + 0.40 |
| 25 years | 2.90 | 3.40 | + 0.50 |
| 50 years | 2.70 | 3.20 | + 0.50 |

Short Term Investment Rates

- investment returns are likely to remain relatively low during 2017/18 and beyond
- returns are expected to increase along with bank rate increases

7.5 The current economic outlook and structure of market interest rates and government debt yields have several key treasury management implications:

- Investment returns are likely to remain relatively low during 2017/18 and beyond;
- Borrowing interest rates have been on a generally downward trend during most of 2016 up to mid-August; they fell sharply to historically phenomenally low levels after the referendum and then even further after the MPC meeting of 4 August when a new package of quantitative easing purchasing of gilts was announced. Gilt yields have since risen sharply due to a rise in concerns around a 'hard Brexit', the fall in the value of sterling, and an increase in inflation expectations. The policy of avoiding new borrowing by running down spare cash balances, has served well over the last few years. However, this needs to be carefully reviewed to avoid incurring higher borrowing costs in later times when authorities will not be able to avoid new borrowing to finance capital expenditure and/or to refinance maturing debt;
- There will remain a cost of carry to any new long-term borrowing that causes a temporary increase in cash balances as this position will, most likely, incur a revenue costloss – the difference between borrowing costs and investment returns.

8.0 BORROWING STRATEGY 2017/18

8.1 Based on the interest rate forecast outlined in **Section 7** above, there is a range of potential options available for the Borrowing Strategy for 2017/18. Consideration will therefore be given to the following:

- (a) the County Council is currently maintaining an under borrowed position. This means that the capital borrowing need (the Capital Financing Requirement) has not been fully funded with loan debt as cash supporting the authority's reserves, balances and cash flow has been used as a temporary measure. This strategy is currently prudent as investment returns are low and counterparty risk remains relatively high;
- (b) based on analysis, the cheapest borrowing will be internal borrowing achieved by continuing to run down cash balances and foregoing interest earned at historically low rates . However in view of the overall forecast for long term borrowing rates to

increase over the next few years, consideration will also be given to weighing the short term advantage of internal borrowing against potential long term costs if the opportunity is missed for taking market loans at long term rates which will be higher in future years;

- (c) long term fixed market loans at rates significantly below PWLB rates for the equivalent maturity period (where available) and to maintain an appropriate balance between PWLB and market debt in the debt portfolio. The current market availability of such loans is, however, very limited and is not expected to change in the immediate future;
- (d) PWLB borrowing for periods under 10 years where rates are expected to be significantly lower than rates for longer periods. This offers a range of options for new borrowing which would spread debt maturities away from a concentration in longer dated debt. The downside of such shorter term borrowing is the loss of long term stability in interest payments that longer term fixed interest rate borrowing provides;
- (e) consideration will be given to PWLB borrowing by annuity and Equal Instalments of Principal (EIP) in addition to maturity loans, which have been preferred in recent years;
- (f) PWLB rates are expected to gradually increase throughout the financial year so it would therefore be advantageous to time any new borrowing earlier in the year;
- (g) borrowing rates continue to be relatively attractive and may remain relatively low for some time, as a result, the timing of any borrowing will need to be monitored carefully. There will also remain a 'cost of borrowing' with any borrowing undertaken that results in an increase in investments incurring a revenue loss between borrowing costs and investment returns.

8.2 Based on the PWLB forecasts, suitable trigger rates for considering new fixed rate PWLB or equivalent money market borrowing will be set. The aim, however, would be to secure loans at rates below these levels if available.

8.3 The forecast rates and trigger points for new borrowing will be continually reviewed in the light of movements in the slope of the yield curve, the spread between PWLB new borrowing and early repayment rates, and any other changes that the PWLB may introduce to their lending policy and operations.

External -v- internal borrowing

8.4 The County Council's net borrowing figures (external borrowing net of investments) are significantly below the authority's capital borrowing need (Capital Financing Requirement – CFR) because of two main reasons

- (a) a significant level of investments (cash balances – core cash plus cash flow generated)
- (b) internally funded capital expenditure.

8.5 Such internal borrowing stood at £30.5m at 31 March 2016, principally as a result of funding company loans from internal, rather than external borrowing, and not taking up any new

debt for the 2011/12, 2012/13, 2013/14, 2014/15 and 2015/16 borrowing requirements. The level of this internal capital borrowing depends on a range of factors including:

- (a) premature repayment of external debt;
- (b) the timing of any debt rescheduling exercises;
- (c) the timing of taking out annual borrowing requirements;
- (d) policy considerations on the relative impact of financing capital expenditure from cash balances compared with taking new external debt with the balance of external and internal borrowing being generally driven by market conditions.

8.6 The County Council continues to examine the potential for undertaking further early repayment of some external debt in order to reduce the difference between the gross and net debt position. However the introduction by the PWLB of significantly lower repayment rates than new borrowing rates in November 2007 compounded by a considerable further widening of the difference between new borrowing and repayment rates in October 2010, has meant that large premiums would be incurred by such actions which could not be justified on value for money grounds. This situation will be monitored closely in case the differential is narrowed by the PWLB at some future dates.

8.7 This internal capital borrowing option is possible because of the County Council's cash balance with the daily average being £287.7m in 2015/16. This consisted of cash flow generated (creditors etc), core cash (reserves, balances and provisions etc) and cash managed on behalf of other organisations. Consideration does therefore need to be given to the potential merits of internal borrowing.

8.8 As 2017/18 is expected to continue as a year of historically low bank interest rates, this extends the current opportunity for the County Council to continue with the current internal borrowing strategy.

8.9 Over the next three years investment rates are expected to be below long term borrowing rates. A value for money consideration would therefore indicate that value could be obtained by continuing avoiding/delaying some or all new external borrowing and by using internal cash balances to finance new capital expenditure or to replace maturing external debt. This would maximise short term savings but is not risk free.

8.10 The use of such internal borrowing, which runs down investments, also has the benefit of reducing exposure to low interest rates on investments, and the credit risk of counterparties.

8.11 In considering this option however, two significant risks to take into account are

- (a) the implications of day to day cash flow constraints, and;
- (b) short term savings by avoiding/delaying new long external borrowing in 2017/18 must be weighed against the loss of longer term interest rate stability. There is the potential, however, for incurring long term extra costs by delaying unavoidable new external borrowing until later years by which time PWLB long term rates are forecast to be significantly higher.

- 8.12 Borrowing interest rates are on a rising trend. The policy of avoiding new borrowing by running down cash balances has served the County Council well in recent years. However this needs to be carefully reviewed and monitored to avoid incurring even higher borrowing costs which are now looming even closer for authorities who will not be able to avoid new borrowing to finance new capital expenditure and/or to refinance maturing debt in the near future.
- 8.13 **The general strategy for this “Internal Capital Financing” option will therefore be to continue to actively consider and pursue this approach on an ongoing basis in order to reduce the difference between the gross and net debts levels together with achieving short term savings and mitigating the credit risk incurred by holding investments in the market. However this policy will be carefully reviewed and monitored on an on-going basis.**

Overall Approach to Borrowing in 2017/18

- 8.14 Given the market conditions, economic background and interest rate forecasts, caution will be paramount within the County Council’s 2017/18 Treasury Management operations. The Corporate Director – Strategic Resources will monitor the interest rates closely and adopt a pragmatic approach to changing circumstances – any key strategic decision that deviates from the Borrowing Strategy outlined above will be reported to the Executive at the next available opportunity.

Sensitivity of the Strategy

- 8.15 The main sensitivities of the Strategy are likely to be the two scenarios below. The Corporate Director – Strategic Resources will, in conjunction with the County Council’s Treasury Management Advisor, continually monitor both the prevailing interest rates and the market forecasts, adopting the following responses to a significant change of market view:
- (a) *if it is felt that there was a significant risk of a sharp fall in both long and short term rates, (e.g. due to a marked increase of risks around the relapse into recession or of risks of deflation), then long term borrowing will be postponed, and potential rescheduling from fixed rate funding into short term borrowing will be considered;*
 - (b) *if it were felt that there was a significant risk of a much sharper rise in long and short term rates than that currently forecast (perhaps arising from a greater than expected increase in world economic activity or a sudden increase in inflation risks), then the portfolio position will be re-appraised with the likely action that fixed rate funding will be taken whilst interest rates are still lower than they will be in the next few years.*

9.0 CAPPING OF CAPITAL FINANCING COSTS

- 9.1 In order to regulate the impact of Prudential Borrowing on the net revenue budget, Members approved a local policy to cap capital financing charges as a proportion of the annual Net Revenue Budget. This cap was set at 10% in 2017/18 which accommodates existing Capital Plan requirements and will act as a regulator if Members are considering expanding the Capital Plan using Prudential Borrowing. Members do have the option to review the cap in the context of its explicit impact on the Revenue Budget/Medium Term Financial Strategy.

10.0 REVIEW OF LONG TERM DEBT AND DEBT RESCHEDULING

- 10.1 The long term debt of the County Council is under continuous review.
- 10.2 The rescheduling of debt involves the early repayment of existing debt and its replacement with new borrowing. This can result in one-off costs or benefits called, respectively, premiums and discounts. These occur where the rate of the loan repaid varies from comparative current rates. Where the interest rate of the loan to be repaid is higher than the current rates, a premium is charged by the PWLB for repayment. Where the interest rate of the loan to be repaid is lower than the current rate, a discount on repayment is paid by the PWLB.
- 10.3 Discussions with the County Council's Treasury Management Advisor about the long term financing strategy are ongoing and any debt rescheduling opportunity will be fully explored.
- 10.4 The introduction by the PWLB in 2007 of a spread between the rates applied to new borrowing and repayment of debt, which was compounded in October 2010 by a considerable further widening of the difference between new borrowing and repayment rates, has meant that PWLB to PWLB debt restructuring is now much less attractive than it was before both of these events. In particular, consideration has to be given to the large premiums which would be incurred by prematurely repaying existing PWLB loans and it is very unlikely that these could be justified on value for money grounds if using replacement PWLB refinancing.
- 10.5 As short term borrowing rates are expected to be considerably cheaper than longer term rates throughout 2017/18, there may be potential opportunities to generate savings by switching from long term debt to short term debt. However, these savings will need to be considered in the light of the current treasury position and the size of the cost of debt repayment (premiums incurred), their short term nature and the likely costs of refinancing those short term loans once they mature, compared to the current rates of longer term debt in the existing debt portfolio.
- 10.6 Consideration will also be given to identify if there is any residual potential left for making savings by running down investment balances by repaying debt prematurely as short term rates on investments are likely to be lower than rates paid on currently held debt. However, this will need careful consideration in light of the debt repayment premiums.
- 10.7 The reasons for undertaking any rescheduling will include:
- (a) the generation of cash savings at minimum risk;
 - (b) in order to help fulfil the Borrowing Strategy, and;
 - (c) in order to enhance the balance of the long term portfolio (ie amend the maturity profile and/or the balance of volatility).

11.0 **MINIMUM REVENUE PROVISION (MRP) POLICY 2017/18**

- 11.1 The statutory requirement for local authorities to charge the Revenue Account each year with a specific sum for debt repayment was replaced in February 2008 with more flexible statutory guidance which came into effect from 2008/09.
- 11.2 The new, and simpler, statutory duty (Statutory Instrument 2008) is that a local authority shall determine for the financial year an amount of minimum revenue provision (MRP) that it considers to be prudent. This replaces the previous prescriptive requirement that the minimum sum should be 4% of the Capital Financing Requirement (CFR); the CFR consists of external debt plus capital expenditure financed by borrowing from internal sources (surplus cash balances).
- 11.3 To support the statutory duty the Government also issued fresh guidance in February 2008 which requires that a Statement on the County Council's policy for its annual MRP should be submitted to the full Council for approval before the start of the financial year to which the provision will relate. The County Council are therefore legally obliged to have regard to this MRP guidance in the same way as applies to other statutory guidance such as the CIPFA Prudential Code, the CIPFA Treasury Management Code and the DCLG guidance on Investments.
- 11.4 The MRP guidance offers four options under which MRP might be made, with an overriding recommendation that the County Council should make prudent provision to redeem its debt liability over a period which is reasonably commensurate with that over which the asset created by the capital expenditure is estimated to provide benefits (ie estimated useful life of the asset being financed). The previous system of 4% MRP did not necessarily provide that link.
- 11.5 The guidance also requires an annual review of MRP policy being undertaken and it is appropriate that this is done as part of this Annual Treasury Management Strategy.
- 11.6 The move to International Financial Reporting Standards (IFRS) from 2010/11 involves Private Finance Initiative (PFI) contracts and some leases (being reclassified as finance leases instead of operating leases) coming onto Local Authority Balance Sheets as long term liabilities. This accounting treatment impacts on the CFR, with the result that an annual MRP provision is required for PFI contracts and certain leases. To ensure that this change has no overall financial impact on local authority budgets, the Government updated their "Statutory MRP Guidance" with effect from 31 March 2010. This updated Guidance allows MRP to be equivalent to the existing lease rental payments and "capital repayment element" of annual payments to PFI Operators and the implications of this are reflected in the County Council's MRP policy for 2016/17.
- 11.7 The 'Statutory MRP Guidance' was again updated from 1 April 2012 but the amendments relate only to those authorities with responsibility for housing. MRP guidance remained the same for all other authorities.
- 11.8 The County Council's MRP policy is based on the Government's Statutory Guidance and following a review of this policy, no changes are proposed at this time. However, a further review of the existing assumptions for prudent provision incorporated into the County Council's MRP Policy will be undertaken as part of the 2017/18 budget review and any changes will be reported to Members as part of an in-year update of this Annual Treasury Management Strategy. Until that time, the policy for 2017/18 remains as follows:-

- (a) for all **capital expenditure incurred before 1 April 2008**, MRP will be based on 4% of the Capital Financing Requirement (CFR) at that date. This will include expenditure supported by Government borrowing approvals and locally agreed Prudential Borrowing up to 31 March 2008. This is in effect a continuation of the old MRP regulations for all capital expenditure up to 31 March 2008 that has been financed from borrowing;
- (b) for **capital expenditure incurred after 1 April 2008 which is supported by Government Borrowing approvals**, MRP to be based on 4% of such sums as reflected in subsequent CFR updates. This reflected the principle that the Revenue Support Grant (RSG) formula for supported borrowing approvals would still be calculated on this basis. It should be noted however that as part of the 2011/12 Local Government Finance Settlement, no supported borrowing approvals have been issued for the period after 2010/11 and the RSG formula was frozen as part of the 2013/14 introduction of retained local Business Rates;
- (c) for **locally agreed Prudential Borrowing on capital expenditure incurred after 1 April 2008**, MRP will be calculated based on equal annual instalments over the estimated useful life of the asset for which the borrowing is undertaken. This method is a simpler alternative to depreciation accounting.

In view of the variety of different types of capital expenditure incurred by the County Council, which is not in all cases capable of being related to an individual asset, asset lives will be assessed on a basis which most reasonably reflects the anticipated period of benefit that arises from the expenditure. Also whatever type of expenditure is involved, it will be grouped together in a manner which reflects the nature of the main component of expenditure, and will only be divided up in cases where there are two or more major components with substantially different useful economic lives.

The estimated life of relevant assets will be assessed each year based on types of capital expenditure incurred but in general will be 25 years for buildings, 50 years for land, and 5 to 7 years for vehicles, plant and equipment. To the extent that the expenditure does not create a physical asset (eg capital grants and loans), and is of a type that is subject to estimated life periods that are referred to in the guidance, these periods will generally be adopted by the County Council.

However in the case of long term debtors arising from loans or other types of capital expenditures incurred by the County Council which will be repaid under separate arrangements (eg loans to NYnet and Yorwaste), there will be no MRP made. The County Council is satisfied that a prudent provision will be achieved after exclusion of these capital expenditure items.

This approach also allows the County Council to defer the introduction of an MRP charge for new capital projects/land purchases until the year after the new asset becomes operational rather than in the year borrowing is required to finance the capital spending. This approach is beneficial for projects that take more than one year to complete and is therefore included as part of the MRP policy.

- (d) for **“on balance sheet” PFI schemes**, MRP will be equivalent to the “capital repayment element” of the annual service charge payable to the PFI Operator and

for **finance leases**, MRP will be equivalent to the annual rental payable under the lease agreement.

11.9 Therefore the County Council's total MRP provision will be the sum of (a) + (b) + (c) + (d) (as defined above) which is considered to satisfy the prudent provision requirement. Based on this policy, total MRP in 2017/18 will be about £13.2m (including PFI and finance leases).

12.0 ANNUAL INVESTMENT STRATEGY

Background

12.1 Under the Local Government Act 2003 the County Council is required to have regard to Government Guidance in respect of the investment of its cash funds. This Guidance was revised with effect from 1 April 2010. The Guidance leaves local authorities free to make their own investment decisions, subject to the fundamental requirement of an Annual Investment Strategy being approved by the County Council before the start of the financial year.

12.2 This Annual Investment Strategy must define the investments the County Council has approved for prudent management of its cash balances during the financial year under the headings of **specified investments** and **non specified investments**.

12.3 This Annual Investment Strategy therefore sets out

- revisions to the Annual Investment Strategy;
- the Investment Policy;
- the policy regarding loans to companies in which the County Council has an interest;
- specified and non specified investments;
- Creditworthiness Policy - security of capital and the use of credit ratings;
- the Investment Strategy to be followed for 2017/18;
- investment reports to members;
- investment of money borrowed in advance of need;
- investment (and Treasury Management) training;

Revisions to the Annual Investment Strategy

12.4 In addition to this updated **Investment Strategy**, which requires approval before the start of the financial year, a revised Strategy will be submitted to County Council for consideration and approval under the following circumstances:

- (a) significant changes in the risk assessment of a significant proportion of the County Council's investments;
- (b) any other significant development(s) that might impact on the County Council's investments and the existing strategy for managing those investments during 2017/18.

Investment Policy

12.5 The parameters of the Policy are as follows:

- (a) the County Council will have regard to the Government's Guidance on Local Government Investments as revised with effect from 1 April 2010, and the 2011 revised CIPFA Treasury Management in Public Services Code of Practice and Cross Sectoral Guidance Notes;
- (b) the County Council's investment policy has two fundamental objectives;
 - the security of capital (protecting the capital sum from loss); and then
 - the liquidity of its investments (keeping the money readily available for expenditure when needed)
- (c) the County Council will also aim to seek the highest return (yield) on its investments provided that proper levels of security and liquidity are achieved. The risk appetite of the County Council is low in order to give priority to the security of its investments;
- (d) the borrowing of monies purely to invest or lend and make a return is unlawful and the County Council will not engage in such activity;
- (e) investment instruments for use in the financial year listed under **specified** and **non-specified investment** categories; and
- (f) counterparty limits will be set through the County Council's Treasury Management Practices Schedules.

Policy regarding loans to companies in which the County Council has an interest

12.6 The County Council has made a number of loans in recent years for policy reasons and will continue to monitor and review this position.

- (a) the County Council's general investment powers under this Annual Treasury Management and Investment Strategy come from the Local Government Act 2003 (Section 12). Under this Act a local authority has the power to invest for any purpose relevant to its functions or for the purpose of the prudent management of its financial affairs;
- (b) in addition to investment, the County Council has the power to provide loans and financial assistance to Limited Companies under the Localisation Act 2011 (and also formally under the general power of wellbeing in the Local Government Act 2000) which introduced a general power of competence for authorities (to be exercised in accordance with their general public law duties);

- (c) any such loans to limited companies by the County Council, will therefore be made under these powers. They will not however be classed as investments made by the County Council and will not impact on this Investment Strategy. Instead they will be classed as capital expenditure by the County Council under the Local Authorities (Capital Finance and Accounting) Regulations 2003, and will be approved, financed and accounted for accordingly;
- (d) at present the County Council has made loans to two companies in which it has an equity investment (ie Yorwaste and NYnet). In both cases loan limits are set, and reviewed periodically, by the Executive; and
- (e) the County Council is in the process of setting up a number of additional limited companies and consideration will be given to provide loans under this policy should there be the requirement to do so.

Specified and non-specified Investments

12.7 Based on Government Guidance as updated from 1 April 2010.

- (a) investment Instruments identified for use in the forthcoming financial year are listed in the Schedules attached to this Strategy under the **specified** and **non-specified** Investment categories;
 - (b) all **specified** Investments (see **Schedule A**) are defined by the Government as options with “relatively high security and high liquidity” requiring minimal reference in investment strategies. In this context, the County Council has defined Specified Investments as being sterling denominated, with maturities up to a maximum of 1 year meeting the minimum high credit quality;
 - (c) **Non-specified** investments (see **Schedule B**) attract a greater potential of risk. As a result, a maximum local limit of 20% of “core cash” funds available for investment has been set which can be held in aggregate in such investments;
 - (d) for both **specified** and **non-specified** investments, the attached Schedules indicate for each type of investment:-
 - the investment category
 - minimum credit criteria
 - circumstances of use
 - why use the investment and associated risks
 - maximum % age of total investments
 - maximum maturity period
- } (Non-Specified only)
- (e) there are other instruments available as Specified and Non-Specified investments that are not currently included. Examples of such investments are:-

| | |
|---------------------------|---|
| Specified Investments | <ul style="list-style-type: none"> - Commercial Paper - Gilt funds and other Bond Funds - Treasury Bills |
| Non-Specified Investments | <ul style="list-style-type: none"> - Sovereign Bond issues - Corporate Bonds - Floating Rate notes - Equities - Open Ended Investment Companies - Derivatives |

A proposal to use any of these instruments would require detailed assessment and be subject to approval by Members as part of this Strategy. Under existing scrutiny arrangements, the County Council's Audit Committee will also look at any proposals to use the instruments referred to above.

Creditworthiness Policy – Security of Capital and the use of credit ratings

12.8 The financial markets have experienced a period of considerable turmoil since 2008 and as a result attention has been focused on credit standings of counterparties with whom the County Council can invest funds.

It is paramount that the County Council's money is managed in a way that balances risk with return, but with the overriding consideration being given to the security of the invested capital sum followed by the liquidity of the investment. The Approved Lending List will therefore reflect a prudent attitude towards organisations with whom funds may be deposited.

The rationale and purpose of distinguishing specified and non-specified investments is detailed above. Part of the definition for a Specified investment is that it is an investment made with a body which has been awarded a high credit rating with maturities of no longer than 364 days.

It is, therefore, necessary to define what the County Council considers to be a "high" credit rating in order to maintain the security of the invested capital sum.

The methodology and its application in practice will, therefore, be as follows:-

- (a) the County Council will rely on credit ratings published by the three credit rating agencies (Fitch, Moody's and Standard & Poor's) to establish the credit quality (ability to meet financial commitments) of counterparties (to whom the County Council lends) and investment schemes. Each agency has its own credit rating components to complete their rating assessments. These are as follows:

Fitch Ratings

- Long Term - generally cover maturities of over five years and acts as a measure of the capacity to service and repay debt obligations punctually. Ratings range from AAA (highest credit quality) to D (indicating an entity has defaulted on all of its financial obligations)

- Short Term - cover obligations which have an original maturity not exceeding one year and place greater emphasis on the liquidity necessary to meet financial commitments. The ratings range from F1+ (the highest credit quality) to D (indicating an entity has defaulted on all of its financial obligations)

Moody's Ratings

- Long Term - an opinion of the relative credit risk of obligations with an original maturity of one year or more. They reflect both the likelihood of a default on contractually promised payments and the expected financial loss suffered in the event of default. Ratings range from Aaa (highest quality, with minimal credit risk) to C (typically in default, with little prospect for recovery of principal or interest)
- Short Term - an opinion of the likelihood of a default on contractually promised payments with an original maturity of 13 months or less. Ratings range from P-1 (a superior ability to repay short-term debt obligations) to P-3 (an acceptable ability to repay short-term obligations)

Standard & Poor's Ratings

- Long Term - considers the likelihood of payment. Ratings range from AAA (best quality borrowers, reliable and stable) to D (has defaulted on obligations)
- Short Term - generally assigned to those obligations considered short-term in the relevant market. Ratings range from A-1 (capacity to meet financial commitment is strong) to D (used upon the filing of a bankruptcy petition).

In addition, all three credit rating agencies produce a Sovereign Rating to select counterparties from only the most creditworthy countries. The ratings are the same as those used to measure long term credit.

- (b) the County Council will review the "ratings watch" and "outlook" notices issued by all three credit rating agencies referred to above. An agency will issue a "watch", (notification of likely change), or "outlook", (notification of a possible longer term change), when it anticipates that a change to a credit rating may occur in the forthcoming 6 to 24 months. The "watch" or "outlook" could reflect either a positive (increase in credit rating), negative (decrease in credit rating) or developing (uncertain whether a rating may go up or down) outcome;
- (c) no combination of ratings can be viewed as entirely fail safe and all credit ratings, watches and outlooks are monitored on a daily basis. This is achieved through the use of Capita Asset Services creditworthiness service. This employs a sophisticated modelling approach utilising credit ratings from the three main credit rating agencies. The credit ratings of counterparties are then supplemented with the following overlays;

- credit watches and credit outlooks from credit rating agencies
- CDS spreads to give early warning of likely changes in credit ratings
- sovereign ratings to select counterparties from only the most creditworthy countries

This modelling approach combines credit ratings, credit watches and credit outlooks in a weighted scoring system which is then combined with an overlay of CDS spreads for which the end product is a series of colour coded bands which indicate the relative creditworthiness of counterparties. These colour codes are used by the County Council to determine the duration for investments. The County Council will therefore use counterparties within the following durational bands:-

| Colour | Maximum Investment Duration |
|-----------|---|
| Yellow | 5 Years |
| Purple | 2 Years |
| Orange | 1 Year |
| Blue | 1 Year (UK nationalised / semi nationalised banks only) |
| Red | 6 Months |
| Green | 100 Days |
| No Colour | No investment to be made |

- (d) given that a number of central banks/government have supported or are still supporting their banking industries in some way, the importance of the credit strength of the sovereign has become more important. The County Council will therefore also take into account the Sovereign Rating for the country in which an organisation is domiciled. As a result, only an institution which is domiciled in a country with a minimum Sovereign Rating of AA- from Fitch or equivalent would be considered for inclusion on the County Council's Approved Lending List (subject to them meeting the criteria above). Organisations which are domiciled in a Country whose Sovereign Rating has fallen below the minimum criteria will be suspended, regardless of their own individual score/colour. The list of countries that currently qualify using this credit criteria are shown in **Schedule D**. This list will be amended should ratings change, in accordance with this policy;
- (e) in order to reflect current market sentiment regarding the credit worthiness of an institution the County Council will also take into account current trends within the Credit Default Swap (CDS) Market. Since they are a traded instrument they reflect the market's current perception of an institution's credit quality, unlike credit ratings, which often focus on a longer term view. These trends will be monitored through the use of Capita Asset Services creditworthiness service which compares the CDS Market position for each institution to the benchmark CDS Index. Should the deviation be great, then market sentiment suggests that there is a fear that an institution's credit quality will fall. Organisations with such deviations will be monitored and their standing reduced by one colour band as a precaution. Where the deviation is great, the organisation will be awarded 'no colour' until market sentiment improves. Where

entities do not have an actively traded CDS spread, credit ratings are used in isolation;

- (f) fully and part nationalised banks within the UK currently have credit ratings which are not as high as other institutions. This is the result of the banks having to have to accept external support from the UK Government. However, due to this Central Government involvement, these institutions now effectively take on the credit worthiness of the Government itself (i.e. deposits made with them are effectively being made to the Government). This position is expected to take a number of years to unwind and would certainly not be done so without a considerable notice period. As a result, institutions which are significantly or fully owned by the UK Government will be assessed to have a high level of credit worthiness;
- (g) all of the above will be monitored on a weekly basis through Capita Asset Services creditworthiness service with additional information being received and monitored on a daily basis should credit ratings change and/or watch/outlook notices be issued. Sole reliance will not be placed on the information provided by Capita Asset Services however. In addition the County Council will also use market data and information available from other sources such as the financial press and other agencies and organisations;
- (h) in addition, the County Council will set maximum investment limits for each organisation which also reflect that institution's credit worthiness – the higher the credit quality, the greater the investment limit. These limits also reflect UK Government involvement (i.e. Government ownership or being part of the UK Government guarantee of liquidity). These limits are as follows:-

| Maximum Investment Limit | Criteria |
|--------------------------|---|
| £85m | UK "Nationalised / Part Nationalised" banks / UK banks with UK Central Government involvement |
| £20m to £75m | UK "Clearing Banks" and selected UK based Banks and Building Societies |
| £20m or £40m | High quality foreign banks |

- (i) should a score/colour awarded to a counterparty or investment scheme be amended during the year due to rating changes, market sentiment etc., the County Council will take the following action:-
- reduce or increase the maximum investment term for an organisation dependent on the revised score / colour awarded
 - temporarily suspend the organisation from the Approved Lending List should their score fall outside boundary limits and not be awarded a colour
 - seek to withdraw an investment as soon as possible, within the terms and conditions of the investment made, should an organisation be suspended from the Approved Lending List
 - ensure all investments remain as liquid as possible, i.e. on instant access until sentiment improves.

- (j) if a counterparty / investment scheme, not currently included on the Approved Lending List is subsequently upgraded, (resulting in a score which would fulfil the County Council's minimum criteria), the Corporate Director – Strategic Resources has the delegated authority to include it on the County Council's Approved Lending List with immediate effect;
- (k) a copy of the current Approved Lending List, showing maximum investment and time limits is attached at **Schedule C**. The Approved Lending List will be monitored on an ongoing daily basis and changes made as appropriate. Given current market conditions, there continues to be a very limited number of organisations which fulfil the criteria for non specified investments. This situation will be monitored on an ongoing basis with additional organisations added as appropriate with the approval of the Corporate Director – Strategic Resources.

The Investment Strategy to be followed for 2017/18

12.9 Recognising the categories of investment available and the rating criteria detailed above

- (a) the County Council currently manages all its cash balances internally;
- (b) ongoing discussions are held with the County Council's Treasury Management Advisor on whether to consider the appointment of an external fund manager(s) or continue investing in-house – any decision to appoint an external fund manager will be subject to Member approval;
- (c) the County Council's cash balances consist of two basic elements. The first element is **cash flow derived** (debtors/creditors/timing of income compared to expenditure profile). The second, **core element**, relates to specific funds (reserves, provisions, balances, capital receipts, funds held on behalf of other organisations etc.);
- (d) having given due consideration to the County Council's estimated level of funds and balances over the next three financial years, the need for liquidity and day to day cash flow requirements it is forecast that a maximum of £20m of the overall balances can be prudently committed to longer term investments (e.g. between 1 and 5 years);
- (e) investments will accordingly be made with reference to this core element and the County Council's ongoing cash flow requirements (which may change over time) and the outlook for short term interest rates (i.e. rates for investments up to 12 months);
- (f) the County Council currently has one non-specified investment over 364 days;
- (g) bank rate was cut to 0.25% in August and underpins investment returns. It is not expected to start increasing until mid 2019;

The County Council will, therefore, avoid locking into long term deals while investment rates continue to be at historically low levels unless attractive rates are available with counterparties of particularly high creditworthiness which make longer term deals worthwhile and within a 'low risk' parameter. No trigger rates will be set for longer term deposits (two or three years) but this position will be kept under constant review and discussed with the Treasury Management Advisor on a regular basis.

- (h) for its cash flow generated balances the County Council will seek to utilise 'business reserve accounts' (deposits with certain banks and building societies), 15, 30 and 100 day accounts and short dated deposits (overnight to three months) in order to benefit from the compounding of interest.

Investment Reports to Members

12.10 Reporting to Members on investment matters will be as follows:

- (a) in-year investment reports will be submitted to the Executive as part of the Quarterly Performance and Budget Monitoring reports;
- (b) at the end of the financial year a comprehensive report on the County Council's investment activity will be submitted to the Executive as part of the Annual Treasury Management Outturn report;
- (c) periodic meetings between the Corporate Director – Strategic Resources, the Corporate Affairs portfolio holder and the Chairman of the Audit Committee provide an opportunity to consider and discuss issues arising from the day to day management of Treasury Management activities.

Investment of Money Borrowed in Advance of Need

12.11 The Borrowing Policy covers the County Council's policy on Borrowing in Advance of Spending Needs.

Although the County Council has not borrowed in advance of need to date and has no current plans to do so in the immediate future, any such future borrowing would impact on investment levels for the period between borrowing and capital spending.

Any such investments would, therefore, be made within the constraints of the County Council's current Annual Investment Strategy, together with a maximum investment period related to when expenditure was expected to be incurred.

Treasury Management Training

12.12 The training needs of the County Council's staff involved in investment management are monitored, reviewed and addressed on an on-going basis and are discussed as part of the staff appraisal process. In practice most training needs are addressed through attendance at courses and seminars provided by CIPFA, the LGA and others on a regular ongoing basis.

The CIPFA Code also requires that Members with responsibility for treasury management receive adequate training in treasury management. This especially applies to Members responsible for scrutiny (i.e. the Audit Committee). An in-house training course for Members (which was also attended by officers) was provided by Capita Asset Services – Treasury Solutions in September 2013. Further training will be arranged as required. The training arrangements for officers will also be available to Members.

13.0 OTHER TREASURY MANAGEMENT ISSUES

Policy on the use of External Treasury Management Service Providers

- 13.1 The County Council uses Capita Asset Services – Treasury Solutions as its external treasury management adviser. Capita provide a source of contemporary information, advice and assistance over a wide range of Treasury Management areas but particularly in relation to investments and debt administration.
- 13.2 Whilst the County Council recognises that there is value in employing external providers of treasury management services in order to acquire access to specialist skills and resources, it fully accepts that responsibility for Treasury Management decisions remains with the authority at all times and will ensure that undue reliance is not placed upon advice of the external service provider.
- 13.3 Following a quotation exercise, Capita Asset Services were appointed in September 2015 as a single provider of Treasury Management consultancy services for both the County Council and Selby District Council. The appointment is for three years, with the option for a further two year extension. The value and quality of services being provided are monitored and reviewed on an ongoing basis.

The scheme of delegation and role of the section 151 officer in relation to Treasury Management

- 13.4 The Government's Investment Guidance requires that a local authority includes details of the Treasury Management schemes of delegation and the role of the Section 151 officer in the Annual Treasury Management/Investment Strategy.
- 13.5 The key elements of delegation in relation to Treasury Management are set out in the following Financial Procedure Rules (FPR):-
- (a) **14.1** The Council adopts CIPFA's "Treasury Management in the Public Services Code of Practice 2011" (as amended) as described in Section 5 of the Code, and will have regard to the associated guidance notes;
 - (b) **14.2** The County Council will create and maintain as the cornerstone for effective Treasury Management
 - (i) a strategic Treasury Management Policy Statement (TMPS) stating the County Council's policies, objectives and approach to risk management of its treasury management activities;
 - (ii) a framework of suitable Treasury Management Practices (TMPs) setting out the manner in which the County Council will seek to achieve those policies and objectives, and prescribing how it will manage and control those activities. The Code recommends 12 TMPs;
 - (c) **14.3** The Executive and the full Council will receive reports on its Treasury Management policies, practices and activities including, as a minimum an Annual Treasury Management and Investment Strategy and associated report on Prudential Indicators in advance of the financial year;

- (d) **14.4** The County Council delegates responsibility for the implementation and regular monitoring of its Treasury Management policies and practices to the Executive, and for the execution and administration of Treasury Management decisions to the Corporate Director – Strategic Resources (CD-SR), who will act in accordance with the Council’s TMPs, as well as CIPFA’s Standard of Professional Practice on Treasury Management;
- (e) **14.5** The Executive will receive from the CD-SR a quarterly report on Treasury Management as part of the Quarterly Performance Monitoring report and an annual report on both Treasury Management and Prudential Indicators setting out full details of activities and performance during the preceding financial year;
- (f) **14.6** The CD-SR will meet periodically with the portfolio holder for financial services, including assets, IT and procurement and such other Member of the Executive as the Executive shall decide to consider issues arising from the day to day Treasury Management activities;
- (g) **14.7** The Audit Committee shall be responsible for ensuring effective scrutiny of the Treasury Management process;
- (h) **14.8** The CD-SR shall periodically review the Treasury Management Policy Statement and associated documentation and report to the Executive on any necessary changes, and the Executive shall make recommendations accordingly to the County Council;
- (i) **14.9** All money in the possession of the Council shall be under the control of the officer designated for the purposes of Section 151 of the Local Government Act 1972 (i.e. the Corporate Director - Strategic Resources).

13.6 In terms of the Treasury Management role of the Section 151 officer (the Corporate Director – Strategic Resources), the key areas of delegated responsibility are as follows

- recommending clauses, treasury management policies and practices for approval, reviewing the same regularly, and monitoring compliance
- submitting regular treasury management policy reports to Members
- submitting budgets and budget variations to Members
- receiving and reviewing management information reports
- reviewing the performance of the treasury management function
- ensuring the adequacy of treasury management resources and skills, and the effective division of responsibilities within the treasury management function
- ensuring the adequacy of internal audit, and liaising with external audit
- recommending the appointment of external service providers

Other Issues

13.7 The County Council continues to monitor potential PFI opportunities and assess other innovative methods of funding and the Corporate Director – Strategic Resources will report any developments to Executive at the first opportunity.

14.0 ARRANGEMENTS FOR MONITORING / REPORTING TO MEMBERS

14.1 Taking into account the matters referred to in this Strategy, the monitoring and reporting arrangements in place relating to Treasury Management activities are now as follows:

- (a) an annual report to Executive and County Council as part of the Budget process that sets out the County Council's **Treasury Management Strategy and Policy** for the forthcoming financial year;
- (b) an annual report to Executive and County Council as part of the Budget process that sets the various **Prudential Indicators**, together with a mid year update of these indicators as part of the Q1 Performance Monitoring report submitted to the Executive;
- (c) **annual outturn reports** to the Executive for both Treasury Management and Prudential Indicators setting out full details of activities and performance during the preceding financial year.
- (d) a quarterly report on Treasury Matters to Executive as part of the **Quarterly Performance and Budget Monitoring** report;
- (e) **periodic meetings** between the Corporate Director – Strategic Resources, the Corporate Affairs portfolio holder and the Chairman of the Audit Committee to discuss issues arising from the day to day management of Treasury Management activities;
- (f) copies of the reports mentioned in (a) to (d) above are provided to the **Audit Committee** who are also consulted on any proposed changes to the County Council's Treasury Management activities.

GARY FIELDING
Corporate Director – Strategic Resources
31 January 2017

NORTH YORKSHIRE COUNTY COUNCIL ANNUAL INVESTMENT STRATEGY 2017/18 – SPECIFIED INVESTMENTS

| Investment | Security / Minimum Credit Rating | Circumstances of Use |
|---|--|---|
| Term Deposits with the UK Government or with UK Local Authorities (as per Local Government Act 2003) with maturities up to 1 year | High security as backed by UK Government | In-house |
| Term Deposits with credit rated deposit takers (Banks and Building Societies), including callable deposits with maturities less than 1 year | Organisations assessed as having “high credit quality” plus a minimum Sovereign rating of AA- for the country in which the organisation is domiciled | In-house |
| Certificate of Deposits issued by credit rated deposit takers (Banks and Building Societies) up to 1 year | | Fund Manager or In-house “buy and hold” after consultation with Treasury Management Advisor |
| Forward deals with credit rated Banks and Building Societies less than 1 year (i.e. negotiated deal plus period of deposit) | | In-house |
| Money Market Funds i.e. collective investment scheme as defined in SI2004 No 534 (<i>These funds have no maturity date</i>) | Funds must be AAA rated | In-house After consultation with Treasury Management Advisor Limited to £20m |
| Gilts (with maturities of up to 1 year) | Government Backed | Fund Manager or In-house buy and hold after consultation with Treasury Management Advisor |
| Bonds issued by a financial institution that is guaranteed by the UK Government (as defined in SI 2004 No 534) with maturities under 12 months (<i>Custodial arrangements required prior to purchase</i>) | Government Backed | After consultation with Treasury Management Advisor |

NORTH YORKSHIRE COUNTY COUNCIL ANNUAL INVESTMENT STRATEGY 2017/18 – NON-SPECIFIED INVESTMENTS

| investment | A) Why use it? B) Associated Risks? | Security / Minimum Credit Rating | Circumstances of Use | Max % of overall investments or cash limits in cash category | Maximum investment with any one counterparty | Maximum Maturity Period |
|--|--|--|--|--|---|--|
| <p>Term Deposit with credit rated deposit takers (Banks & Building Societies), UK Government and other Local Authorities with maturities greater than 1 year</p> | <p>A) Certainty of return over period invested which could be useful for budget purposes</p> <p>B) Not Liquid, cannot be traded or repaid prior to maturity</p> <p>Return will be lower if interest rates rise after making deposit</p> <p>Credit risk as potential for greater deterioration of credit quality over a longer period</p> | <p>Organisations assessed as having “high credit quality”</p> <p>Plus</p> <p>A minimum Sovereign rating of AA- for the country in which an organisation is domiciled</p> | <p>In-house</p> | <p>100% of agreed maximum proportion (20%) of core cash funds that can be invested for more than 1 year (estimated £20m)</p> | <p>£5m</p> | <p>2 years subject to potential future review with a maximum of no longer than 5 years</p> |
| <p>Certificate of Deposit with credit rated deposit takers (Banks & Building Societies) with maturities greater than 1 year <i>Custodial arrangements prior to purchase</i></p> | <p>A) Attractive rates of return over period invested and in theory tradable</p> <p>B) Interest rate risk; the yield is subject to movement during life of CD which could negatively impact on its price</p> | <p>A minimum Sovereign rating of AA- for the country in which an organisation is domiciled</p> | <p>Fund Manager or In-house “buy & hold” after consultation with Treasury Management Advisor</p> | <p>25% of agreed proportion (20%) of core cash funds that can be invested for more than 1 year (£5m)</p> | <p>£3m</p> | <p>2 years subject to potential future review with a maximum of no longer than 5 years</p> |

| investment | <p>A) Why use it?</p> <p>B) Associated Risks?</p> | <p>Security / Minimum Credit Rating</p> | <p>Circumstances of Use</p> | <p>Max % of overall investments or cash limits in cash category</p> | <p>Maximum investment with any one counterparty</p> | <p>Maximum Maturity Period</p> |
|---|---|--|--|---|---|--|
| <p>Callable Deposits with credit rated deposit takers (Banks & Building Societies) with maturities greater than 1 year</p> | <p>A) Enhanced Income – potentially higher return than using a term deposit with a similar maturity</p> <p>B) Not liquid – only borrower has the right to pay back the deposit; the lender does not have a similar call</p> <p>Period over which the investment will actually be held is not known at outset</p> <p>Interest rate risk; borrower will not pay back deposit if interest rates rise after the deposit is made</p> | <p>Organisations assessed as having “high credit quality”</p> <p>Plus</p> <p>A minimum Sovereign rating of AA- for the country in which an organisation is domiciled</p> | <p>To be used in-house after consultation with Treasury Management Advisor</p> | <p>50% of agreed proportion (20%) of core cash balance that can be invested for more than 1 year (£12.5m)</p> | <p>£5m</p> | <p>2 years subject to potential future review with a maximum of no longer than 5 years</p> |
| <p>Forward Deposits with a credit rated Bank or Building Society > 1 year (i.e. negotiated deal period plus period of deposit)</p> | <p>A) Known rate of return over the period the monies are invested – aids forward planning</p> <p>B) Credit risk is over the whole period, not just when monies are invested</p> <p>Cannot renege on making the investment if credit quality falls or interest rates rise in the interim period</p> | <p>Organisations assessed as having “high credit quality”</p> <p>Plus</p> <p>A minimum Sovereign rating of AA- for the country in which an organisation is domiciled</p> | <p>To be used in-house after consultation with the Treasury Management Advisor</p> | <p>25% of agreed proportion (20%) of core cash funds that can be invested for more than 1 year (£5m)</p> | <p>£3m</p> | <p>2 years subject to potential future review with a maximum of no longer than 5 years</p> |

| investment | A) Why use it? B) Associated Risks? | Security / Minimum Credit Rating | Circumstances of Use | Max % of overall investments or cash limits in cash category | Maximum investment with any one counterparty | Maximum Maturity Period |
|---|--|--|--|--|---|---|
| Bonds issued by a financial institution that is guaranteed by the UK Government (as defined in SI2004 No534) with maturities in excess of 1 year Custodial arrangements required prior to purchase | A) Excellent credit quality Relatively Liquid If held to maturity, yield is known in advance Enhanced rate in comparisons to gilts B) Interest rate risk; yield subject to movement during life off bond which could impact on price | AA or Government backed | In-house on a "buy and hold" basis after consultation with Treasury Management Advisor or use by Fund Managers | 25% of greed proportion (20%) of core cash funds that can be invested for more than 1 year (£5m) | n/a | 2 years subject to potential future review with a maximum of no longer than 5 years |
| Bonds issued by Multilateral development banks (as defined in SI2004 No534) with maturities in excess of 1 year Custodial arrangements required prior to purchase | A) Excellent credit quality Relatively Liquid If held to maturity, yield is known in advance Enhanced rate in comparison to gilts B) Interest rate risk; yield subject to movement during life off bond which could negatively impact on price | | | | | |

| investment | A) Why use it? B) Associated Risks? | Security / Minimum Credit Rating | Circumstances of Use | Max % of overall investments or cash limits in cash category | Maximum investment with any one counterparty | Maximum Maturity Period |
|---|--|--|--|---|---|---|
| UK Government Gilts with maturities in excess of 1 year Custodial arrangements required prior to purchase | A) Excellent credit quality Liquid - If held to maturity, yield is known in advance Liquid - If traded, potential for capital appreciation B) Interest rate risk; yield subject to movement during life if the bond which could impact on price | Government backed | Fund Manager | 25% of greed proportion (20%) of core cash funds that can be invested for more than 1 year (£5m) | n/a | 2 years subject to potential future review with a maximum of no longer than 5 years |
| Collateralised Deposit | A) Excellent credit quality B) Not liquid, cannot be traded or repaid prior to maturity Credit risk as potential for greater deterioration of credit quality over a longer period | Backed by collateral of AAA rated Local Authority LOBO's | In-house via money market broker or direct | 100% of agreed proportion (20%) of core cash funds that can be invested for more than 1 year (£20m) | £5m | 2 years subject to potential future review with a maximum of no longer than 5 years |

APPROVED LENDING LIST 2017/18

Maximum sum invested at any time (The overall total exposure figure covers both Specified and Non-Specified investments)

| | Country | Specified Investments (up to 1 year) | | Non-Specified Investments (> 1 year £20m limit) | |
|--|---------|---|-----------------------|--|--------------|
| | | Total Exposure £m | Time Limit * | Total Exposure £m | Time Limit * |
| UK "Nationalised" banks / UK banks with UK Central Government involvement | | | | | |
| Royal Bank of Scotland | GBR | 85.0 | 364 days | - | - |
| Natwest Bank | GBR | | | | |
| Bank of Scotland | GBR | 85.0 | 6 months | - | - |
| Lloyds | GBR | | | | |
| UK "Clearing Banks", other UK based banks and Building Societies | | | | | |
| Santander UK plc (includes Cater Allen) | GBR | 40.0 | 6 months | - | - |
| Barclays Bank | GBR | 75.0 | 6 months | - | - |
| HSBC | GBR | 30.0 | 364 days | | |
| Clydesdale Bank (trading as Yorkshire Bank) | GBR | 30.0 (Shared with NAB) | Temporarily suspended | - | - |
| Goldman Sachs International Bank | GBR | 40.0 | 6 months | | |
| Leeds Building Society | GBR | 20.0 | 6 months | - | - |
| Nationwide Building Society | GBR | 40.0 | 6 months | - | - |
| Standard Chartered Bank | GBR | 40.0 | 3 months | - | - |
| High quality Foreign Banks | | | | | |
| National Australia Bank | AUS | 30.0 (Shared with Clydesdale) | 364 days | - | - |
| Commonwealth Bank of Australia | AUS | 20.0 | 364 days | | |
| Canadian Imperial Bank of Commerce | CAN | 20.0 | 364 days | - | - |
| Deutsche Bank | DEU | 20.0 | Temporarily suspended | - | - |
| Nordea Bank Finland | FIN | 20.0 | 364 days | - | - |
| Credit Industriel et Commercial | FRA | 20.0 | 6 months | - | - |
| BNP Paribas Fortis | FRA | 20.0 | 6 months | - | - |
| Nordea Bank AB | SWE | 20.0 | 364 days | - | - |
| Svenska Handelsbanken | SWE | 40.0 | 364 days | - | - |
| Local Authorities | | | | | |
| County / Unitary / Metropolitan / District Councils | | 20.0 | 364 days | 5.0 | 2 years |
| Police / Fire Authorities | | 20.0 | 364 days | 5.0 | 2 years |
| National Park Authorities | | 20.0 | 364 days | 5.0 | 2 years |
| Other Deposit Takers | | | | | |
| Money Market Funds | | 20.0 | 364 days | 5.0 | 2 years |
| UK Debt Management Account | | 100.0 | 364 days | 5.0 | 2 years |

* Based on data as 31 December 2016

APPROVED COUNTRIES FOR INVESTMENTS

Based on the lowest available rating

| Sovereign Rating | Country |
|-------------------------|---|
| AAA | Australia Canada Denmark Germany Luxemburg Netherlands Norway Singapore Sweden Switzerland |
| AA+ | Finland Hong Kong USA |
| AA | Abu Dhabi (UAE) France UK Qatar |
| AA- | Belgium |

NORTH YORKSHIRE COUNTY COUNCIL

AUDIT COMMITTEE

2nd March 2017

REVIEW OF THE CONTRACT PROCEDURE RULES

Report of the Corporate Director – Strategic Resources

1.0 PURPOSE OF REPORT

- 1.1. To inform Members on the latest thinking relating to potential changes to the Contract Procedure Rules (the Rules).

2.0 BACKGROUND

- 2.1. According to the Audit Committee Terms of Reference the Audit Committee is to review and recommend to the Executive, changes to the Contract Procedure Rules.
- 2.2. A comprehensive review of the Rules takes place following County Council elections every four years; however it is recognised that in the interim there is a need to ensure the Rules are kept up to date for organisational and legal reasons.
- 2.3. This report identifies specific changes to the Rules, set out in **Appendix 1**, for subsequent referral to the Executive. The complete proposed Rules are set out in **Appendix 2**.
- 2.4. This report seeks to give members of the Audit Committee an overview of the thinking behind the proposed changes which will take effect from the 18th May 2017, subject to Executive and Full Council approval.

3.0 PROPOSED FUTURE CHANGES

- 3.1. The Rules govern how we procure goods, works and services and align to The Public Contract Regulations 2015.
- 3.2. The Public Contract Regulations 2015 and the councils Rules aim to:
- Simplify the procurement process
 - Speed up procurement process
 - Provide a more cost effective procurement processes
 - Promote sustainable procurement
 - Drive supplier engagement and innovation

- 3.3. The Corporate Procurement Strategy sets the vision “to be outcome focused ensuring that all Commissioning, Procurement and Contract Management activity delivers Value for Money and efficiencies for the Council”. The Public Contract Regulations 2015 support the Council in delivering this vision and the amendments to the Rules in 2016 embraced the new flexibilities. After operating under the new governance for a year, and based on consultation feedback from Officers undertaking low value procurements and procurement professionals delivering high value/ complex procedures, further changes are recommended. The changes aim to provide clarity and support the council’s commercial ambitions.

4.0 KEY CHANGES

Alignment to the new Procurement and Contract Management Service

- 4.1. The main changes throughout reflect the new Procurement and Contract Management Service structure. The Rules have been amended to ensure clarity over the portfolio responsibility which sits with the Corporate Director, Strategic Resources (CD-SR), with delegated responsibility to the Head of Procurement and Contract Management.

Evaluation procedure

- 4.2. A new rule has been included, Rule 10.7, to offer clarity and ensure a robust procedure is undertaken in relation to the evaluation of OJEU tenders. The Rule outlines the responsibility of the commissioning service, specifically around the number of evaluation panel members and process to follow including:
- individual evaluation assessment and scoring;
 - consensus marking, which must be chaired by a member of the Procurement and Contract Management Service;
 - the moderation process;
 - circumstances in which independent verification is required.

The above are all key requirements for ensuring and evidencing an open, fair and transparent process and mitigating risk of legal challenge.

Authorisations

- 4.3. Rule 17.1 has been amended and includes a table to clearly outline the Officer approvals required in relation to each “gate” within the procurement gateway process. Due to the high value, potential complexity and procurement risks associated with these procurements, Director or Directorate Management Team and Assistant Chief Executive Legal & Democratic Services approval is required.

Grants

- 4.4. Rule 21 was a new addition in the last round of changes. The inclusion of guidance around the administering of grants has proven helpful to Officers, however it is acknowledged that there remains a degree of ambiguity in relation to the circumstances in which allocating a grant is permissible. This rule has been expanded to clearly outline the circumstances in which a Grant would be a preferable means to achieving the council's objectives rather than following a competitive Bid / Tender process. This guidance is based on best practice from the National Audit Office.
- 4.5. Further to this, a new rule has been included in relation to the requirement to monitor and review the performance of grant agreements, having regard to its value, nature, duration and subject matter. This will ensure the council is getting value for money from the grant and that the objectives are being delivered.

IR 35 – Tax and NI requirements

- 4.6. From April 2017, where an Officer is hiring or engaging a worker who is not on the council payroll there is a legal requirement to determine whether it is the responsibility of the Council to deduct employee tax and national insurance (NI) at source and associated employer (NI, in accordance with the legal requirements of IR35. This requirement has been inserted into the revised Rules to provide clarity and ensure compliance.

Transparency

- 4.7. We will continue to ensure transparency of forthcoming expenditure for contracts using the Forward Procurement Plan (FPP) and the national Contracts Finder system, which is published to all potential suppliers to raise awareness of opportunities to work with the council.
- 4.8. Where the procurement is subject to the OJEU threshold the opportunity will be published in the official journal. As such all of the above will ensure openness and transparency.

Small and Medium Enterprise (SMEs)

- 4.9. Through our procurement initiatives, including the Corporate Procurement Strategy, we are continuing to ensure that SMEs have access to NYCC contract opportunities, encouraging ways to make it easier for them to do business with us and therefore aiming to increase spend either directly or in supply chains, which goes to SMEs and the local economy.
- 4.10. Through transparency, such as the procurement pipeline, we continue to give businesses timely information, to support investment in skills and capabilities to deliver contracts. We are actively encouraging SMEs to work collaboratively, where deemed appropriate, to deliver contracts.

- 4.11. The prominence of market engagement continues to gain momentum and through our commissioning and procurement cycle, early market intelligence from SMEs and the voluntary and community sector in particular is helping to develop the overarching strategy forward. Moving forward this intelligence will be instrumental in the development of category sourcing strategies in terms of identifying innovative approaches to meeting customer and business needs.
- 4.12. The simplified processes introduced through the last round of changes continue to operate and as such support SMEs as the process is less bureaucratic; time/resource intensive and less costly.

5.0 RECOMMENDATIONS

- 5.1. Members of the Audit Committee are requested to note the contents of the report and to offer any observations in advance of a formal request for changes to the Rules.

Gary Fielding
Corporate Director, Strategic Resources

Author of Report –

Gary Fielding
Corporate Director, Strategic Resources

and

Kevin Draisey
Head of Procurement and Contract Management
16 February 2017

Appendix 1

CONTRACT PROCEDURE RULES

SUGGESTED AMENDMENTS

| Old Rule No. | New Rule No. | Current Wording | Proposed Amendment | Reason |
|--------------|--------------|---|--|--|
| | | Not currently included | CM means the Corporate Contracts Manager. | To provide clarity. |
| | | CPG means the Corporate Procurement Group | Delete | Under the new procurement structure this group will be replaced with the Procurement Assurance Board. |
| | | Not currently included | DMT means the Directorate Management Team | To provide clarity. |
| | | DPC means a Directorate Procurement Champion | Delete | Under the new procurement structure this role will be replaced with the role of Senior Category Manager. |
| | | Not currently included | HoP means the Head of Procurement | To provide clarity. |

| Old Rule No. | New Rule No. | Current Wording | Proposed Amendment | Reason |
|--------------|--------------|--|---|---|
| | | Not currently included | PAB means the Procurement Assurance Board, chaired by the HoP. | To provide clarity. |
| | | PQQ means the Pre-Qualification Questionnaire | Delete | The PQQ has been replaced by the Selection Questionnaire, therefore no longer applicable. |
| | | Not currently included | PSBO means Public Sector Buying Organisation | To provide clarity. |
| | | Not currently included | SCM means Senior Category Manager | To provide clarity. |
| | | Not currently included | SQ means the Selection Questionnaire | To provide clarity. |
| | | YPO means the Yorkshire Purchasing Organisation | Delete | This has been replaced by the wider definition and reference to Public Sector Buying Organisations. |
| 2.5 | 2.5 | The CD-SR and the ACE(LDS) have produced a Procurement Manual which sets out important issues to be considered in the procurement context. These Rules | The CD-SR has produced a Procurement Manual which sets out important issues to be considered in the procurement context. These Rules should be read in conjunction with the Procurement Manual. | Removed reference to the ACE(LDS). In practice the Procurement |

| Old Rule No. | New Rule No. | Current Wording | Proposed Amendment | Reason |
|--------------|--------------|---|---|--|
| | | should be read in conjunction with the Procurement Manual. | | Manual is maintained by the HoP role which reports into the CD-SR. |
| 2.10 | 2.10 | Wherever appropriate procurement shall be undertaken using the standard precedent documents contained in the Procurement Manual applying to PQQ's, ITT's or ITBs. Wherever alternative documents are to be used they must be approved by the Director and where appropriate the ACE(LDS). | Wherever appropriate procurement shall be undertaken using the standard precedent documents contained in the Procurement Manual applying to SQ's, ITT's or ITBs. Wherever alternative documents are to be used they must be approved by the CD-SR and where appropriate the ACE(LDS). | Removed reference to PQQ as this is no longer applicable. Documentation governance is the responsibility of the HoP role which reports into the CD-SR, therefore amended from Director. |
| 9.2 | 9.2 | Post Bid negotiations with selected Participants shall only be carried out where:- (b) the Director in consultation with the DPC considers that added value may be obtained; and | Post Bid negotiations with selected Participants shall only be carried out where:- (b) the Director in consultation with the HoP considers that added value may be obtained; and | Removed reference to DPC as this role no longer exists, replaced with HoP to provide clarity. |
| 10.5 | 10.5 | Where considered appropriate, a Director may, in consultation with the DPC, permit Participants to | Where considered appropriate, the HoP may, in consultation with the SCM, permit Participants to submit variant OJEU Tenders (i.e. tenders which do not comply with some or all of the | Replaced reference to |

| Old Rule No. | New Rule No. | Current Wording | Proposed Amendment | Reason |
|--------------|--------------|--|---|--|
| | | submit variant OJEU Tenders (i.e. tenders which do not comply with some or all of the requirements of the primary tender). The same opportunity to submit variant OJEU Tenders shall be given to all Participants. Variant OJEU Tenders shall only be considered if the Participant also submits a compliant primary tender. | requirements of the primary tender). The same opportunity to submit variant OJEU Tenders shall be given to all Participants. Variant OJEU Tenders shall only be considered if the Participant also submits a compliant primary tender. | Director with HoP to provide clarity. DPC reference removed and replaced with SCM in line with new structure. |
| N/A | 10.7 | Not currently included | All Tenders undertaken in accordance with Rule 10 shall have a minimum of 3 appropriate Officers (excluding the Procurement and Contract Management Service representative) to undertake the evaluation process. The evaluation process will include: <ul style="list-style-type: none"> • Individual evaluation assessment and scoring • Consensus marking exercise, chaired by a member of the Procurement and Contract Management Service • Moderation, where required • Independent verification, where required and in accordance with the Gateway process, Gate 3. | To ensure a robust process and provide clarity. |
| 12.2 | 12.2 | The ACE(LDS) (or a person designated by him) shall be responsible for the reception and safe custody of OJEU Tenders until they are opened. | The CD-SR (or a person designated by him) shall be responsible for the reception and safe custody of OJEU Tenders until they are opened. | Amended ACE(LDS) to CD-SR to enable procurement to open OJEU tenders. |

| Old Rule No. | New Rule No. | Current Wording | Proposed Amendment | Reason |
|--------------|--------------|--|---|---|
| | | | | The system is fully auditable and an automatic record maintained to ensure due process, therefore no longer a requirement for Legal to complete this process. |
| 12.3 | 12.3 | OJEU Tenders, whether electronic or hard copy must be opened at the same time and in the presence of the ACE(LDS) (or a person designated by him) or, where Legal and Democratic Services is undertaking the procurement, the CD-SR (or an Officer designated by him). The E-Sourcing System records the date and time of OJEU Tender opening, the identity of the Officer(s) present, the identities of | OJEU Tenders, whether electronic or hard copy must be opened at the same time and in the presence of the CD-SR) (or a person designated by him) or, where the Procurement and Contract Management Service is undertaking the procurement, the ACE(LDS) (or an Officer designated by him). The E-Sourcing System records the date and time of the OJEU Tender opening, the identity of the Officer(s) present, the identities of the Participants and the tendered sums. Where permitted under Regulation 84(h) of the PCRs and OJEU Tenders are returned in hard copy format a written record shall be maintained by the HoP, of the OJEU Tenders received. Such record shall include the date and time of OJEU Tender opening, the identity of the Officer(s) present, the identities of Participants and the tendered sums (where readily ascertainable). | To provide clarity. This change reflects the new structure and the systems in place to support a fully auditable process. |

| Old Rule No. | New Rule No. | Current Wording | Proposed Amendment | Reason |
|--------------|--------------|---|--|---|
| | | <p>Participants and the tendered sums. Where permitted under Regulation 84(h) and OJEU Tenders are returned in hard copy format a written record shall be maintained of the OJEU Tenders received. Such a record shall include the date and time of OJEU Tender opening, the identity of the Officer(s) present, the identities of Participants and the tendered sums (where readily ascertainable). A copy of such a record shall be provided as soon as practicable to the Director inviting the OJEU Tenders for audit purposes.</p> | | |
| 13.1 | 13.1 | <p>The Director shall evaluate OJEU Tenders using the evaluation model published in accordance with Rule 10.2.</p> | <p>The Responsible Officer shall evaluate OJEU Tenders using the evaluation model published in accordance with Rule 10.2.</p> | <p>Amended reference from Director to Responsible Officer to provide clarity.</p> |
| 13.2 | 13.2 | <p>Only in circumstances where an OJEU Tender is agreed by the CD-SR in consultation with the ACE(LDS) to be an abnormally low</p> | <p>Only in circumstances where an OJEU Tender is agreed by the CD-SR to be an abnormally low tender in accordance with the PCR's can an OJEU Tender other than the MEAT be accepted. In those circumstances a signed and dated record of the reasons</p> | <p>Amended reference from ACE(LDS) to CD-SR as</p> |

| Old Rule No. | New Rule No. | Current Wording | Proposed Amendment | Reason |
|--------------|--------------|--|---|--|
| | | tender in accordance with the PCR's can an OJEU Tender other than the MEAT be accepted. In those circumstances a signed and dated record of the reasons for the action taken shall be made within the Gateway Process (Stage 3). | for the action taken shall be made within the Gateway Process (Gate 3). | procurement governance sits under the CD-SR portfolio, therefore provides clarity. In reality ACE(LDS) only signs off Gateway 1 currently. |
| 13.3 | 13.3 | If, as a result of the OJEU Tender evaluation process the Director is satisfied that an arithmetical error has been made inadvertently by a Participant such an error may, after clarification with the Participant, be corrected. The Director shall record any such correction in writing. | If, as a result of the OJEU Tender evaluation process the HoP is satisfied that an arithmetical error has been made inadvertently by a Participant such an error may, after clarification with the Participant, be corrected. The HoP shall record any such clarification in writing. | Amended reference from Director to HoP to provide clarity. |
| 13.4 | 13.4 | Before a Contract is awarded the Director shall, in consultation with the CD-SR, complete a risk assessment to ascertain the financial stability of the successful Participant. The risk assessment shall take into account the subject matter, complexity, duration, value and any other such factors as may be deemed to be relevant. This | Before a Contract is awarded the HoP shall, in consultation with the SCMs, determine whether it is proportionate and appropriate to complete a risk assessment to ascertain the financial stability of the successful Participant. The risk assessment shall take into account the subject matter, complexity, duration, value and any other such factors as may be deemed to be relevant. This shall be recorded in accordance with the Gateway Process (Gate 3), where appropriate. | Amended reference from Director and CD-SR to HoP and SCM to reflect new structure and provide clarity of process. |

| Old Rule No. | New Rule No. | Current Wording | Proposed Amendment | Reason |
|--------------|--------------|---|--|--|
| | | shall be undertaken in accordance with the Gateway Process (Stage 3). | | |
| 13.5 | 13.5 | On completion of the evaluation of the OJEU Tenders received and once all internal approvals have been obtained through the Gateway Process (Stage 3), the Director shall write to all Participants informing them of the outcome of the OJEU Tender evaluation and providing feedback on the content of their submission, in accordance with Regulation 55 of the PCR's. | On completion of the evaluation of the OJEU Tenders received and once all internal approvals have been obtained through the Gateway Process (Gate 3), the HoP shall write to all Participants informing them of the outcome of the OJEU Tender evaluation and providing feedback on the content of their submission, in accordance with Regulation 55 of the PCRs. | Amended reference from Director to HoP to provide clarity. |
| 13.6 | 13.6 | The Director shall wait a minimum of ten days (15 days if not sent electronically) from the date of issue of the letters notifying the Participants of the result of the evaluation before completing the Contract with the successful Participant. | The HoP shall wait a minimum of ten days (15 days if not sent electronically) from the date of issue of the letters notifying the Participants of the result of the evaluation before completing the Contract with the successful Participant. | Amended reference from Director to HoP to provide clarity. |
| 13.7 | 13.7 | The Director shall send for publication a Contract Award Notice stating the outcome of the procurement procedure no more than 30 days after the award of the Contract. | The HoP shall send for publication a Contract Award Notice stating the outcome of the procurement procedure no more than 30 days after the award of the Contract. | Amended reference from Director to HoP to provide clarity. |

| Old Rule No. | New Rule No. | Current Wording | Proposed Amendment | Reason |
|--------------|--------------|--|---|---|
| 15.1 | 15.1 | A Director does not need to invite bids in accordance with Rule 8 in the following circumstances:- (a) purchases via framework agreements which have been established by other public sector bodies or consortia (including, but not limited to YPO) and where such framework agreements are lawfully accessible to the Council, except where the requirements of the individual framework require a further competition to be conducted; or | A Director does not need to invite bids in accordance with Rule 8 , in the following circumstances:- (a) purchases via Framework Agreements which have been established either by the Council or by other public sector bodies or consortia (including, but not limited to PSBOs) and where such framework agreements are lawfully accessible to the Council. Contracts awarded from such Framework Agreements shall be awarded in accordance with the provisions of that Framework Agreement; or | Amended reference from YPO to PSBOs to provide clarity. |
| 15.1 | 15.1 | (h) Contracts where the Director with the agreement of the CD-SR agree that for reasons of extreme urgency brought about by unforeseeable events unattributable to the Council, the timescales for obtaining bids cannot be met. A written record shall be signed and dated by the Director, whenever this Rule applies. | (h) Contracts where the Director with the agreement of the HoP agree that for reasons of extreme urgency brought about by unforeseeable events un-attributable to the Council, the timescales for obtaining bids cannot be met. A written record shall be signed and dated by the Director, whenever this Rule applies. | Amended reference from CD-SR to HoP to provide clarity. |
| 15.2 | 15.2 | Where any of the exceptions set out in (d) to (h) above are applied a Directors Recommendation, in consultation with the relevant | Where any of the exceptions set out in (d) to (h) above are applied a Directors Recommendation, in consultation with the relevant SCMs, shall be signed, dated and kept. The | Amended reference from DPC to SCM. |

| Old Rule No. | New Rule No. | Current Wording | Proposed Amendment | Reason |
|--------------|--------------|---|--|---|
| | | DPC, shall be signed, dated and kept. The Director shall maintain a register of all recommendations made under this Rule. | Procurement and Contract Management Service shall maintain a register of all recommendations made under this Rule. | Amended maintenance of register to sit with Procurement and Contract Management service to provide clarity. |
| 15.3 | 15.3 | <p>A Director does not need to invite OJEU Tenders in accordance with Rule 10 and 11, in the following circumstances:</p> <p>(a) purchases via Framework Agreements which have been established either by the Council or by other public sector bodies or consortia (including, but not limited to YPO) and where such Framework Agreements are lawfully accessible to the Council. Contracts awarded from such Framework Agreements shall be awarded in accordance with the provisions of that Framework Agreement. Where appropriate Officers should apply a minimum 10 day standstill period for all call-off Contracts awarded under an existing</p> | <p>A Director does not need to invite OJEU tenders in accordance with Rule 10 and 11, in the following circumstances:-</p> <p>(a) purchases via Framework Agreements which have been established either by the Council or by other public sector bodies or consortia (including, but not limited to PSBO's) and where such Framework Agreements are lawfully accessible to the Council. Contracts awarded from such Framework Agreements shall be awarded in accordance with the provisions of that Framework Agreement. Where appropriate Officers should apply a minimum 10 day standstill period for all call-off Contracts awarded under an existing Framework Agreement. This is not mandatory but is deemed best practice; or</p> <p>(b) where:</p> <p>(i) Regulations 12 or 72 of the PCRs apply; or</p> <p>(ii) any other specific exclusions as set out in the PCRs apply;</p> <p>and the ACE(LDS), the relevant Director and CD-SR are in agreement. A written record shall be signed and dated</p> | <p>Amended reference from YPO to PSBOs to provide clarity.</p> <p>Amended reference from Director to</p> |

| Old Rule No. | New Rule No. | Current Wording | Proposed Amendment | Reason |
|--------------|--------------|---|--|--|
| | | <p>Framework Agreement. This is not mandatory but is deemed best practice; Or (b) where: (i) Regulations 12 or 72 of the PCRs apply; or (ii) any other specific exclusions as set out in the PCRs apply; and the ACE(LDS), the relevant Director and CD-SR are in agreement. A written record shall be signed and dated whenever this Rule applies and the Director shall maintain a register of such written records.</p> | <p>whenever this Rule applies and the Procurement and Contract Management Service shall maintain a register of such written records.</p> | <p>Procurement and Contract Management Service to provide clarity.</p> |
| 15.5 | 15.5 | <p>Requests for waivers shall be made using the Waiver Request Form prescribed by the ACE(LDS) and the CD-SR which shall specify the reasons for the request.</p> | <p>Requests for waivers shall be made using the Waiver Request Form prescribed by the CD-SR which shall specify the reasons for the request.</p> | <p>Removed reference to ACE(LDS). CD-SR has portfolio responsibility for procurement governance which includes documentation templates.</p> |

| Old Rule No. | New Rule No. | Current Wording | Proposed Amendment | Reason |
|--------------|--------------|--|---|--|
| 15.6 | 15.6 | The ACE(LDS) shall maintain a register of all requests made under this Rule and the responses given to them. | The CD-SR shall maintain a register of all requests made under this Rule and the responses given to them. | Removed reference to ACE(LDS). Procurement governance is the responsibility of the CD-SR, therefore provides clarity. |
| 15.7 | 15.7 | Specific exemptions to Rule 10 and 11 may be permitted in exceptional circumstances as the ACE(LDS) and CD-SR may agree in accordance with the PCRs. The ACE(LDS) shall maintain a register of all requests made under this Rule and the responses given to them. | Delete | This is a repetition of Rule 15.3 (b). Provides clarity. |
| 16.3 | 16.3 | Each Director shall nominate a representative to act as a key contact point in relation to procurement matters for the Directorate; such representatives shall be termed " Directorate Procurement Champions " in this Rule. | The HoP shall nominate a representative to act as a key contact point in relation to procurement matters for spend categories; such representatives shall be termed SCMs. | Amended reference from Director to HoP and amended DPC to SCM. Included reference to spend categories in order |

| Old Rule No. | New Rule No. | Current Wording | Proposed Amendment | Reason |
|--------------|--------------|---|--|--|
| | | | | to align to new structure. Provides clarity. |
| 16.4 | 16.4 | Each Director, CPG and/or the DPC's shall take all such steps as are reasonably necessary to ensure that Officers within their Directorate are aware of and comply with these Rules, the <i>Procurement Manual</i> and the <i>Finance Manual</i> referred to in Rule 2.5 . | Each Director, in conjunction with the HoP, shall take all such steps as are reasonably necessary to ensure that Officers within Directorates are aware of and comply with these Rules, the <i>Procurement Manual</i> and the <i>Finance Manual</i> referred to in Rule 2.5. | Removed reference to CPG and DPC as no longer applicable. Provides clarity. |
| 16.5 | 16.5 | DPC's are responsible for the production of a FPP which will be completed in such format as CPG shall require. | SCMs are responsible for the production of a spend category FPP which will be completed in such format as the HoP shall require. | Amended reference from DPC to SCM. Removed reference to CPG as no longer applicable and superseded with HoP. Includes reference to FPPs being category based in line with the new structure. |

| Old Rule No. | New Rule No. | Current Wording | Proposed Amendment | Reason |
|--------------|--------------|---|---|---|
| 16.6 | 16.6 | The DPC's shall each present an updated FPP to their respective directorate management teams quarterly for approval throughout the year. | The SCMs shall each present an updated category FPP to the relevant directorate management teams every 6 months for approval. | Amended to category FPPs in line with new structure. Amended reporting frequency to 6 monthly. |
| 16.7 | 16.7 | An annual report on procurement matters, such report to include an annual procurement plan and actions arising from the annual procurement plan, will be presented to a meeting of the Corporate and Partnership Overview and Scrutiny Committee. | An annual report on procurement matters, such report to include an annual procurement plan and actions arising from the annual procurement plan, will be presented to a meeting of the Audit Committee. | This meeting has never been attended. Amended to Audit Committee. |
| 16.9 | 16.8 | DPC's shall ensure that:- | CM shall ensure that | Amended reference from DPC to CM to provide clarity. |
| 16.10 | 16.9 | When a Contract in excess of £25,000 is awarded the Director shall ensure that such information as is prescribed in the PCRs is published on Contracts Finder via the E-Sourcing system. | When a Contract in excess of £25,000 is awarded the Procurement and Contract Management Service shall ensure that such information as is prescribed in the PCRs is published on Contracts Finder via the E-Sourcing system. | Amended reference from Director to the Procurement and Contract Management |

| Old Rule No. | New Rule No. | Current Wording | Proposed Amendment | Reason | | | | | | | | |
|---|--|---|---|-----------------------------|------------------|---|--|--|-----|--------------------------------|--|---|
| | | | | Service to provide clarity. | | | | | | | | |
| 17.1 | 17.1 | <p>When a procurement is being considered which is expected to exceed the financial value thresholds specified in Rule 17.2 then the Responsible Officer must complete the necessary Gateway Process report for consideration by the relevant Directorate Management Team and the ACE(LDS) or the relevant Director, the Assistant Director with responsibility for finance within that Directorate, the ACE(LDS) and the DPC. No procurement should commence before the Gateway Process report is approved. The report shall include the estimated “whole life” financial value of the Contract, the procurement methodology and any other relevant factors including, but without limitations, any TUPE implications. The Assistant Director with responsibility for finance will enter details on a register of procurements approved under this Rule which will be</p> | <p>When a procurement is being considered which is expected to exceed the financial value thresholds specified in Rule 17.2 the Gateway Process must be completed and signed off by the relevant Officers, as detailed in Table 4 below.</p> <p>Table 4: Gateway Process – Authorisation to Approve</p> <table border="1" data-bbox="1003 676 1753 1259"> <thead> <tr> <th data-bbox="1003 676 1395 715">Gateway Process gate</th> <th data-bbox="1395 676 1753 715">Approval process</th> </tr> </thead> <tbody> <tr> <td data-bbox="1003 715 1395 986">Gate 1 – Options Appraisal / Project Initiation Document</td> <td data-bbox="1395 715 1753 986">PAB AND The relevant Director or DMT – <i>Procurement Assurance Board to decide as appropriate.</i> AND The ACE(LDS)</td> </tr> <tr> <td data-bbox="1003 986 1395 1054">Gate 2 – Authorisation of Documents</td> <td data-bbox="1395 986 1753 1054">SCM</td> </tr> <tr> <td data-bbox="1003 1054 1395 1259">Gate 3 – Contract Award</td> <td data-bbox="1395 1054 1753 1259">PAB AND The relevant Director or DMT – <i>Procurement Assurance Board to decide as appropriate.</i></td> </tr> </tbody> </table> | Gateway Process gate | Approval process | Gate 1 – Options Appraisal / Project Initiation Document | PAB AND The relevant Director or DMT – <i>Procurement Assurance Board to decide as appropriate.</i> AND The ACE(LDS) | Gate 2 – Authorisation of Documents | SCM | Gate 3 – Contract Award | PAB AND The relevant Director or DMT – <i>Procurement Assurance Board to decide as appropriate.</i> | To provide clarity on process and authorisations. |
| Gateway Process gate | Approval process | | | | | | | | | | | |
| Gate 1 – Options Appraisal / Project Initiation Document | PAB AND The relevant Director or DMT – <i>Procurement Assurance Board to decide as appropriate.</i> AND The ACE(LDS) | | | | | | | | | | | |
| Gate 2 – Authorisation of Documents | SCM | | | | | | | | | | | |
| Gate 3 – Contract Award | PAB AND The relevant Director or DMT – <i>Procurement Assurance Board to decide as appropriate.</i> | | | | | | | | | | | |

| Old Rule No. | New Rule No. | Current Wording | Proposed Amendment | | Reason | |
|--------------|--------------|---|--------------------|--|---|---|
| | | available to the CD-SR and the ACE(LDS). | | <p>Gate 4(a) – Contract Extension/Variation</p> <p>PAB AND The relevant Director or DMT – <i>Procurement Assurance Board to decide as appropriate.</i> AND, where appropriate ACE(LDS) – <i>only in cases where the extension is not part of the original contract or where the variation is a material change.</i></p> | <p>PAB AND The relevant Director or DMT – <i>Procurement Assurance Board to decide as appropriate.</i></p> | |
| 17.3 | 17.3 | No action leading towards procurement, including any steps to undertake a further competition under an existing framework arrangement, shall be undertaken until confirmation of the process has been given under the terms set out in Rule 17.1 . | | <p>Stage 4(b) – Contract Termination (during the contract period)</p> <p>PAB AND The relevant Director or DMT – <i>Procurement Assurance Board to decide as appropriate.</i></p> | | To provide clarity that a gateway is not required where using an existing NYCC established framework. |

| Old Rule No. | New Rule No. | Current Wording | Proposed Amendment | Reason |
|--------------|--------------|---|---|--|
| 18.1 | 18.1 | <p>The Responsible Officer shall take all such steps as are appropriate to monitor and review the performance of the Contract, having regard to its value, nature, duration and subject matter. As part of the monitoring and review process the Responsible Officer shall maintain adequate records of Contract performance and details of review meetings with the Contractor. Such records and details shall be made available to Internal Audit whenever required and shall be recorded in any relevant Gateway Process report (Stage 4). Such records shall also be used on the basis for any permitted extension to the Contract.</p> | <p>The Responsible Officer and the CM, in relation to all corporate contracts, shall take all such steps as are appropriate to monitor and review the performance of the Contract, having regard to its value, nature, duration and subject matter. As part of the monitoring and review process the Responsible Officer/CM shall maintain adequate records of Contract performance and details of review meetings with the Contractor. Such records and details shall be made available to Internal Audit whenever required and shall be recorded in any relevant Gateway Process report (Gate 4). Such records shall also be used on the basis for any permitted extension to the Contract.</p> | <p>Included reference to the CM responsibility for Corporate Contracts to provide clarity.</p> |
| 18.3 | 18.3 | <p>Contracts with a value in excess of the relevant EU Threshold may be varied in accordance with the terms of that Contract or as outlined in Regulation 72 of the PCRs. Any proposed variations which have the effect of materially changing the Contract must be approved by the ACE(LDS),</p> | <p>Contracts with a value in excess of the relevant EU Threshold may be varied or extended in accordance with the terms of that Contract or as outlined in Regulation 72 of the PCRs. Approval must be sought in accordance with Rule 17.1, (Table 4 - Gateway process – Authorisation to Approve Gate 4a).</p> | <p>To be provide clarity and reference the amendments to Rule 17.1 as detailed above.</p> |

| Old Rule No. | New Rule No. | Current Wording | Proposed Amendment | Reason |
|--------------|--------------|---|--|---|
| | | whether or not they are effected by amending the Contract itself or by correspondence. | | |
| 18.4 | 18.4 | If an Officer requires a Contract which exceeds the financial values stated in Rule 17.2 to be terminated then this must be done in accordance with the terms of the Contract. Approval must be sought in accordance with Rule 17.1 (Gateway Process Stage 4b). | If an Officer requires a Contract which exceeds the financial values stated in Rule 17.2 to be terminated then this must be done in accordance with the terms of the Contract. Approval must be sought in accordance Rule 17.1 (Table 4 – Gateway process – Authorisation to Approve Gate 4b). | To provide clarity. |
| 21.1 | 21.1 | A Director shall consider when procuring the provision of the Services, Supplies Works or Social and Other Specific Services, whether a Grant would be a preferable means to achieving its objectives rather than following a competitive Bid process. | <p>A Director shall consider when procuring the provision of the Services, Supplies Works or Social & Other Specific Services, whether a grant would be a preferable means to achieving its objectives rather than following a competitive Bid process. A grant may only be awarded in circumstances where:</p> <ul style="list-style-type: none"> • There is the legal power to make a grant for the purpose envisaged; • It does not contravene EU rules on state aid. | <p>Additional information provided to add clarity to scenarios where a grant is appropriate.</p> <p>To provide clarity.</p> |
| N/A | 21.4 | Not currently included | The Responsible Officer shall take all such steps as are appropriate to monitor and review the performance of the grant agreement, having regard to its value, nature, duration and subject matter. As part of the grant monitoring and review process the Responsible Officer shall maintain adequate records | To provide clarity to Officers that grant agreements must be monitored, highlighting |

| Old Rule No. | New Rule No. | Current Wording | Proposed Amendment | Reason |
|--------------|--------------|------------------------|--|---|
| | | | of performance and details of review meetings with the grant recipient. | importance of contract management. |
| N/A | 22.1 | Not currently included | Where an Officer is hiring or engaging a staff member who is not on the Council payroll there is a legal requirement to determine whether it is the responsibility of the Council to deduct tax and national insurance at source, in accordance with the requirements of the Social Security Contributions (Intermediaries) Regulations 2000, as amended (IR35). | To provide clarity on new requirements. |

Contract Procedure Rules

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*These Rules constitute the Council's Standing Orders in relation to contracts under Section 135 of the Local Government Act 1972 and apply to all contracts (excluding those stated in **Rule 2.2**), including those made in the course of the discharge of functions which are the responsibility of the Executive.*

1. INTRODUCTION

1.1 These terms will have the following meanings in the Contract Procedure Rules:-

| | |
|---------------------------------|---|
| ACE(LDS) | means Assistant Chief Executive (Legal and Democratic Services) |
| Best Value Form | means the form to be completed to capture the rationale for not seeking bids in accordance with Rule 8.1 |
| CD-SR | means the Corporate Director - Strategic Resources |
| Constitution | means the Council's Constitution of which these Rules form part. |
| Contract | means any agreement made between the Council and any other person which is intended to be legally enforceable and involves the acceptance of an offer made by one party to commit itself to an action or series of actions and subject to the exceptions in Rule 2.2 |
| Contracts Finder | means the web-based portal as described in the PCRs |
| CM | means the Corporate Contracts Manager. |
| Contract Register | means the register of Contracts maintained by the Council as set out in Rule 16.8 |
| Contractor | means a person or entity with whom the Council has a Contract |
| Council | means North Yorkshire County Council |
| DMT | means the Directorate Management Team |
| Director | means the Chief Executive Officer; Corporate Director Business and Environmental Services; Corporate Director Health and Adult Services; Corporate Director Children and Young People's Service; Corporate Director - Strategic Resources as the context requires |
| Directors Recommendation | means a written record of the decision and justification to apply one of the exceptions set out in Rule 15.1 to be signed and kept by the relevant Director |
| E-Sourcing system | means the Council's chosen E-sourcing system (currently YORtender) or an approved alternative |
| EU | means the European Union |

| | |
|----------------------------|--|
| EU Threshold | means the current threshold above which the PCR's apply, currently £164,176 for services and supplies £589,148 for social and other specific services and £4,104,394 for works |
| FPP | means the Forward Procurement Plan which outlines all future procurement requirements of the Council |
| Framework Agreement | means an agreement with one or more contracting authorities and one or more economic operator which establishes an arrangement for: <ul style="list-style-type: none"> (i) multiple orders to be placed with one Contractor (a single supplier framework), or (ii) a framework of multiple Contractors to engage in further competitions (a multiple supplier framework) |
| Gateway Process | means the Council's value based gateway procurement process that combines assessment and understanding of various aspects of value with appropriate review and scrutiny at defined points in the procurement cycle |
| HoP | means the Head of Procurement |
| Internal Audit | means the Council's appointed internal auditors (currently Veritau) |
| ITB | means an Invitation to Bid |
| ITT | means an Invitation to Tender |
| Key Decision | means a decision made in connection with the discharge of a function which is the responsibility of the Executive as set out in Article 13.03(b) of the Constitution [insert hyperlink] |
| Leasing Agreement | means a Contract for the provision of finance to enable goods or services to be obtained and where ownership in those goods does not automatically pass to the Council at the end of the Contract period |
| LDSO | means a Legal and Democratic Services Officer |
| MEAT | means the Most Economically Advantageous Tender |
| Member | means a member of the Council or co-opted member on a Council committee |
| Officer | means a Council employee or other authorised agent |
| OJEU | means the Official Journal of the European Union |
| OJEU Tender | means the procurement process to be followed where the estimated whole life value of a Contract exceeds the relevant EU Threshold |

| | |
|---|---|
| PAB | means the Procurement Assurance Board, chaired by the HoP. |
| Participant | means a person or entity participating in a procurement process, who has expressed an interest in tendering for a Contract or who has tendered for a Contract |
| PCR | means the Public Contracts Regulations 2015 |
| Person | means any individual, partnership, company, trust, other local authority, Government department or agency |
| Procurement Manual | means the manual to accompany these Rules which provides detailed guidance on procurement techniques and the effect of the Rules |
| Procurement Strategy | means the Council's Procurement Strategy as agreed from time to time. |
| Property Contract | means a Contract which creates an estate or interest in land or buildings |
| PSBO | means Public Sector Buying Organisation |
| Responsible Officer | means the Officer who is responsible for the procurement and/or management of a Contract |
| Rules | means these Contract Procedure Rules |
| SCM | means Senior Category Manager |
| Services or Supplies | means as defined in Regulation 2 of the PCRs |
| Social and Other Specific Services | means those services defined as such in Schedule 3 of the PCRs |
| SQ | means the Selection Questionnaire |
| Waiver Request Form | means the prescribed form to be completed when requesting a waiver in accordance with Rule 15.4 |
| Works | means as defined in Regulation 2 of the PCRs |

1.2 References in these Rules to:-

- (a) any legislation (e.g. Act, Statutory Instrument, EU Directive) include a reference to any amendment or re-enactment of such legislation;
- (b) the value of any Contract are to the total estimated aggregate gross value payable over the full period of the Contract including any options or extensions to the Contract without any deduction for income due to the Contractor or the Council;
- (c) the singular include the plural and vice versa;

- (d) the masculine include the feminine and vice versa;
- (e) Directors, the CD-SR and the ACE(LDS) shall be taken to include such Officers as are designated by those officers to undertake the duties and responsibilities set out in these Rules, except in the case of the following Rules:-
 - (i) Director - **Rules 8.6, 15.1(d), (g) and (h), 15.3(b) and 17.1**
 - (ii) CD-SR - **Rules 2.1, 2.4, 8.6, 15.1(d), (g) and (h), 15.3(b), 15.4, 15.5, 16.2 and 17.1**
 - (iii) ACE(LDS) - **Rules 2.1, 2.4, 8.6, 15.3(b), 15.4, and 17.1**

where delegation is not permitted. A record of all duties and responsibilities as delegated under these Rules is to be maintained by each Director, the CD-SR and the ACE(LDS).

2 GENERAL

- 2.1 These Rules are made by the Council on the advice of the CD-SR (in consultation with the ACE(LDS)) under Article 14.02 of the Constitution.
- 2.2 These Rules apply to all Contracts for Works, Supplies, Services or Social and Other Specific Services but do not apply to:-
 - (a) contracts of employment;
 - (b) property contracts (which are covered by the Property Procedure Rules); and
 - (c) financial instruments (including, but without limitation, shares, bonds, bills of exchange, future or options contracts) (which are covered by the Financial Procedure Rules).
- 2.3 The Council has made Financial Procedure Rules under Article 14.01 of the Constitution which shall be applied in conjunction with these Rules.
- 2.4 The CD-SR (in consultation with the ACE(LDS)) shall review the application and effect of these Rules and make an annual report or as required but no less than once per year to the Audit Committee recommending such amendments to the Rules as are considered appropriate.
- 2.5 The CD-SR has produced a Procurement Manual which sets out important issues to be considered in the procurement context. These Rules should be read in conjunction with the Procurement Manual.
- 2.6 The CD-SR has also produced a Finance Manual which gives advice on financial procedures.
- 2.7 Where a Contract for the acquisition or hire of goods or services involves any form of Leasing Agreement to finance the transaction then the CD-SR shall undertake the negotiation of terms and authorise the arrangement in accordance with Rule 9.3 of the Financial Procedure Rules.
- 2.8 Directors shall ensure that all documentation relating to Contracts and procurement processes (including bids) is retained in accordance with the Council's Records Retention and Destruction Schedule

- 2.9 Where the Council has awarded a Contract to any person to supervise or otherwise manage a Contract on its behalf such a person shall be required to comply with these Rules as if he were an Officer of the Council.
- 2.10 Wherever appropriate procurement shall be undertaken using the standard precedent documents contained in the Procurement Manual applying to SQ's, ITT's or ITBs. Wherever alternative documents are to be used they must be approved by the CD-SR and where appropriate the ACE(LDS).
- 2.11 Where the total Contract value for procurement is within the values in the first column of Tables 1-3, below, the award procedure in the second column must be followed.

Table 1: Goods and Services (excluding Social & Other Specific Services)

| Total Contract Value | Award Procedure | Signature/Sealing Contract |
|---|--|---|
| Up to £25,000 | Bids not mandatory. Best Value Form to be completed where Bids are not invited. | One signature The Director within the relevant Directorate (or by an Officer authorised by the Director to sign on the Directors behalf). |
| £25,000 up to EU Threshold (currently £172,514) | Bids must be invited in accordance with Rule 8 . These must be advertised using the E-Sourcing system and published to Contracts Finder. | One signature The Director within the relevant Directorate (or by an Officer authorised by the Director to sign on the Directors behalf). |
| Above EU Threshold (currently £172,514) | Follow the appropriate EU Procedure as set out in Rules 10 and 11 . The Director must be informed of the procurement and approval sought through the Gateway process. | Two signatures: The Director (or by an Officer authorised by the Director to sign on the Directors behalf). AND The ACE(LDS) (or by an Officer authorised by the ACE (LDS) to sign on his behalf). Sealing (where appropriate) ACE(LDS) (or by an Officer authorised by the ACE (LDS) to sign on his behalf) in accordance with Rule 6 . |

Table 2: Works

| Total Contract Value | Award Procedure | Signature/Sealing Contract |
|---|---|--|
| Up to £25,000 | Bids not mandatory. Best Value Form to be completed where Bids are not invited. | One signature The Director within the relevant Directorate (or by an Officer authorised by the Director to sign on the Directors behalf). |
| £25,001 up to EU Threshold (currently £4,322,012 for Works) | Bids must be invited in accordance with Rule 8 . These must be advertised using the E-Sourcing system and published to Contracts Finder. | One signature The Director within the relevant Directorate (or by an Officer authorised by the Director to sign on the Directors behalf). |

| Total Contract Value | Award Procedure | Signature/Sealing Contract |
|--|---|--|
| | | Contracts with a value in excess of £1m must be sealed by ACE(LDS) (or by an Officer authorised by the ACE (LDS) to sign on his behalf) in accordance with Rule 6 . |
| Above Threshold (currently £4,322,012 for Works) | EU Follow the appropriate EU Procedure as set out in Rules 10 and 11 . The Director must be informed of the procurement and approval sought through the Gateway process | Contracts must be sealed by ACE(LDS) (or by an Officer authorised by the ACE (LDS) to sign on his behalf) in accordance with Rule 6 . |

Table 3: Social & Other Specific Services

| Total Contract Value | Award Procedure | Signature/Sealing Contract |
|---|---|--|
| Up to £25,000 | Bids not mandatory. Best Value Form to be completed where Bids are not invited. | One signature The Director within the relevant Directorate (or by an Officer authorised by the Director to sign on the Directors behalf). |
| £25,001 up to EU Threshold (currently £625,050) | Bids must be invited in accordance with Rule 8 . These must be advertised using the E-Sourcing system and published to Contracts Finder. | One signature The Director within the relevant Directorate (or by an Officer authorised by the Director to sign on the Directors behalf). |
| Above Threshold (currently £625,050) | EU Follow the appropriate EU Procedure as set out in Rules 10 and 11 . The Director must be informed of the procurement and approval sought through the Gateway process | Two signatures The Director (or by an Officer authorised by the Director to sign on the Directors behalf). AND The ACE(LDS) (or by an Officer authorised by the ACE (LDS) to sign on his behalf). Sealing (where appropriate) ACE(LDS) (or by an Officer authorised by the ACE (LDS) to sign on his behalf) in accordance with Rule 6 . |

3. COMPLIANCE WITH LEGISLATION AND STANDARDS

- 3.1 Every Contract shall comply with all relevant applicable legislation and government guidance including:-
- (a) EU Law
 - (b) Acts of Parliament
 - (c) Statutory Instruments including, but without limitation, the Public Contracts Regulations 2015.

3.2 Where relevant, every Contract shall specify that materials used, goods provided, services supplied or works undertaken (as the case may be) shall comply with applicable standards. Such standards are, in order of priority:-

- (a) EU Standards
- (b) British Standards implementing international standards
- (c) British Standards

4. POWERS AND KEY DECISIONS

4.1 In consultation with the ACE(LDS) Directors shall ensure that the Council has the legal power to enter into any Contract and that in respect of all Contracts, regardless of whether they involve the procurement or provision by the Council of Works, Supplies, Services or Social and Other Specific Services Directors shall ensure that no Contract shall be entered into which is ultra vires.

4.2 Directors shall ensure that a written record of the decision to procure a Contract is made in accordance with the Gateway process where **Rule 17** applies. Where such a decision comprises a Key Decision under the Constitution, Directors shall ensure that it is entered on to the Forward Plan and treated as a Key Decision in all respects.

5. FORM OF CONTRACT

5.1 Every Contract shall be evidenced in writing (by the use of a purchase order exchange of correspondence or other written medium).

5.2 Wherever appropriate, and for all Contracts exceeding £25,000 in value, such written agreements shall be made on the basis of terms and conditions agreed by the ACE(LDS). Such terms and conditions may be incorporated into standard order conditions. The Council may accept different terms and conditions proposed by a Contractor provided that the advice of the ACE(LDS) or CD-SR as to their effect has been sought and considered.

5.3 The written form of agreement must clearly specify the obligations of the Council and the Contractor and shall include:-

- (a) the work to be done or the Supplies, Services or Social and Other Specific Services to be provided
- (b) the standards which will apply to what is provided
- (c) the price or other consideration payable
- (d) the time in which the Contract is to be carried out
- (e) the remedies which will apply to any breach of Contract.

5.4 The written form of agreement for all Contracts exceeding £25,000 in value must include the following or equivalent wording:-

- (a) "If the Contractor:-
 - (i) Has offered any gift or consideration of any kind as an inducement or disincentive for doing anything in respect of this Contract or any other Contract with the Council, or

- (ii) Has committed any offence under the Bribery Act 2010, or
- (iii) Has committed an offence under Section 117 (2) of the Local Government Act 1972

the Council may terminate the Contract immediately and will be entitled to recover all losses resulting from such termination”.

- (b) “If the Contractor is in persistent and/or material breach of Contract the Council may terminate the Contract and purchase the Supplies, Works, Services or Social and Other Specific Services from a third party and the Council may recover the cost of doing so from the Contractor.”

5.5 The standard clauses contained in the Procurement Manual relating to the Freedom of Information Act 2000 and the Data Protection Act 1998 shall, wherever possible, be included in all Contracts exceeding £25,000 in value.

5.6 Other standard clauses are contained in the Procurement Manual relating to, for example, equalities, the Public Services (Social Value) Act 2012, sustainability and best value; these are not mandatory for each such written agreement referred to in **Rule 5.4** above, but should be included where appropriate.

6. SIGNATURE/SEALING OF CONTRACTS

6.1 Every written Contract must be either signed or sealed in accordance with this Rule.

6.2 The ACE(LDS) and such of his staff as he may designate are authorised to sign any such Contract.

6.3 The ACE(LDS) also authorises such Contracts to be signed as prescribed in **Rule 2.11**, **Tables 1-3** provided that:-

- (a) appropriate authority exists for the Council to enter into the Contract, and
- (b) the Contract is either:-
 - (i) in a nationally recognised form, or
 - (ii) a standard form prepared or approved by the ACE(LDS), or
 - (iii) is otherwise in a form approved by the ACE(LDS); and
- (c) any variations to approved forms of Contract must themselves be approved by the ACE(LDS), whether or not they are effected by amending the Contract itself or by correspondence

6.4 Only the ACE(LDS) (or a Legal and Democratic Services’ Officer (LDSO) authorised by the ACE(LDS)) may seal a Contract on behalf of the Council, in each case being satisfied that there is appropriate authority to do so.

7. BONDS AND LIQUIDATED DAMAGES

7.1 Where appropriate Directors (in consultation with the CD-SR) shall consider whether to include provision for the payment of liquidated damages by a Contractor for breach of Contract. Such consideration shall be recorded in the Gateway Process (Gate 1).

- 7.2 Where considered appropriate by a Director (in consultation with the CD-SR), the Contractor will be required to provide a performance bond to secure the performance of the Contract. Such performance bonds should provide for a sum of not less than 10% of the total value of the Contract or such other sum as the CD-SR considers appropriate.
- 7.3 Agreements made under Section 38 (adoption of new highways) or Section 278 (development of existing highways) of the Highways Act 1980 shall always include provision for a bond in respect of such sum as the Corporate Director Business and Environmental Services shall consider appropriate except where:-
- (a) the identity of the developer renders the need for a bond unnecessary, or
 - (b) adequate alternative security is provided, or
 - (c) the Corporate Director Business and Environmental Services (in consultation with the CD-SR) agrees that it is inappropriate for a bond to be required.

8. BIDS

- 8.1 Where the estimated value of a Contract is £25,000 or less the invitation of Bids is not mandatory, but written Bids should be invited where appropriate and best value should always be sought. If an Officer is not seeking three Bids then the Best Value Form must be completed to capture the rationale for this decision.
- 8.2 If the estimated value of a Contract exceeds £25,000 but is less than the appropriate EU Threshold, Bids must be invited from all potential Contractors in accordance with **Rule 2.11, Tables 1-3**. A notice advertising the opportunity shall be published through the E-Sourcing System and on Contracts Finder and, if considered appropriate, a local newspaper and a suitable professional or trade journal or website. The form of advertising shall take into account the value, location and subject matter of the Contract. The notice shall specify brief details of the Contract, how the ITB documents may be obtained and the closing date for receipt of Bids by the Council.
- 8.3 All potential Contractors invited to submit Bids shall be provided in all instances with identical information and instructions. Where considered appropriate, Directors may permit potential Contractors who have been invited to submit Bids under **Rule 8.2** to also submit variant Bids (i.e. Bids which do not comply with some or all of the requirements of the primary Bid). The same opportunity to submit variant Bids must be given to all potential Contractors.
- 8.4 A written Bid may only be considered if:-
- (a) it has been received electronically through the E-Sourcing System, or
 - (b) (where permitted in exceptional circumstances) it has been received in a sealed envelope marked "Bid" and indicating the subject matter of the Bid and
 - (c) it has been opened after the expiry of the deadline for submissions and at the same time as other Bids for the same subject matter in the presence of at least two Officers authorised to open Bids..
- 8.5 Before Bids with a value in excess of £25,000 are requested the evaluation criteria must be recorded in writing in the ITB evaluation model. The evaluation criteria must be identified and the weighting between price and quality established and stated in the request for Bids sent to Participants.

- 8.6 If a Bid other than the most economically advantageous Bid is to be accepted, the written approval of the Director (in consultation with the CD-SR or if the relevant Director is the CD-SR, in consultation with the Chief Executive) shall be sought and obtained before the Bid is accepted.
- 8.7 A Bid cannot be accepted where the value exceeds the relevant EU Threshold. If the value of the Bid exceeds the relevant EU Threshold a Director must seek tenders in accordance with **Rules 10 and 11**.
- 8.8 Before a Contract is awarded after a Bid exercise such steps shall be taken by the Responsible Officer, in conjunction with the CD-SR, as are reasonably necessary (having regard to the subject matter, value, duration of the Contract and other relevant factors) to complete a risk assessment of the potential Contractor's financial stability.
- 8.9 Bids may be altered only in accordance with **Rule 9**.

9. POST BID NEGOTIATION AND CLARIFICATION

- 9.1 Post Bid negotiations may not be undertaken where the value of the Contract exceeds the relevant EU Threshold. If the value of a Bid exceeds the relevant EU Threshold, the Director must invite tenders in accordance with **Rules 10 and 11**.
- 9.2 Post Bid negotiations with selected Participants shall only be carried out where:-
- (a) post Bid negotiations are permitted by law; and
 - (b) the Director in consultation with the HoP considers that added value may be obtained; and
 - (c) post Bid negotiations are conducted by a team of suitably experienced Officers approved by the Director who have been trained in post Bid negotiations; and
 - (d) a comprehensive, written record of the post Bid negotiations is kept by the Director; and
 - (e) a clear record of the added value to be obtained as a result of the post Bid negotiations is incorporated into the Contract with the successful Participant.
- 9.3 **Rules 9.1 and 9.2** shall not operate to prevent clarification of all or part of any Bid to the extent permitted by law and where such clarifications are sought the provisions of **Rules 9.2 (c) and 9.2 (d)** shall apply, except that the word "clarification" shall be substituted for the word "negotiation" in these Rules.

10. OJEU TENDERS

- 10.1 Tenders for Contracts which exceed the EU Threshold shall be invited and awarded in accordance with the PCRs and as prescribed in **Rule 10 and 11**.

General Requirements

- 10.2 Before an OJEU Tender is requested the evaluation criteria to be applied to the OJEU Tender must be recorded in writing in the ITT evaluation model. The evaluation criteria must be identified and the weighting between price and quality established and stated in the ITT sent to Participants.
- 10.3 Irrespective of the procurement process being undertaken an OJEU notice must be published through the E-Sourcing system.

- 10.4 All Participants invited to submit OJEU Tenders shall be provided in all instances with identical instructions and information.
- 10.5 Where considered appropriate, the HoP may, in consultation with the SCM, permit Participants to submit variant OJEU Tenders (i.e. tenders which do not comply with some or all of the requirements of the primary tender). The same opportunity to submit variant OJEU Tenders shall be given to all Participants. Variant OJEU Tenders shall only be considered if the Participant also submits a compliant primary tender.
- 10.6 The evaluation of the OJEU Tender submissions shall be carried out by Officers who are considered appropriate having regard for the subject matter and value of the Contract.
- 10.7 All Tenders undertaken in accordance with **Rule 10** shall have a minimum of 3 appropriate Officers (excluding the Procurement and Contract Management Service representative) to undertake the evaluation process. The evaluation process will include:
- Individual evaluation assessment and scoring
 - Consensus marking exercise, chaired by a member of the Procurement and Contract Management Service
 - Moderation, where required
 - Independent verification, where required and in accordance with the Gateway process, Gate 3.

11. OPTIONS FOR OJEU TENDER

- 11.1 The Gateway Process shall identify which of the following OJEU Tender processes shall be used to invite tenders for Contracts with a value in excess of the relevant EU Threshold:
- (i) the Open Procedure (as prescribed by Regulation 27)
 - (ii) the Restricted Procedure (as prescribed by Regulation 28)
 - (iii) the Competitive Procedure with Negotiation (as prescribed by Regulation 29)
 - (iv) the Competitive Dialogue Procedure (as prescribed by Regulation 30)
 - (v) the Innovation Partnership Procedure (as prescribed by Regulation 31)
 - (vi) Negotiated Procedure without prior publication (as prescribed by Regulation 32)
 - (vii) Framework Agreement (as prescribed by Regulation 33)
 - (viii) Dynamic Purchasing System (as prescribed by Regulation 34)
 - (ix) Electronic auctions (as prescribed by Regulation 35)
 - (x) Electronic catalogues (as prescribed by Regulation 36)
 - (xi) Light Touch Regime (as prescribed by Regulations 74-76)

and such identified process shall be used for the invitation of OJEU Tenders in accordance with the requirements of the PCR's.

12. RECEIPT AND OPENING OF OJEU TENDERS

- 12.1 A written OJEU Tender may only be considered if:-
- (a) it has been received electronically through the E-Sourcing System; or
 - (b) (where permitted under Regulation 84 (h)) it has been received in hard copy in a sealed envelope marked "OJEU Tender" and indicating the subject matter of the OJEU Tender, and the identity of the Participant cannot be ascertained from the tender envelope; and

- (c) (subject to **Rule 12.4**) it has been received by the OJEU Tender closing date and time
- 12.2 The CD-SR (or a person designated by him) shall be responsible for the reception and safe custody of OJEU Tenders until they are opened.
- 12.3 OJEU Tenders, whether electronic or hard copy must be opened at the same time and in the presence of the CD-SR) (or a person designated by him) or, where The Procurement and Contract Management Services is undertaking the procurement, the ACE(LDS) (or an Officer designated by him). The E-Sourcing System records the date and time of the OJEU Tender opening, the identity of the Officer(s) present, the identities of the Participants and the tendered sums. Where permitted under Regulation 84 (h) of the PCRs and OJEU Tenders are returned in hard copy format a written record shall be maintained by the HoP, of the OJEU Tenders received. Such record shall include the date and time of OJEU Tender opening, the identity of the Officer(s) present, the identities of Participants and the tendered sums (where readily ascertainable).
- 12.4 If an OJEU Tender is received after the specified closing date and time it may not be considered unless the ACE(LDS) is satisfied that the OJEU Tender was submitted electronically or posted or otherwise dispatched in sufficient time to be delivered before the specified time but that delivery was prevented by an event beyond the control of the Participant.

13. OJEU TENDER EVALUATION AND ACCEPTANCE

- 13.1 The Responsible Officer shall evaluate OJEU Tenders using the evaluation model published in accordance with **Rule 10.2**.
- 13.2 Only in circumstances where an OJEU Tender is agreed by the CD-SR to be an abnormally low tender in accordance with the PCR's can an OJEU Tender other than the MEAT be accepted. In those circumstances a signed and dated record of the reasons for the action taken shall be made within the Gateway Process (Gate 3).
- 13.3 If, as a result of the OJEU Tender evaluation process the HoP is satisfied that an arithmetical error has been made inadvertently by a Participant such an error may, after clarification with the Participant, be corrected. The HoP shall record any such clarification in writing.
- 13.4 Before a Contract is awarded the HoP shall, in consultation with the SCMs, determine whether it is proportionate and appropriate to complete a risk assessment to ascertain the financial stability of the successful Participant. The risk assessment shall take into account the subject matter, complexity, duration, value and any other such factors as may be deemed to be relevant. This shall be recorded in accordance with the Gateway Process (Gate 3), where appropriate.
- 13.5 On completion of the evaluation of the OJEU Tenders received and once all internal approvals have been obtained through the Gateway Process (Gate 3), the HoP shall write to all Participants informing them of the outcome of the OJEU Tender evaluation and providing feedback on the content of their submission, in accordance with Regulation 55 of the PCRs.
- 13.6 The HoP shall wait a minimum of ten days (15 days if not sent electronically) from the date of issue of the letters notifying the Participants of the result of the evaluation before completing the Contract with the successful Participant.

- 13.7 The HoP shall send for publication a Contract Award Notice stating the outcome of the procurement procedure no more than 30 days after the award of the Contract.

14. CERTIFICATION OF CONTRACTS

- 14.1 The Local Government (Contracts) Act 1997 clarified the power of local authorities to enter into certain Contracts, including Private Finance Initiative Contracts. Where Contracts need to be certified under the 1997 Act, only the following Officers are authorised to do so: the Corporate Director Children and Young People's Service, the Corporate Director Business and Environmental Services, the Corporate Director Health and Adult Services, the Director of Public Health, the ACE(LDS) and the CD-SR.

15. EXEMPTIONS TO CONTRACT PROCEDURE RULES

- 15.1 A Director does not need to invite bids in accordance with **Rule 8**, in the following circumstances:-
- (a) purchases via Framework Agreements which have been established either by the Council or by other public sector bodies or consortia (including, but not limited to PSBOs) and where such framework agreements are lawfully accessible to the Council. Contracts awarded from such Framework Agreements shall be awarded in accordance with the provisions of that Framework Agreement; or
 - (b) the instruction of Counsel by the ACE(LDS); or
 - (c) where a grant or other external funding is received by the Council, either in its own right or as an accountable body, and the terms of such grant or other external funding state that such grant or other external funding must be applied in accordance with the terms of such grant or other external funding; or
 - (d) purchases at public auctions (including internet auction sites, e.g. Ebay) where the Director is satisfied that value for money will be achieved; or
 - (e) the purchase of Supplies, Works, Services or Social and Other Specific Services which are of such a specialised nature as to be obtainable from one Contractor only; or
 - (f) repairs to or the supply of parts for existing proprietary machinery or plant where to obtain such supplies from an alternative supplier would invalidate the warranty or contractual provisions with the existing supplier; or
 - (g) Social or Other Specific Services Contracts where:-
 - (i) the service is currently supplied by a Contractor to the satisfaction of the relevant Corporate Director, is considered to be offering value for money and where the foreseeable disruption to service users cannot justify the invitation of further bids, or
 - (ii) the service is of a specialist or personal nature and where service users must be involved in the selection of the Contractor and where the Corporate Director Health and Adult Services and the Corporate Director Children and Young People's Service considers it inappropriate for bids to be invited, or

- (iii) where the relevant Corporate Director is satisfied that the urgency of the need for the service prevents the invitation of bids in which case consideration shall be given to the duration of that service; or
 - (h) Contracts where the Director with the agreement of the HoP agree that for reasons of extreme urgency brought about by unforeseeable events un-attributable to the Council, the timescales for obtaining bids cannot be met. A written record shall be signed and dated by the Director, whenever this Rule applies.
- 15.2 Where any of the exceptions set out in **(d) to (h)** above are applied a Directors Recommendation, in consultation with the relevant SCMs, shall be signed, dated and kept. The Procurement and Contract Management Service shall maintain a register of all recommendations made under this Rule.
- 15.3 A Director does not need to invite OJEU tenders in accordance with **Rule 10 and 11**, in the following circumstances:-
- (a) purchases via Framework Agreements which have been established either by the Council or by other public sector bodies or consortia (including, but not limited to PSBO's) and where such Framework Agreements are lawfully accessible to the Council. Contracts awarded from such Framework Agreements shall be awarded in accordance with the provisions of that Framework Agreement. Where appropriate Officers should apply a minimum 10 day standstill period for all call-off Contracts awarded under an existing Framework Agreement. This is not mandatory but is deemed best practice; or
 - (b) where:
 - (i) Regulations 12 or 72 of the PCRs apply; or
 - (ii) any other specific exclusions as set out in the PCRs apply;

and the ACE(LDS), the relevant Director and CD-SR are in agreement. A written record shall be signed and dated whenever this Rule applies and the Procurement and Contract Management Service shall maintain a register of such written records.

Waivers

- 15.4 Specific exceptions to **Rule 8** are permitted in such other circumstances as the CD-SR and the ACE(LDS) may agree.
- 15.5 Requests for waivers shall be made using the Waiver Request Form prescribed by the CD-SR which shall specify the reasons for the request.
- 15.6 The CD-SR shall maintain a register of all requests made under this Rule and the responses given to them.
- 16. COMPLIANCE, CONTRACT REGISTER AND FORWARD PROCUREMENT PLANS**
- 16.1 Every Officer shall comply with these Rules and any unauthorised failure to do so may lead to disciplinary action.
- 16.2 The CD-SR shall be responsible for monitoring adherence to these Rules.

- 16.3 The HoP shall nominate a representative to act as a key contact point in relation to procurement matters for spend categories; such representatives shall be termed SCMs.
- 16.4 Each Director, in conjunction with the HoP, shall take all such steps as are reasonably necessary to ensure that Officers within Directorates are aware of and comply with these Rules, the Procurement Manual and the Finance Manual referred to in **Rule 2.5**.
- 16.5 SCMs are responsible for the production of a spend category FPP which will be completed in such format as the HoP shall require.
- 16.6 The SCMs shall each present an updated category FPP to the relevant directorate management teams every 6 months for approval.
- 16.7 An annual report on procurement matters, such report to include an annual procurement plan and actions arising from the annual procurement plan, will be presented to a meeting of the Audit Committee.
- 16.8 The Council maintains a Contract Register the purpose of which is to record key details of all Contracts with an aggregate value of £25,000 or more.
- 16.9 CM shall ensure that:-
- (a) all relevant Contracts (including those Contracts to which **Rule 15** applies) are entered onto the Contract Register
 - (b) the Contract Register is maintained by entering new Contracts onto it and removing expired Contracts from it in line with the Council's Records Retention and Destruction Schedule.

Contracts Finder

- 16.10 When a Contract in excess of £25,000 is awarded the Procurement and Contract Management Service shall ensure that such information as is prescribed in the PCRs is published on Contracts Finder via the E-Sourcing system.
- 17. GATEWAY PROCESS REPORTS INCLUDING NOTIFICATION OF SECTION 151 OFFICER AND MONITORING OFFICER**
- 17.1 When a procurement is being considered which is expected to exceed the financial value thresholds specified in **Rule 17.2** the Gateway Process must be completed and signed off by the relevant Officers, as detailed in Table 4 below.

Table 4: Gateway Process – Authorisation to Approve

| Gateway process Gate | Approval process |
|--|--|
| Gate 1 – Options Appraisal /Project Initiation Document | PAB. AND The relevant Director or DMT. AND The ACE(LDS). |
| Gate 2 – Authorisation of Documents | SCM. |
| Gate 3 – Contract Award | PAB. AND The relevant Director or DMT. |

| | |
|--|---|
| Gate 4(a) – Contract Extension/Variation | PAB. AND The relevant Director or DMT; AND, where appropriate ACE(LDS) – <i>only in cases where the extension is not part of the original contract or where the variation is a material change.</i> |
| Gate 4(b) – Contract Termination (during the contract period) | PAB; AND The relevant Director or DMT. |

17.2 The whole Contract financial value thresholds for the purposes of **Rule 17.1** are:

- (a) Works Contracts - £1m
- (b) Social and Other Specific Services Contracts - £589,148.
- (c) Supplies and Services Contracts - £164,176

17.3 No action leading towards procurement, including any steps to undertake a further competition under an existing PSBOs framework arrangement or other legally compliant framework agreement accessible by the Council, shall be undertaken until confirmation of the process has been given under the terms set out in **Rule 17.1**.

18. CONTRACT MONITORING

18.1 The Responsible Officer and the CM, in relation to all corporate contracts, shall take all such steps as are appropriate to monitor and review the performance of the Contract, having regard to its value, nature, duration and subject matter. As part of the monitoring and review process the Responsible Officer/CM shall maintain adequate records of Contract performance and details of review meetings with the Contractor. Such records and details shall be made available to Internal Audit whenever required and shall be recorded in any relevant Gateway Process report (Gate 4). Such records shall also be used on the basis for any permitted extension to the Contract.

Contract Variation/Extension

18.2 Contracts with a value below the relevant EU Threshold may be varied or extended in accordance with the terms of that Contract. Any proposed variations which have the effect of materially changing the Contract must be approved by the ACE(LDS), whether or not they are effected by amending the Contract itself or by correspondence.

18.3 Contracts with a value in excess of the relevant EU Threshold may be varied or extended in accordance with the terms of that Contract or as outlined in Regulation 72 of the PCRs. Approval must be sought in accordance with Rule 17.1, (Table 4 - Gateway process – Authorisation to Approve Gate 4a).

Contract Termination

18.4 If an Officer requires a Contract which exceeds the financial values stated in **Rule 17.2** to be terminated then this must be done in accordance with the terms of the Contract. Approval must be sought in accordance **Rule 17.1** (Table 2 – Gateway process – Authorisation to Approve Gate 4b).

19. TRAINING FOR PROCUREMENT

- 19.1 Where appropriate any Officer involved in procurement activities shall have received a level of formal training commensurate with the nature of the procurement activity being undertaken.

20. DECLARATION OF INTERESTS

- 20.1 If it comes to the knowledge of a Member, Responsible Officer or other Officer that a Contract in which he has an interest (determined in accordance with the Members' and/or Officers' Code of Conduct as appropriate) has been or is proposed to be entered into by the Council, he shall immediately give written notice to the ACE(LDS).

21. GRANTS

- 21.1 A Director shall consider when procuring the provision of the Services, Supplies Works or Social & Other Specific Services, whether a grant would be a preferable means to achieving its objectives rather than following a competitive Bid process. A grant may only be awarded in circumstances where;

- There is the legal power to make a grant for the purpose envisaged;
- It does not contravene EU rules on state aid.

- 21.2 Where the value of a grant exceeds £25,000, the Director shall have the discretion to conduct a competitive application process for the award of that grant if doing so demonstrates best value for the Council. If a Director is not conducting a competitive application process then the Best Value Form must be completed to capture the rationale for the decision.

- 21.3 Where the value of a grant exceeds the relevant EU Threshold, the Director shall complete the Gateway Process in accordance with Rule 17.

- 21.4 The Responsible Officer shall take all such steps as are appropriate to monitor and review the performance of the grant agreement, having regard to its value, nature, duration and subject matter. As part of the grant monitoring and review process the Responsible Officer shall maintain adequate records of performance and details of review meetings with the grant recipient.

22.0 HIRING AND ENGAGING STAFF

- 22.1 Where an Officer is hiring or engaging a staff member who is not on the Council payroll there is a legal requirement to determine whether it is the responsibility of the Council to deduct tax and national insurance at source, in accordance with the requirements of the Social Security Contributions (Intermediaries) Regulations 2000, as amended (IR35).

AUDIT COMMITTEE - PROGRAMME OF WORK 2016 / 17

| ANNUAL WORKPLAN | | DEC 16 | MAR 17 | JUNE 17 | JULY 17 | SEPT 17 | DEC 17 |
|--------------------------------------|--|--------|--------|---------|---------|---------|--------|
| Audit Committee Agenda Items | | | | | | | |
| A | Training for Members (as necessary) | | 1 | 2 | 3 | TBA | TBA |
| | Annual Internal Audit Plan 2017/18 | | * | * | | | |
| | Annual report of Head of Internal Audit 2015/16 | | | * | | | |
| | Progress Report on Annual Internal Audit Plan 2016/17 | * | * | | | * | * |
| | Internal Audit report on Children and YP's Service | | | * | | | |
| | Internal Audit report on Computer Audit/Corporate Themes/Contracts | | | | | * | |
| | Internal Audit report on Health and Adult Services | | | | | * | |
| | Internal Audit report on BES | * | | | | | * |
| | Internal Audit report on Central Services | | * | | | | |
| | | | | | | | |
| B | Annual Audit Letter | * | | | | | * |
| | Annual Audit Plan 2015/16 (NYCC & NYPF) | | * | | | | |
| | Annual Report / Letter of the External Auditor | | | | | * | |
| | Interim Audit Report | | | * | | | |
| | Discussion with External Auditor on 1-to-1 basis | | | | | | |
| C | Statement of Final Accounts including AGS (NYCC + NYPF) | | | | * | * | |
| | Letter of Representation | | | | | * | |
| | Chairman's Annual Report | | | | | * | |
| | Effectiveness of Audit Committee | | | * | | | |
| | Changes in Accounting Policies | | * | | | | |
| | Corporate Governance – review of Local Code + AGS | | | * | | | |
| | – progress report inc re AGS | | | * | | | |
| | Risk Management (inc Corporate R/R) – progress report | * | | * | | | * |
| | Partnership Governance – progress report | | | | * | | |
| | Information Governance – progress report | | * | | | | |
| | Review of Finance./Contract/Property Procedure Rules | | | | | | |
| | Service Continuity Planning | | | * | | | |
| | Audit Committee Terms of Reference | * | | | | | * |
| | Counter Fraud | | * | | | | |
| | Contract Management | * | | | | | * |
| | Treasury Management – Executive February | | * | | | | |
| Corporate Procurement Strategy | | | * | | | | |
| VFM Review | * | | | | | | |
| D | Work Programme | * | * | * | * | * | * |
| | Progress on issues raised by the Committee (inc Treasury Management) | * | * | * | | * | * |
| E | Agenda planning / briefing meeting | 16/11 | | | | | |
| | Audit Committee Agenda/Reports deadline | 21/11 | 17/01 | | | | |
| Audit Committee Meeting Dates | | 01/12 | 02/03 | 22/06 | 13/07 | 07/09 | 30/11 |

- A = Internal Audit
- B = External Audit
- C = Statement of Final Accounts / Governance
- D = Other
- E = Dates

- ◊ before formal meeting
- 1 Cyber Security and General Information Governance
- 2 Modern Council 2020 Programme
- 3 Health / HAS – Richard Webb and Jim Clark
- Sessions to be sorted