

The Report of the Executive

The Executive met on Tuesday, 29 July 2014 commencing at 11.00 am. Present: County Councillor John Weighell in the Chair. County Councillors Arthur Barker, Gareth Dadd, Tony Hall, Carl Les and Clare Wood.

Also in attendance: County Councillors John Blackburn and John Fort BEM.

The Executive met on Tuesday, 19 August 2014 commencing at 11.00 am. Present: County Councillor John Weighell in the Chair. County Councillors Arthur Barker, Gareth Dadd, Tony Hall, Carl Les, Don Mackenzie and Clare Wood.

Also in attendance: County Councillors Andrew Backhouse, Jim Clark, David Jeffels, Janet Sanderson and Elizabeth Shields.

The Executive met on Tuesday, 9 September 2014 commencing at 11.00 am. Present: County Councillor John Weighell in the Chair. County Councillors Arthur Barker, Gareth Dadd, Tony Hall, Carl Les, Don Mackenzie, Chris Metcalfe and Clare Wood.

Also in attendance: County Councillors John Clark, David Jeffels, Peter Sowray, Tim Swales and John Savage.

The Executive met on Tuesday, 30 September 2014 commencing at 11.00 am. Present: County Councillor John Weighell in the Chair. County Councillors Arthur Barker, Tony Hall, Carl Les, Don Mackenzie, Chris Metcalfe and Clare Wood.

The Executive met on Tuesday, 28 October 2014 commencing at 11.00am. Present: County Councillor John Weighell in the Chair. County Councillors Arthur Barker, Gareth Dadd, Tony Hall, Carl Les, Don Mackenzie, Chris Metcalfe and Clare Wood.

Also in attendance: County Councillors John Blackie, David Jeffels and Robert Heseltine.

1. Prudential Indicators: The Prudential Code requires appropriate arrangements to be in place for the monitoring, reporting and revision of Prudential Indicators previously set and these arrangements were agreed by the County Council in 2004. Updated Prudential Indicators for 2014/15 to 2016/17 were approved by Executive on 4 February 2014 and subsequently by County Council on 19 February 2014 and were based on a 2013/14 Quarter 3 - Capital Plan as at 31 December 2013.

The Annual Treasury Management and Prudential Indicators report for 2013/14 was submitted to Executive on 17 June 2014. This reported the 2012/13 outturn position on Prudential Indicators compared with the last updated set of Indicators for the year, as approved by County Council on 19 February 2014. The 2013/14 outturn report did not however consider any consequential changes to the Indicators set for the three year period 2014/15 to 2016/17.

It is therefore necessary to consider and revise the Prudential Indicators for the three years up to 31 March 2017. As a result of Capital Plan updates and other changes, many of the Prudential Indicators need revising, particularly those for capital spending, the consequential capital financing requirement and authorised debt levels.

Rather than consider individual Prudential Indicators in isolation a full review of all Indicators has been undertaken as part of the ongoing financial monitoring process referred to earlier. This is necessary because the Indicators approved in February 2014 were based on a Capital Plan as at 31 December 2013 and subsequent, and more up to date information has become available resulting in forecasts for future years having to be refined.

A Prudential Indicators update and monitoring report is therefore attached as **Appendix 1A** (at pages 18 – 28). This sets out each Prudential Indicator in terms of the:

- (a) Indicators approved in February 2014
- (b) updated Indicators as at August 2014 (i.e. this report)
- (c) comments on the reasons for significant variations being proposed

In general the updated Indicators reflect a number of common factors including:

- (a) 2013/14 outturn – capital spending, capital financing and borrowing as reported to Executive on 17 June 2014
- (b) an updated Capital Plan
- (c) latest information and approvals on schemes self funded from grants, contributions and from revenue
- (d) updated forecasts of debt charge estimates and interest earned on surplus cash balances
- (e) various other miscellaneous refinements

The Executive RECOMMENDS:

That County Council approve the revised Prudential Indicators for the period 2014/15 to 2016/17 as set out in **Appendix 1A** (at pages 18 – 28).

2. Review of Contract, Finance and Property Procedure Rules: The terms of Reference of the Audit Committee include the following as one of its functions: “To review and recommend to the Executive changes to the Financial, Contract and Property Procedure Rules”. A review of the Property, Financial and Contract Procedure Rules (the Rules) was carried out by the Audit Committee on 17 July 2014. The Audit Committee approved a number of changes which are set out below, and the Executive also approved these at their meeting 9 September 2014 for recommendation to County Council as the Rules form part of the County Council’s Constitution.

It was intended that a detailed review be carried out every four years in line for the beginning of each new Council. As this did not happen in 2013, when only the Contract Procedure Rules were reviewed, a further review has been undertaken of all the Rules. There is need to constantly review the Rules and to make periodic amendments to reflect operational circumstances. Officers have reviewed the Rules in this light. The changes fall into a number of categories and these are explained below under each set of Rules.

Property Procedure Rules

Threshold Changes: A number of values have been updated, but generally thresholds for acquisition, redeployment, etc. have remained as before. These are generally higher values and reflect the lack of significant movement in the property market in recent years.

Additional and Deleted Sections: An additional clause has been inserted to state that acquisitions above market value must be justified. Regarding the acquisition of property, three key changes are proposed:

- The approval for securing an option will rest with the Corporate Director, Strategic Resources (CD-SR) rather than with any Director.
- The value to be approved by the CD-SR will now be the total cost of the option fee payable plus the resulting transaction, rather than just the option fee.
- Approval for exercising an option will now be based on the same value bands as other acquisitions.

It is also proposed that the sale of land forming the County Farms estate will now be authorised by the Corporate Director –Strategic Resources regardless of value (so that high value farm sales no longer have to be approved by the Executive). This is because there has already been a policy decision relating to the sale of Farms so no further approvals should be required of the Executive.

Financial Procedure Rules

Threshold Changes: Changes to various thresholds have been made to reflect the overall materiality of the Council's revenue and capital budgets, recognition of the responsibility of Corporate Directors for their budgets and the operating context of the Council, which is characterised by fewer financial and staff resources. The most significant changes relate to virement (**Rule 6.22**), capital budget (**Rule 7.7**), debt write-off (**Rule 12.8**) and partnership arrangements (**Rules 20.2 and 20.4**). Members may be concerned with the effect of these changes on the control environment. However, improvements are also being made to the transparency of the operation of these activities through clearer definition of budget headings for measurement and reporting of virements ('divisions of service') and the maintenance of debt write-off records. In relation to partnership arrangements all medium and high risk partnerships will be subject to a full assessment regardless of the value of financial contributions by the County Council.

Additional and Deleted Sections: An additional section on Anti-Corruption has been proposed to reflect the importance of this matter in its own right. It was previously part of the section on Internal Audit. The section on petty cash is removed with the key requirement of providing this facility included within the section on banking. The Finance Manual contains guidance on the operation of petty cash.

Administrative Amendments: Renumbering of sections and paragraphs has been done to reflect the amendments proposed in this report. The Finance Manual, which is also part of the internal control framework, contains further guidance on procedures and practices. An outline review of that document has been undertaken.

The review confirmed that improvements are required to ensure that:

- It is accessible to its target audience
- Is up-to-date in terms of all content
- It fully contributes to ensure adherence to the Rules
- Is an aid to achieving value for money

The Finance Manual will be developed as part of the 2020 Finance Programme to achieve these outcomes.

Contract Procedure Rules

Officers have reviewed the Contract Procedure Rules, which were subject to a number of significant changes during 2013. As a result the changes proposed in this report are relatively few. These mainly relate to clarifying arrangements. However, one change brings the Rules in line with transparency requirements. This involves the requirement to extend use of the E-sourcing for all quotations between £5k and £20k. This will require some training for staff not familiar with this approach. The following **Appendices 2A** (at pages 29-43), **2C** (at pages 47-74) **and 2E** (at pages 88-108) represent the revised sets of Rules, which are recommended to the County Council as approved by the Audit Committee on 17 July 2014 and by the executive 9 September 2014. **Appendices 2B** (at pages 44-46), **2D** (at pages 75-86) **and 2F** (at pages 109-116) provide explanations on the amendments and the reason for those changes in greater detail than provided elsewhere in this covering report. In event that the changes are not approved by County Council, the current Rules will remain in force.

The Executive RECOMMENDS:

That County Council

- a) Approve the proposed changes to the Property Procedure Rules as set out in Appendix 2A (at pages 29-43)
- b) Approve the proposed changes to the Financial Procedure Rules as set out in Appendix 2C (at pages 47-74)
- c) Approve the proposed changes to the Contract Procedure Rules as set out in Appendix 2E (at pages 88-108)
- d) Approve for incorporation within the County Council's Constitution any changes approved under recommendations a), b) and c)

4. Appointments to Committees and Outside Bodies: Any proposals for the reallocation of seats, if necessary to achieve political proportionality, or for changes to memberships or substitute memberships of committees, or other bodies to which the Council makes appointments put forward by the relevant political group, prior to or at the meeting of the Council, be agreed including:

Young People Overview and Scrutiny Committee:

Parent Governor representatives: Dr Tom Cavell-Taylor, Ripon.
Mr Jeremy Noott –Selby.

North York Moors National Park Authority:

County Councillor Heather Moorhouse.

All appointments, nominations and approvals made shall be deemed to be appointments and nominations approved for the purposes of the Indemnity Policy.

Police and Crime Panel – update for noting:

Vice-Chairman: Fiona Fitzpatrick, City of York Council, Labour
Vice-Chairman: Mick Griffiths, Richmondshire District Council, Independent
Scarborough Borough Council: Michelle Donohue-Moncrieff, Conservative
City of York Council: Mark Waters, Independent
Co-opted Elected Member: Helen Flynn, Liberal Democrat.

The Executive RECOMMENDS:

That any proposals for the re-allocation of seats, if necessary to achieve political proportionality, or for changes to memberships or substitute memberships of committees, or other bodies to which the Council makes appointments, put forward by the relevant political group, prior to or at the meeting of the Council, be agreed including:

(a) Young People Overview and Scrutiny Committee:

Parent Governor representatives: Dr Tom Cavell-Taylor, Ripon.
Mr Jeremy Noott –Selby.

North York Moors National Park Authority:

County Councillor Heather Moorhouse.

All appointments, nominations and approvals made under this item shall be deemed to be appointments and nominations approved for the purposes of the Indemnity Policy.

(b) Police and Crime Panel – update for noting:

Vice-Chairman: Fiona Fitzpatrick, City of York Council, Labour
Vice-Chairman: Mick Griffiths, Richmondshire District Council, Independent
Scarborough Borough Council: Michelle Donohue-Moncrieff, Conservative
City of York Council: Tracey Simpson-Laing, Labour.
Co-opted Elected Member: Helen Flynn, Liberal Democrat.

JOHN WEIGHELL
Chairman

PRUDENTIAL INDICATORS UPDATE – FOR 2014/15 TO 2016/17

CAPITAL EXPENDITURE & EXTERNAL DEBT INDICATORS			Comment																																																																				
<p>1 Estimated Ratio of capital financing costs to the net Revenue Budget</p> <p>(a) <i>Formally required Indicator</i></p> <p>This reflects capital financing costs (principal plus interest) on external debt plus PFI and finance leasing charges less interest earned on the temporary investment of cash balances.</p> <p>The estimated ratios of financing costs to the net Revenue Budget for the current and future years, and the actual figure for 2012/13 and 2013/14 are as follows:</p> <table border="1"> <thead> <tr> <th rowspan="2">Year</th> <th colspan="2">Executive 4 February 2014</th> <th colspan="2">Update August 2014</th> </tr> <tr> <th>Basis</th> <th>%</th> <th>Basis</th> <th>%</th> </tr> </thead> <tbody> <tr> <td>2012/13</td> <td>actual</td> <td>8.1</td> <td>actual</td> <td>8.1</td> </tr> <tr> <td>2013/14</td> <td>probable</td> <td>7.8</td> <td>actual</td> <td>7.7</td> </tr> <tr> <td>2014/15</td> <td>estimate</td> <td>7.4</td> <td>estimate</td> <td>7.5</td> </tr> <tr> <td>2015/16</td> <td>estimate</td> <td>7.9</td> <td>estimate</td> <td>7.5</td> </tr> <tr> <td>2016/17</td> <td>estimate</td> <td>8.0</td> <td>estimate</td> <td>7.3</td> </tr> </tbody> </table> <p>(b) <i>Local Indicator</i></p> <p>This local Indicator reflects a policy decision to cap Capital Financing costs at 10% (previously 11%) of the net annual Revenue Budget. The Indicator is different to the formally required Indicator at (a) above in that it only reflects the cost components of interest on external debt plus lost interest on internally financed capital expenditure, together with a revenue provision for debt repayment. Unlike the formally required PI it does not reflect interest earned on surplus cash balances or PFI / finance leasing charges.</p> <table border="1"> <thead> <tr> <th rowspan="2">Year</th> <th colspan="2">Executive 4 February 2014</th> <th colspan="2">Update August 2014</th> </tr> <tr> <th>Basis</th> <th>%</th> <th>Basis</th> <th>%</th> </tr> </thead> <tbody> <tr> <td>2012/13</td> <td>actual</td> <td>8.8</td> <td>actual</td> <td>8.8</td> </tr> <tr> <td>2013/14</td> <td>probable</td> <td>8.2</td> <td>actual</td> <td>8.2</td> </tr> <tr> <td>2014/15</td> <td>estimate</td> <td>7.8</td> <td>estimate</td> <td>7.9</td> </tr> <tr> <td>2015/16</td> <td>estimate</td> <td>8.3</td> <td>estimate</td> <td>8.0</td> </tr> <tr> <td>2016/17</td> <td>estimate</td> <td>8.5</td> <td>estimate</td> <td>8.2</td> </tr> </tbody> </table>			Year	Executive 4 February 2014		Update August 2014		Basis	%	Basis	%	2012/13	actual	8.1	actual	8.1	2013/14	probable	7.8	actual	7.7	2014/15	estimate	7.4	estimate	7.5	2015/16	estimate	7.9	estimate	7.5	2016/17	estimate	8.0	estimate	7.3	Year	Executive 4 February 2014		Update August 2014		Basis	%	Basis	%	2012/13	actual	8.8	actual	8.8	2013/14	probable	8.2	actual	8.2	2014/15	estimate	7.8	estimate	7.9	2015/16	estimate	8.3	estimate	8.0	2016/17	estimate	8.5	estimate	8.2	<p>The estimates of financing costs include current Capital Plan commitments based on the latest 2014/15 Q1 Capital Plan.</p> <p>The updated estimates for 2014/15 to 2016/17 reflect the net effect of a range of factors, principally</p> <p>(a) savings being achieved through the ongoing policy of financing capital borrowing requirements internally from cash balances</p> <p>(b) variations in the level of annual borrowing requirements resulting from a range of factors, but principally capital expenditure slippage between years</p> <p>(c) variations in borrowing costs (interest plus a revenue provision for debt repayment) reflecting latest interest rate forecasts to 2016/17 together with the earlier expected repayment and refinancing of two money market loans in 2014/15 not now likely to be 'called' by the lender</p> <p>(d) variations in interest earned on cash balances resulting from continuing current historically low interest rates but offset by continuing higher levels of cash balances (formal Indicator only).</p>
Year	Executive 4 February 2014			Update August 2014																																																																			
	Basis	%	Basis	%																																																																			
2012/13	actual	8.1	actual	8.1																																																																			
2013/14	probable	7.8	actual	7.7																																																																			
2014/15	estimate	7.4	estimate	7.5																																																																			
2015/16	estimate	7.9	estimate	7.5																																																																			
2016/17	estimate	8.0	estimate	7.3																																																																			
Year	Executive 4 February 2014		Update August 2014																																																																				
	Basis	%	Basis	%																																																																			
2012/13	actual	8.8	actual	8.8																																																																			
2013/14	probable	8.2	actual	8.2																																																																			
2014/15	estimate	7.8	estimate	7.9																																																																			
2015/16	estimate	8.3	estimate	8.0																																																																			
2016/17	estimate	8.5	estimate	8.2																																																																			

Prudential Indicator	Comment																				
<p>2 Estimates of the incremental impact of capital investment decisions on the Council Tax</p> <p>In considering its programme for future capital investment, the County Council is required within the Prudential Code to have regard to:</p> <ul style="list-style-type: none"> ➔ affordability (eg implications for Council Tax) ➔ prudence and sustainability (eg implications for external borrowing) ➔ value for money (eg option appraisal) ➔ stewardship of assets (eg asset management planning) ➔ service objectives (eg strategic planning for the authority) ➔ practicality (eg achievability of the Capital Plan) <p>A key measure of affordability is the incremental impact on Council Tax. The County Council can consider different options for its capital investment programme based on their differential impact on the Council Tax.</p> <p>The estimate of the incremental impact on Council Tax (at Band D) of past capital investment decisions which are reflected in the latest Capital Plan and also in the Revenue Budget for 2014/15 and Medium Term Financial Strategy compared with the 2013/14 Council Tax are:</p> <table border="1" data-bbox="212 965 1113 1125"> <thead> <tr> <th data-bbox="212 965 342 1029">Year</th> <th colspan="2" data-bbox="387 965 772 1029">Executive 4 February 2014 Basis £ - p</th> <th colspan="2" data-bbox="801 965 1113 1029">Update August 2014 Basis £ - p</th> </tr> </thead> <tbody> <tr> <td data-bbox="212 1029 342 1061">2014/15</td> <td data-bbox="387 1029 593 1061">estimate</td> <td data-bbox="593 1029 772 1061">+ 1.41</td> <td data-bbox="801 1029 931 1061">estimate</td> <td data-bbox="931 1029 1113 1061">+ 1.41</td> </tr> <tr> <td data-bbox="212 1061 342 1093">2015/16</td> <td data-bbox="387 1061 593 1093">estimate</td> <td data-bbox="593 1061 772 1093">+ 3.56</td> <td data-bbox="801 1061 931 1093">estimate</td> <td data-bbox="931 1061 1113 1093">+ 3.56</td> </tr> <tr> <td data-bbox="212 1093 342 1125">2016/17</td> <td data-bbox="387 1093 593 1125">estimate</td> <td data-bbox="593 1093 772 1125">+ 4.58</td> <td data-bbox="801 1093 931 1125">estimate</td> <td data-bbox="931 1093 1113 1125">+4.58</td> </tr> </tbody> </table>	Year	Executive 4 February 2014 Basis £ - p		Update August 2014 Basis £ - p		2014/15	estimate	+ 1.41	estimate	+ 1.41	2015/16	estimate	+ 3.56	estimate	+ 3.56	2016/17	estimate	+ 4.58	estimate	+4.58	<p>This Indicator shows the incremental impact on Band D Council Tax of the capital financing costs resulting from borrowing required to fund the Capital Plan. This borrowing includes the funding shortfall of capital bids approved by Executive in February 2004, as part of the 10 year Capital Forecast projection, together with a number of subsequent funding approvals. The 10 year Capital Forecast is in the process of being reviewed</p> <p>Debt charges from Invest to Save schemes and certain other capital provisions are, however, excluded as these are deemed to be self financed from within Directorate revenue budgets and thus do not impact on Council Tax levels</p> <p>As indicated above, debt charges resulting from borrowing approvals issued by the Government in the years prior to 2011/12 are also excluded from this calculation.</p> <p>No changes are proposed to these figures for the time being.</p> <p>The estimated figures for the three years 2015/16 to 2017/18 will need to be updated as part of the 2015/16 Budget process and review of the Medium Term Financial Strategy.</p>
Year	Executive 4 February 2014 Basis £ - p		Update August 2014 Basis £ - p																		
2014/15	estimate	+ 1.41	estimate	+ 1.41																	
2015/16	estimate	+ 3.56	estimate	+ 3.56																	
2016/17	estimate	+ 4.58	estimate	+4.58																	

Prudential Indicator	Comment																																		
<p>3 Capital Expenditure - Actual and Forecasts</p> <p>The actual capital expenditure that was incurred in 2012/13 and 2013/14 and the latest estimates of capital expenditure to be incurred for the current and future years are:</p> <table border="1" data-bbox="212 475 1128 695"> <thead> <tr> <th rowspan="2">Year</th> <th colspan="2">Executive 4 February 2014</th> <th colspan="2">Update August 2014</th> </tr> <tr> <th>Basis</th> <th>£m</th> <th>Basis</th> <th>£m</th> </tr> </thead> <tbody> <tr> <td>2012/13</td> <td>actual</td> <td>72.0</td> <td>actual</td> <td>72.0</td> </tr> <tr> <td>2013/14</td> <td>probable</td> <td>89.6</td> <td>actual</td> <td>84.6</td> </tr> <tr> <td>2014/15</td> <td>estimate</td> <td>98.7</td> <td>estimate</td> <td>102.1</td> </tr> <tr> <td>2015/16</td> <td>estimate</td> <td>90.1</td> <td>estimate</td> <td>91.5</td> </tr> <tr> <td>2016/17</td> <td>estimate</td> <td>69.8</td> <td>estimate</td> <td>71.5</td> </tr> </tbody> </table> <p>The above figures reflect the updated Capital Plan (Q1 2014/15) together with:-</p> <ul style="list-style-type: none"> (i) expenditure on fixed assets funded directly from the Revenue Budget and not included in the Capital Plan. (ii) an estimated allowance for future expenditure re-phasing between years. 	Year	Executive 4 February 2014		Update August 2014		Basis	£m	Basis	£m	2012/13	actual	72.0	actual	72.0	2013/14	probable	89.6	actual	84.6	2014/15	estimate	98.7	estimate	102.1	2015/16	estimate	90.1	estimate	91.5	2016/17	estimate	69.8	estimate	71.5	<p>The Indicators approved by Executive on 4 February 2014 were based on a Capital Plan up to 31 December 2013. This Indicator now reflects the Capital Outturn in 2013/14 and the Capital Plan update for Q1 2014/15.</p> <p>The variations are principally a result of:-</p> <ul style="list-style-type: none"> (a) additional provisions and variations to existing provisions which are self-funded from Capital Grants and Contributions, revenue contribution, (including the PIP) and earmarked capital receipts (b) Capital expenditure re-phasing between years including slippage from 2013/14 outturn and Q1 2014/15 to later years (c) various other Capital approvals and refinements reflected in the latest Capital Plan update
Year		Executive 4 February 2014		Update August 2014																															
	Basis	£m	Basis	£m																															
2012/13	actual	72.0	actual	72.0																															
2013/14	probable	89.6	actual	84.6																															
2014/15	estimate	98.7	estimate	102.1																															
2015/16	estimate	90.1	estimate	91.5																															
2016/17	estimate	69.8	estimate	71.5																															

Prudential Indicator

Comment

4 Capital Financing Requirement (CFR)

Actuals and estimates of the Capital Financing Requirement (CFR) at the defined year ends are as follows:

Date	Executive 4 February 2014				Update August 2014			
	Basis	Borrowing	Other Long Term liabilities (PFI etc)	Total	Basis	Borrowing	Other Long Term liabilities (PFI etc)	Total
		£m	£m	£m		£m	£m	£m
31 Mar 13	actual	382.7	6.0	388.7	actual	382.7	6.0	388.7
31 Mar 14	probable	372.5	5.8	378.3	actual	369.9	5.8	375.7
31 Mar 15	estimate	371.5	5.8	377.3	estimate	364.5	5.8	370.3
31 Mar 16	estimate	366.9	5.5	372.4	estimate	361.6	5.5	367.1
31 Mar 17	estimate	352.4	5.3	357.7	estimate	353.0	5.3	358.3

The CFR measures the underlying need for the County Council to borrow for capital purposes. In accordance with best professional practice, the County Council does not earmark borrowing to specific items or types of expenditure. The County Council has an integrated treasury management approach and has adopted the CIPFA Code of Practice for Treasury Management. The County Council has, at any point in time, a number of cashflows, both positive and negative, and manages its treasury position in terms of its overall borrowings and investments in accordance with its approved Annual Treasury Management Strategy. In day to day cash management, no distinction is made between revenue and capital cash. External borrowing arises as a consequence of all the financial transactions of the County Council as a whole and not simply those arising from capital spending. In contrast, the CFR Indicator reflects the County Council's underlying need to borrow for capital purposes only.

The February 2014 figures were based on a Capital Plan approved as at 31 December 2013.

The updated figures reflect the following variations to the February 2014 figures

- (a) re-phasing between years of expenditure that is funded from borrowing including slippage between years identified at 2013/14 outturn and Q1 2014/15
- (b) capital receipts (including company loans) slippage between years that affect year on year borrowing requirements
- (c) variations in the level of the Corporate Capital Pot which is used in lieu of new borrowing until the Pot is required
- (d) additions and variations to schemes/provisions approved that are funded from Prudential Borrowing
- (e) variations in the annual Minimum Revenue Provision for debt Repayment which arise from the above
- (f) various other refinements

Prudential Indicator	Comment
<p>5 Gross Debt and the Capital Financing Requirement</p> <p>The Prudential Code emphasises that in order to ensure that over the medium term debt will only be for a capital purpose, the County Council should ensure that debt does not, except in the short term, exceed the total of the capital financing requirement in the previous year (2013/14), plus the estimate of any additional capital financing requirement for the current (2014/15) and next two financial years (2015/16 and 2016/17). If, in any of these years, there is a reduction in the capital financing requirement, this reduction should be ignored in estimating the cumulative increase in the capital financing requirement which is used for comparison with gross external debt.</p> <p>This Prudential Indicator is referred to as gross debt and the comparison with the capital financing requirement (Indicator 4) and is a key indicator of prudence.</p> <p>The Corporate Director – Strategic Resources reports that the County Council had no difficulty in meeting this requirement up to 2013/14 nor are any difficulties envisaged for the current or future years of the Medium Term Financial Strategy up to 2016/17. For subsequent years, however, there is potential that the County Council may not be able to comply with the new 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. This opinion takes into account spending commitments, existing and proposed Capital Plans and the proposals in the Revenue Budget 2014/15 and Medium Term Financial Strategy report.</p>	<p>This Prudential Indicator was changed in 2013/14 to reflect the comparison of gross debt (external debt plus other long term liabilities less debt administered on behalf of the Police Authority) with the Capital Financing Requirement (CFR). The comparator debt figure had previously been net debt which was gross debt less investments.</p> <p>The Prudential Code requires that where there is a significant difference between the gross debt and the gross borrowing requirement, as demonstrated by the CFR, then the risks and benefits associated with this strategy should be clearly stated in the annual Treasury Management Strategy. This is covered in paragraphs 8.4 to 8.12 of the Annual Treasury Management and Investment Strategy as submitted to Executive on 4 February 2014.</p> <p>The County Council's gross debt figure is currently significantly below the CFR figures shown in Indicator 4 because of annual capital borrowing requirements being funded internally from cash balances (i.e. running down investments) rather than taking out new external debt.</p> <p>This situation, however, could be reversed in future as a result of two key factors:</p> <ul style="list-style-type: none"> (i) externalising some or all of the internally financed CFR together with (ii) the potential for the annual Minimum Revenue Provision (MRP) for debt repayment reducing the CFR below gross debt because the debt cannot readily be prematurely repaid without incurring significant penalties (premiums). <p>This potential situation will be monitored carefully by the Corporate Director – Strategic Resources.</p>

Prudential Indicator	Comment																																																
<p>6 Authorised Limit for External Debt</p> <p>In respect of its external debt, it is recommended that the County Council approves the following Authorised Limits for its total external debt for the next three financial years.</p> <p>The Prudential Code requires external borrowing and other long term liabilities (PFI and Finance leases) to be identified separately.</p> <p>The authorised limit for 2014/15 (£424.6m) will be the statutory limit determined under section 3(1) of the Local Government Act 2003.</p> <table border="1" data-bbox="129 627 1317 911"> <thead> <tr> <th rowspan="2">Year</th> <th colspan="3">Executive 4 February 2014</th> <th colspan="3">Update August 2014</th> </tr> <tr> <th>External Borrowing</th> <th>Other long term liabilities</th> <th>Total Borrowing Limit</th> <th>External Borrowing</th> <th>Other long term liabilities</th> <th>Total Borrowing Limit</th> </tr> <tr> <td></td> <td>£m</td> <td>£m</td> <td>£m</td> <td>£m</td> <td>£m</td> <td>£m</td> </tr> </thead> <tbody> <tr> <td>2013/14</td> <td>405.0</td> <td>5.8</td> <td>410.8</td> <td>405.0</td> <td>5.8</td> <td>410.8</td> </tr> <tr> <td>2014/15</td> <td>439.2</td> <td>5.8</td> <td>445.0</td> <td>418.8</td> <td>5.8</td> <td>424.6</td> </tr> <tr> <td>2015/16</td> <td>405.6</td> <td>5.5</td> <td>411.1</td> <td>399.7</td> <td>5.5</td> <td>405.2</td> </tr> <tr> <td>2016/17</td> <td>396.7</td> <td>5.3</td> <td>402.0</td> <td>393.6</td> <td>5.3</td> <td>398.9</td> </tr> </tbody> </table>	Year	Executive 4 February 2014			Update August 2014			External Borrowing	Other long term liabilities	Total Borrowing Limit	External Borrowing	Other long term liabilities	Total Borrowing Limit		£m	£m	£m	£m	£m	£m	2013/14	405.0	5.8	410.8	405.0	5.8	410.8	2014/15	439.2	5.8	445.0	418.8	5.8	424.6	2015/16	405.6	5.5	411.1	399.7	5.5	405.2	2016/17	396.7	5.3	402.0	393.6	5.3	398.9	<p>The Corporate Director – Strategic Resources confirms that these authorised limits are consistent with the County Council’s current commitments, updated Capital Plan and the financing of that Plan, the 2014/15 Revenue Budget and Medium Term Financial Strategy and with its approved Treasury Management Policy Statement.</p> <p>The Corporate Director – Strategic Resources also confirms that the limits are based on the estimate of most likely prudent, but not worst case, scenario with sufficient headroom over and above this to allow for operational issues (e.g. unusual cash movements). To derive these limits a risk analysis has been applied to the Capital Plan, estimates of the capital financing requirement and estimates of cashflow requirements for all purposes.</p> <p>The updated figures reflect a number of refinements which are also common to the Capital Financing Requirement (see Indicator 4) and Operational Boundary for external debt (see Indicator 7). Explanations for these changes are provided under Indicators 4 and 7 respectively.</p>
Year		Executive 4 February 2014			Update August 2014																																												
	External Borrowing	Other long term liabilities	Total Borrowing Limit	External Borrowing	Other long term liabilities	Total Borrowing Limit																																											
	£m	£m	£m	£m	£m	£m																																											
2013/14	405.0	5.8	410.8	405.0	5.8	410.8																																											
2014/15	439.2	5.8	445.0	418.8	5.8	424.6																																											
2015/16	405.6	5.5	411.1	399.7	5.5	405.2																																											
2016/17	396.7	5.3	402.0	393.6	5.3	398.9																																											

Prudential Indicator				Comment																																																				
<p>7 Operational Boundary for External Debt</p> <p>It is recommended that the County Council approves the following Operational Boundary for external debt for the same period.</p> <p>The proposed operational boundary for external debt is based on the same estimates as the Authorised Limit (ie Indicator 6 above) but also reflects an estimate of the most likely prudent, but not worst case, scenario without the additional headroom included within the Authorised Limit to allow for eg unusual cash flows.</p>				<p>The Operational Boundary represents a key management tool for the in year monitoring of external debt by the Corporate Director – Strategic Resources.</p> <p>The updated figures reflect refinements which are common to the Capital Financing Requirement (see Indicator 4 above), together with</p> <p>(a) relative levels of capital expenditure funded internally from cash balances rather than taking external debt</p> <p>(b) loan repayment cover arrangements and the timing of such arrangements</p> <p>These two financing transactions affect external debt levels at any one point of time during the financial year but do not impact on the Capital Financing Requirement.</p>																																																				
	<table border="1"> <thead> <tr> <th colspan="3">Executive 4 February 2014</th> </tr> <tr> <th>External Borrowing</th> <th>Other long term liabilities</th> <th>Total Borrowing Limit</th> </tr> <tr> <th>£m</th> <th>£m</th> <th>£m</th> </tr> </thead> <tbody> <tr> <td>2013/14</td> <td>385.0</td> <td>5.8</td> <td>390.8</td> </tr> <tr> <td>2014/15</td> <td>419.2</td> <td>5.8</td> <td>425.0</td> </tr> <tr> <td>2015/16</td> <td>385.6</td> <td>5.5</td> <td>391.1</td> </tr> <tr> <td>2016/17</td> <td>376.7</td> <td>5.3</td> <td>382.0</td> </tr> </tbody> </table>			Executive 4 February 2014			External Borrowing	Other long term liabilities	Total Borrowing Limit	£m	£m	£m	2013/14	385.0	5.8	390.8	2014/15	419.2	5.8	425.0	2015/16	385.6	5.5	391.1	2016/17	376.7	5.3	382.0	<table border="1"> <thead> <tr> <th colspan="3">Update August 2014</th> </tr> <tr> <th>External Borrowing</th> <th>Other long term liabilities</th> <th>Total Borrowing Limit</th> </tr> <tr> <th>£m</th> <th>£m</th> <th>£m</th> </tr> </thead> <tbody> <tr> <td>2013/14</td> <td>385.0</td> <td>5.8</td> <td>390.8</td> </tr> <tr> <td>2014/15</td> <td>398.8</td> <td>5.8</td> <td>404.6</td> </tr> <tr> <td>2015/16</td> <td>379.7</td> <td>5.5</td> <td>385.2</td> </tr> <tr> <td>2016/17</td> <td>373.6</td> <td>5.3</td> <td>378.9</td> </tr> </tbody> </table>			Update August 2014			External Borrowing	Other long term liabilities	Total Borrowing Limit	£m	£m	£m	2013/14	385.0	5.8	390.8	2014/15	398.8	5.8	404.6	2015/16	379.7	5.5	385.2	2016/17	373.6	5.3	378.9
Executive 4 February 2014																																																								
External Borrowing	Other long term liabilities	Total Borrowing Limit																																																						
£m	£m	£m																																																						
2013/14	385.0	5.8	390.8																																																					
2014/15	419.2	5.8	425.0																																																					
2015/16	385.6	5.5	391.1																																																					
2016/17	376.7	5.3	382.0																																																					
Update August 2014																																																								
External Borrowing	Other long term liabilities	Total Borrowing Limit																																																						
£m	£m	£m																																																						
2013/14	385.0	5.8	390.8																																																					
2014/15	398.8	5.8	404.6																																																					
2015/16	379.7	5.5	385.2																																																					
2016/17	373.6	5.3	378.9																																																					

Prudential Indicator					Comment																																																																																
<p>8 Actual External Debt</p> <p>The County Council's external debt is set out below and consists of external borrowing from the PWLB and money markets plus other long term liabilities such as PFI and finance leases which are classified as external debt for this purpose.</p>					<p>The year on year movement in the borrowing element of external debt between 31 March 2013 and 31 March 2014 is as follows</p>																																																																																
<table border="1"> <thead> <tr> <th rowspan="2">Year</th> <th colspan="3">Executive 4 February 2014</th> <th colspan="3">Update August 2014</th> </tr> <tr> <th>Basis</th> <th>Borrowing</th> <th>Other Long Term liabilities (PFI etc)</th> <th>Total</th> <th>Basis</th> <th>Borrowing</th> <th>Other Long Term liabilities (PFI etc)</th> <th>Total</th> </tr> <tr> <td></td> <td></td> <td>£m</td> <td>£m</td> <td>£m</td> <td></td> <td>£m</td> <td>£m</td> <td>£m</td> </tr> </thead> <tbody> <tr> <td>31 Mar 2013</td> <td>actual</td> <td>350.0</td> <td>6.0</td> <td>356.0</td> <td>actual</td> <td>350.0</td> <td>6.0</td> <td>356.0</td> </tr> <tr> <td>31 Mar 2014</td> <td>probable</td> <td>359.5</td> <td>5.8</td> <td>365.3</td> <td>actual</td> <td>344.6</td> <td>5.8</td> <td>350.4</td> </tr> <tr> <td>31 Mar 2015</td> <td>estimate</td> <td>359.4</td> <td>5.8</td> <td>365.2</td> <td>estimate</td> <td>354.0</td> <td>5.8</td> <td>359.8</td> </tr> <tr> <td>31 Mar 2016</td> <td>estimate</td> <td>357.4</td> <td>5.5</td> <td>362.9</td> <td>estimate</td> <td>351.5</td> <td>5.5</td> <td>357.0</td> </tr> <tr> <td>31 Mar 2017</td> <td>estimate</td> <td>349.1</td> <td>5.3</td> <td>354.4</td> <td>estimate</td> <td>346.0</td> <td>5.3</td> <td>351.3</td> </tr> </tbody> </table>					Year	Executive 4 February 2014			Update August 2014			Basis	Borrowing	Other Long Term liabilities (PFI etc)	Total	Basis	Borrowing	Other Long Term liabilities (PFI etc)	Total			£m	£m	£m		£m	£m	£m	31 Mar 2013	actual	350.0	6.0	356.0	actual	350.0	6.0	356.0	31 Mar 2014	probable	359.5	5.8	365.3	actual	344.6	5.8	350.4	31 Mar 2015	estimate	359.4	5.8	365.2	estimate	354.0	5.8	359.8	31 Mar 2016	estimate	357.4	5.5	362.9	estimate	351.5	5.5	357.0	31 Mar 2017	estimate	349.1	5.3	354.4	estimate	346.0	5.3	351.3	<table border="0"> <tr> <td></td> <td style="text-align: right;">£m</td> </tr> <tr> <td>External debt at 31 March 2012</td> <td style="text-align: right;">350.0</td> </tr> <tr> <td>New borrowing in the year - none as all taken internally by running down cash balances/investments</td> <td style="text-align: right;">0</td> </tr> <tr> <td>Loan repayments in 2013/14</td> <td style="text-align: right;">-5.4</td> </tr> <tr> <td>= External debt at 31 March 2014</td> <td style="text-align: right; border: 1px solid black;">344.6</td> </tr> </table>			£m	External debt at 31 March 2012	350.0	New borrowing in the year - none as all taken internally by running down cash balances/investments	0	Loan repayments in 2013/14	-5.4	= External debt at 31 March 2014	344.6
Year	Executive 4 February 2014			Update August 2014																																																																																	
	Basis	Borrowing	Other Long Term liabilities (PFI etc)	Total	Basis	Borrowing	Other Long Term liabilities (PFI etc)	Total																																																																													
		£m	£m	£m		£m	£m	£m																																																																													
31 Mar 2013	actual	350.0	6.0	356.0	actual	350.0	6.0	356.0																																																																													
31 Mar 2014	probable	359.5	5.8	365.3	actual	344.6	5.8	350.4																																																																													
31 Mar 2015	estimate	359.4	5.8	365.2	estimate	354.0	5.8	359.8																																																																													
31 Mar 2016	estimate	357.4	5.5	362.9	estimate	351.5	5.5	357.0																																																																													
31 Mar 2017	estimate	349.1	5.3	354.4	estimate	346.0	5.3	351.3																																																																													
	£m																																																																																				
External debt at 31 March 2012	350.0																																																																																				
New borrowing in the year - none as all taken internally by running down cash balances/investments	0																																																																																				
Loan repayments in 2013/14	-5.4																																																																																				
= External debt at 31 March 2014	344.6																																																																																				
<p>It should be noted that actual external debt is not directly comparable to the Authorised Limit (Indicator 6 above) and Operational Boundary (Indicator 7 above) since the actual external debt reflects a position at one point in time.</p>					<p>The updated estimates for the 3 years to 31 March 2017 reflect refinements which are common to the Capital Financing Requirement (see Indicator 4 above) together with the relative levels of capital expenditure internally funded from cash balances rather than taking external debt.</p> <p>The estimate for 31 March 2015 includes the 2014/15 external borrowing requirement of £34.2m which is ultimately likely to be rolled over into 2015/16.</p>																																																																																
<p>9 Limit of Money Market Loans (Local Indicator)</p> <p>Borrowing from the money market for capital purposes (as opposed to borrowing from the PWLB) is to be limited to 30% of the County Council's total external debt outstanding at any one point in time.</p> <p>The actual position at 31 March 2014 was 6% (£20m out of a total of £344.6m) against an upper limit of 30%</p>					<p>This limit was introduced as a new Local Prudential Indicator in 2009/10, although the 30% limit has featured as part of the Borrowing Policy section of the County Council's Annual Treasury Management and Investment Strategy for many years.</p>																																																																																

Prudential Indicator	Comment																														
<p>TREASURY MANAGEMENT INDICATORS</p> <p>10 Adoption of CIPFA Code of Practice for Treasury Management</p>	<p>The County Council formally adopted the 2011 revised CIPFA Code of Practice for Treasury Management in the Public Service at its meeting on 15 February 2012.</p>																														
<p>11 Interest Rate Exposures</p> <p>In accordance with the Code of Practice the County Council sets upper and lower limits on its fixed and variable interest rate exposures as a percentage of outstanding principal sums for 2014/15, 2015/16 and 2016/17 as set out below -</p> <table border="1" data-bbox="224 574 1120 1005"> <thead> <tr> <th></th> <th>Lower %</th> <th>Upper %</th> </tr> </thead> <tbody> <tr> <td>Borrowing</td> <td></td> <td></td> </tr> <tr> <td>• Fixed</td> <td>60</td> <td>100</td> </tr> <tr> <td>• Variable</td> <td>0</td> <td>40</td> </tr> <tr> <td>Investments</td> <td></td> <td></td> </tr> <tr> <td>• Fixed</td> <td>0</td> <td>30</td> </tr> <tr> <td>• Variable</td> <td>70</td> <td>100</td> </tr> <tr> <td>Combined Net Borrowing and Investments</td> <td></td> <td></td> </tr> <tr> <td>• Fixed</td> <td>160</td> <td>210</td> </tr> <tr> <td>• Variable</td> <td>-60</td> <td>-110</td> </tr> </tbody> </table>		Lower %	Upper %	Borrowing			• Fixed	60	100	• Variable	0	40	Investments			• Fixed	0	30	• Variable	70	100	Combined Net Borrowing and Investments			• Fixed	160	210	• Variable	-60	-110	<p>No changes to these limits are proposed</p> <p>This means that the Corporate Director – Strategic Resources, will</p> <p>for borrowing manage fixed interest rate exposure within the range 60% to 100% of outstanding principal and variable interest rate exposure within the range 0% to 40% of outstanding principal</p> <p>for investments manage fixed interest rate exposure within the range 0% to 30% of outstanding principal and variable rate exposure within the range 70% to 100% of outstanding principal. The split of investments between fixed and variable rates is based on the market convention that investments up to 365 days are regarded as being at variable rates.</p> <p>The combined net borrowing and investment position represents the formal Prudential Indicator for Interest Rate Exposures. On its own however it does not show clearly how borrowing and investments will be managed, hence the two separate 'local indicators' showed above. The change reflects the impact on the indicator of a continuing high level of cash balances and consequential investments which are all on variable interest rates.</p>
	Lower %	Upper %																													
Borrowing																															
• Fixed	60	100																													
• Variable	0	40																													
Investments																															
• Fixed	0	30																													
• Variable	70	100																													
Combined Net Borrowing and Investments																															
• Fixed	160	210																													
• Variable	-60	-110																													

Prudential Indicator	Comment																																													
<p>12 Maturity Structure of Borrowing</p> <p>The upper and lower limits for the maturity structure of County Council borrowings are as follows:-</p> <p>The amount of projected borrowing maturing in each period as a percentage of total projected borrowing that is fixed rate:</p> <table border="1" data-bbox="230 564 1225 991"> <thead> <tr> <th data-bbox="230 564 629 659">Period</th> <th data-bbox="629 564 754 659">Lower Limit %</th> <th data-bbox="754 564 873 659">Upper Limit %</th> <th colspan="2" data-bbox="873 564 1225 595">Memo item - actual at</th> </tr> <tr> <td></td> <td></td> <td></td> <th data-bbox="873 595 1050 659">1 April 13 %</th> <th data-bbox="1050 595 1225 659">1 April 14 %</th> </tr> </thead> <tbody> <tr> <td data-bbox="230 659 629 707">under 12 months</td> <td data-bbox="629 659 754 707">0</td> <td data-bbox="754 659 873 707">50</td> <td data-bbox="873 659 1050 707">2</td> <td data-bbox="1050 659 1225 707">12</td> </tr> <tr> <td data-bbox="230 707 629 754">12 months & within 24 months</td> <td data-bbox="629 707 754 754">0</td> <td data-bbox="754 707 873 754">15</td> <td data-bbox="873 707 1050 754">11</td> <td data-bbox="1050 707 1225 754">2</td> </tr> <tr> <td data-bbox="230 754 629 802">24 months & within 5 years</td> <td data-bbox="629 754 754 802">0</td> <td data-bbox="754 754 873 802">45</td> <td data-bbox="873 754 1050 802">11</td> <td data-bbox="1050 754 1225 802">9</td> </tr> <tr> <td data-bbox="230 802 629 850">5 years & within 10 years</td> <td data-bbox="629 802 754 850">0</td> <td data-bbox="754 802 873 850">75</td> <td data-bbox="873 802 1050 850">23</td> <td data-bbox="1050 802 1225 850">22</td> </tr> <tr> <td data-bbox="230 850 629 898">10 years and within 25 years</td> <td data-bbox="629 850 754 898">10</td> <td data-bbox="754 850 873 898">100</td> <td data-bbox="873 850 1050 898">10</td> <td data-bbox="1050 850 1225 898">10</td> </tr> <tr> <td data-bbox="230 898 629 946">25 years and within 50 years</td> <td data-bbox="629 898 754 946">10</td> <td data-bbox="754 898 873 946">100</td> <td data-bbox="873 898 1050 946">43</td> <td data-bbox="1050 898 1225 946">45</td> </tr> <tr> <td data-bbox="230 946 629 991"></td> <td data-bbox="629 946 754 991"></td> <td data-bbox="754 946 873 991"></td> <td data-bbox="873 946 1050 991">100</td> <td data-bbox="1050 946 1225 991">100</td> </tr> </tbody> </table>	Period	Lower Limit %	Upper Limit %	Memo item - actual at					1 April 13 %	1 April 14 %	under 12 months	0	50	2	12	12 months & within 24 months	0	15	11	2	24 months & within 5 years	0	45	11	9	5 years & within 10 years	0	75	23	22	10 years and within 25 years	10	100	10	10	25 years and within 50 years	10	100	43	45				100	100	<p>No changes to these limits approved by Executive on 4 February 2014 and County Council on 19 February 2014 are proposed.</p> <p>The lower limits of 10% for the periods 10 to 25 years and 25 to 50 years is designed to ensure that the County Council does not have the risk of having to repay all debt within a ten year period.</p>
Period	Lower Limit %	Upper Limit %	Memo item - actual at																																											
			1 April 13 %	1 April 14 %																																										
under 12 months	0	50	2	12																																										
12 months & within 24 months	0	15	11	2																																										
24 months & within 5 years	0	45	11	9																																										
5 years & within 10 years	0	75	23	22																																										
10 years and within 25 years	10	100	10	10																																										
25 years and within 50 years	10	100	43	45																																										
			100	100																																										

Prudential Indicator	Comment
<p>13 Total Principal Sums Invested for periods longer than 364 days</p> <p>The 2014/15 aggregate limit of £20m for 'non specified' investments longer than 364 days is based on a maximum of 20% of estimated 'core cash funds' up to 2016/17 being made available for such investments.</p> <p>The purpose of this prudential limit for principal sums invested for longer than 364 days is for the County Council to contain its exposure to the possibility of loss that might arise as a result of it having to seek early repayment or redemption of principal sums invested.</p>	<p>No change to this limit is proposed.</p> <p>The County Council currently has no such investments that fall into this category.</p> <p>Prior to 1 April 2004, Regulations generally prevented local authorities from investing for longer than 364 days. As a result of the Prudential Regime however, these prescriptive regulations were abolished and replaced with Government Guidance from April 2004.</p> <p>This Guidance gives authorities more freedom in their choice of investments (including investing for periods longer than 364 days) and recognises that a potentially higher return can be achieved by taking a higher (ie longer term) risk.</p> <p>This flexibility requires authorities to produce an Annual Investment Strategy that classifies investments as either Specified (liquid, secure, high credit rating & less than 365 days) or Non Specified (other investments of a higher risk). Non Specified investments are perfectly allowable but the criteria and risks involved must be vigorously assessed, including professional advice, where appropriate. Therefore investments for 364 days+ are allowable as a Non Specified investment under the Government Guidance. The use of such investments is therefore now incorporated into the County Council's Annual Treasury Management and Investment Strategy.</p>

Property Procedure Rules

CONTENTS

1. Interpretation
2. General
3. Compliance with Legislation
4. Signature/Sealing of Property Contracts
5. Role of Surveyor
6. Acquisitions
7. Redeployment of Property
8. Disposals
9. Management
10. Mortgages
11. Compulsory Purchase and Compensation
12. Exceptions to Property Procedure Rules

These Rules constitute the Council's Standing Orders in relation to property contracts and the redeployment of property.

1.0 INTERPRETATION

1.1 These terms will have the following meanings in the Property Procedure Rules:-

ACE(LDS) The Assistant Chief Executive (Legal and Democratic Services)

Acquisition The acquisition of Property by the Council by whatever means, including:

- an option for a purchase or a lease
- a new lease for a Property previously leased in (a lease renewal), including an option to renew contained in an existing lease
- a Co-habitation Arrangement with another organisation in a non-Council Property
- the surrender or assignment of a lease to the Council, including the operation of a break clause

but excluding:

- a mortgage of Property owned by a third party in favour of the Council
- a licence with a term of no more than one year and at a fee of no more than £15,000

Co-habitation Arrangement

An arrangement with a third party to use space in a Council Property or for the Council to use space in a third party's Property without a lease or licence or the payment of a rent or fee, but normally with payments for a share of running costs. This often relates to space shared by cross-organisation teams

Council North Yorkshire County Council

CD-SR The Corporate Director - Strategic Resources

Director A Corporate Director of the Council including the Chief Executive.

Disposal The disposal of Property by the Council by whatever means, including

- the surrender or assignment of a lease by the Council including the operation of a break clause

- a Co-habitation Arrangement with another organisation in a Council Property
- the grant of a licence of all or part of a Property to a third party

but excluding

- the granting of a mortgage in respect of Property owned by the Council
- a licence with a term of no more than one year and at a fee of no more than £15,000

**Licence
from a third party**

An agreement for the non-exclusive use of property owned by a third party. This is usually limited by hours of operation or by sharing occupation

**Licence
to a third party**

An agreement for use of Council owned property by a third party. This is usually limited by hours of operation or by sharing occupation

Officer

A Council employee or other authorised agent

Property

Any estate or interest in land and/or buildings

Property Contract

A contract relating to Property including (but not limited to) transfers, leases, options, easements, (except easements for highway drainage granted under, or as a consequence of an agreement made under Section 38 (adoption of new highways) or Section 278 (development of existing highways) of the Highways Act 1980)¹ tenancy agreements, licences, and variations and releases from restrictive covenants, user rights granted under local government reorganisation arrangements and wayleaves, but excluding those contracts entered into by school governing bodies under their delegated powers

Redeployment

The re-allocation of a Property by the Council for a purpose different to that for which it has hitherto been used including to disposal

Surveyor

A professionally qualified surveyor or valuer employed or otherwise retained by the Council to provide expert advice on Property Contracts

Tenderer

A person who has expressed an interest in tendering for a Property Contract or who has tendered for a Property Contract

¹ As approved by Audit Committee December 2009.

1.2 References in these Rules to:-

- (a) any legislation (e.g. Act of Parliament, Statutory Instrument, EU Directive) include a reference to any amendment or re-enactment of such legislation;
- (b) the singular include the plural and vice versa;
- (c) the masculine include the feminine and vice versa;
- (d) Directors, the CD-SR and the ACE(LDS) shall be taken to include such Officers as are designated by them to undertake the duties and responsibilities set out in these Rules.

1.3 References in **Rules 6.1, 7.2 and 8.1** to values for the purpose of the approvals which are necessary for Acquisitions, Disposals and Redeployments of Property are to the values estimated at the time the approval is given; any such approval is not invalidated by the fact that the actual Acquisition or Disposal figure differs from the estimated figure. The value of any transaction shall be taken to be the Surveyor's opinion as to the open market value as between willing parties.

1.4 Where these Rules refer to approvals being sought or given for the Acquisition, Disposal or Redeployment of Property, such approval may relate to one particular Property or to a particular description or class of Property; but where it relates to more than one Property, the value shall be calculated as the aggregate value of all of the Property of that description or class.

1.5 Key Principles of Property Procedure Rules

1.5.1 Subject only to the exception in **1.5.4** responsibility for all transactions relating to Council Property vests in the Asset Management Section within the Corporate Directorate - Strategic Resources.

1.5.2 In nearly all respects, therefore, individual Officers outside Asset Management have no authority to enter into any commitment relating to Property, or to conduct any negotiations in connection with Property even on an informal basis. Officers must therefore inform Asset Management about any impending Property matter at the earliest stage practicable and, wherever possible, before any contact is made with the owner of a Property or with a person who wishes to use the Council Property.

1.5.3 The CD-SR is responsible for either granting or obtaining all approvals for property transactions.

1.5.4 The only exceptions to the key principle are set out in **Rule 4.4**.

2.0 GENERAL

2.1 These Rules are made by the Council on the advice of the CD-SR, in consultation with the ACE(LDS).

2.2 These Rules apply to all Property Contracts.

2.3 These Rules shall be applied in conjunction with the following documents:

- (a) Asset Management Planning Framework: Acquisition Process
- (b) Asset Management Planning Framework: Redeployment Process
- (c) Asset Management Planning Framework: Disposals
- (d) Asset Management Planning Framework: Rent and Rent Reviews

- 2.4 The Council has made Financial Procedure Rules ('FPR') which apply to budgetary and other issues relating to property; the FPR shall be applied in conjunction with these Rules. The Council has also made Contract Procedure Rules, but they do not apply to Property Contracts.
- 2.5 The CD-SR (in consultation with the ACE(LDS)) shall review the application and effect of these Rules and make an annual report to the Audit Committee recommending such amendments to the Rules as are considered appropriate.
- 2.6 Property Contracts and documentation and correspondence relating to them shall be retained for the periods prescribed by the Council's Records Retention and Destruction Schedule.
- 2.7 Every Officer shall comply with these Rules unless a waiver is granted under **Rule 11.1**. Failure to comply may lead to disciplinary action.
- 2.8 Each Director shall ensure that Officers within their Directorate, and contractors working for the Council, are aware of and comply with these Rules and the documents referred to in **Rule 2.3**.
- 2.9 The CD-SR shall be responsible for monitoring adherence to these Rules.

3.0 COMPLIANCE WITH LEGISLATION

- 3.1 Every Property Contract shall comply with all relevant applicable legislation and government guidance including:-
- (a) EU Law
 - (b) Acts of Parliament
 - (c) Statutory Instruments
- 3.2 The ACE(LDS) shall ensure that the Council has the legal power to enter into any Property Contract and that the Council does not purport to enter into any such contract which is ultra vires.

4.0 SIGNATURE/SEALING OF PROPERTY CONTRACTS

- 4.1 No Property Contract shall be completed unless proper approval has been given in accordance with these Rules.
- 4.2 Subject to **Rules 4.3 and 4.4**, every Property Contract must be: -
- (a) executed as a Deed by the ACE(LDS); or by a Legal and Democratic Services Officer authorised by her; or
 - (b) signed by the ACE(LDS); or by a Legal and Democratic Services Officer authorised by her (if the value is less than £50,000); or
 - (c) signed by the ACE(LDS); or by a Legal and Democratic Services Officer authorised by her and another officer authorised by ACE(LDS) (if the value is £50,000 or more).
- 4.3 The CD-SR is authorised to sign Property Contracts comprising wayleaves, agricultural tenancy agreements or agricultural licences provided that:-
- (a) the Property Contract is in a nationally recognised form or in a form prepared or approved by the ACE(LDS); and
 - (b) two signatories are required if the value is £50,000 or more.

- 4.4 All Directors are authorised to approve and sign Licences to or from third parties provided that:-
- (a) the Licence is for a period not exceeding one year; and
 - (b) the Licence is for a fee not exceeding £15,000.

5.0 ROLE OF SURVEYOR

- 5.1 The CD-SR shall instruct the Surveyor to act on behalf of the Council in connection with Property Contracts in accordance with these Rules.

6.0 ACQUISITIONS

6.1 Approval for Acquisitions

- 6.1.1 Subject to **Rule 6.1.4(a)** and **Rule 10** whenever it is proposed that Property should be acquired by the Council, the CD-SR is responsible for seeking the approval which is necessary in accordance with this **Rule 6.1**.
- 6.1.2 No approval shall be sought or given for the Acquisition of any Property unless there is adequate budgetary provision for the Acquisition and any expenditure consequent upon the Acquisition.
- 6.1.3 In respect of the Acquisition of Property **other than** by lease or licence or other agreement for a rent or licence fee or other annual payment or by option:
- (a) the CD-SR may approve any Acquisition up to £250,000 in value;
 - (b) the Executive Member for Central Services may approve any Acquisition up to £1,000,000 in value;
 - (c) the Executive may approve any Acquisition and must approve any Acquisition over £1,000,000 in value.
 - (d) any Acquisition which is above market value in the opinion of the surveyor must be justified within the report which forms part of the approval process.

For the purposes of this Rule, the value in relation to the surrender of a lease to the Council is the capitalised value of the rent or licence fee foregone as a result of the surrender.

- 6.1.4.1 Subject to **Rule 6.1.4.2** in respect of the Acquisition of Property by lease or licence or other agreement for a rent or licence fee or other annual payment:
- (a) the CD-SR may approve any Acquisition where the annual rent or fee or other annual payment is £25,000 or less;
 - (b) the Executive Member for Central Services may approve any Acquisition where the annual rent or fee or other payment is £100,000 or less;
 - (c) the Executive may approve any Acquisition and must approve any Acquisition where the annual rent or fee or other annual payment is more than £100,000.
 - (d) any Acquisition which is above market value in the opinion of the surveyor must be justified on the report which forms part of the approval process.

For the purpose of this Rule, the annual rent or fee or other annual payment means the initial rent or fee or other annual payment payable by the Council (but ignoring any discount or rent-free period).

- 6.1.4.2 In the case of the payment of a premium by the Council for a lease the approvals required shall be sought according to the value bands in **Rule 6.1.3**.

6.1.5 In respect of the Acquisition of Property by option:

- a) the CD-SR may approve the securing of an option providing that the anticipated total cost payable to secure the option does not exceed the available budget provision
- b) the Executive may approve the securing of an option and must approve the securing of any option for which the anticipated total cost payable to secure the option exceeds the available budget provision
- c) approval for the exercise of any option shall be subject to the same value bands as set out in **rules 6.1.3 and 6.1.4.1**
- d) Should it become necessary to vary the terms of an existing option, approval shall be sought subject to the same value bands as set out in **rules 6.1.3 and 6.1.4.1**

For the purpose of this Rule, the relevant value for securing options is the cost of securing the option plus the value of the resulting transaction. The relevant value for exercising options is the value of the transaction to be entered into.

6.2 **Terms of Acquisition**

- 6.2.1 The Surveyor is responsible for negotiating the terms for the Acquisition of Property and for any subsequent rent reviews, if relevant.
- 6.2.2 The CD-SR is responsible for approving the terms for the Acquisition of Property, and shall report such terms to the ACE(LDS).
- 6.2.3 The ACE(LDS) is responsible for preparing and completing the documentation for the Acquisition of Property in accordance with the terms referred to in **Rule 6.2.1**, subject to any variations agreed with the CD-SR and subject also to such further terms as the ACE(LDS) considers appropriate in the best interests of the Council.

7.0 REDEPLOYMENT OF PROPERTY – OTHER THAN FOR DISPOSAL

7.1 As soon as a Director identifies the fact that a Property used by his/her Directorate is no longer required for its current use, the Director shall inform the CD-SR. The CD-SR shall then enquire whether the Property is of use to any other Director in connection with the service(s) for which they are responsible and subject to the response received shall apply the redeployment process in **Rule 7 or 8** as appropriate.

7.2 Approval for Redeployment – other than for disposal

7.2.1 Whenever it is proposed that Property should be redeployed other than for disposal by the Council, the CD-SR is responsible for seeking the approval which is necessary in accordance with this **Rule 7.2**.

7.2.2 In the case of any Redeployment of Property other than for disposal which is **not** held by the Council on a lease or licence:

- (a) the CD-SR may approve any Redeployment of Property up to £500,000 in value;
- (b) the Executive Member for Central Services may approve any Redeployment of Property up to £1,000,000 in value;
- (c) the Executive may approve any Redeployment, and must approve any Redeployment of Property over £1,000,000 in value

7.2.3.1 Subject to **Rule 7.2.3.2** in the case of any Redeployment of Property other than for disposal which is held by the Council on a lease or licence:

- (a) the CD-SR may approve any Redeployment where the annual rent or fee is £25,000 or less;
- (b) the Executive Member for Central Services may approve any Redeployment where the annual rent or fee is £100,000 or less;
- (c) the Executive may approve any Redeployment but any Redeployment where the annual rent or fee is more than £100,000 shall be subject to the approval of the Executive.

For the purpose of this Rule, the annual rent or fee means the rent or fee payable by the Council at the time of the Redeployment (but ignoring any discount or rent-free period).

7.2.3.2 In the case of a property held by the Council on lease where a premium has already been paid the approvals required shall be sought pursuant to 7.2.3.1.

7.3 Terms of Redeployment – other than for disposal

7.3.1 Once approval for Redeployment has been given, the CD-SR is responsible for arranging the Redeployment in accordance with the Redeployment Process Guidance which forms part of the Asset Management Planning Framework referred to in **Rule 2.3(b)**.

8.0 REDEPLOYMENT FOR DISPOSAL

8.1 Approval for redeployment for Disposal

8.1.1 Whenever it is proposed that Property should be disposed of by the Council, the CD-SR is responsible for seeking the approval which is necessary in accordance with this **Rule 8.1**.

8.1.2.1 Prior to a decision to dispose of a property, it is necessary to confirm whether this was purchased using grant funding. If so, steps must be taken to ensure that the disposal and the allocation of proceeds complies with any grant conditions. Any grant conditions that conflict with the rules set out below will always take precedence. If this is the case, the advice of the CD-SR and the ACE(LDS) should be sought before any steps to dispose are taken.

8.1.2.2 Subject to **Rule 8.1.4**, in respect of the Disposal of Property **other than** by lease or licence or other agreement for a rent or licence fee or other annual payment:

- (a) the CD-SR may approve any Disposal up to £500,000 in value;
- (b) the Executive Member for Central Services may approve any Disposal up to £1,000,000 in value;
- (c) the CD-SR may approve any Disposal of land or property which forms part of the County Farms estate, irrespective of value.
- (d) the Executive may approve any Disposal but any Disposal over £1,000,000 in value (subject to rule 8.1.2.2 c) shall be subject to the approval of the Executive.

For the purpose of this Rule, the value in relation to options means the value of the transaction resulting from the option and not the value of the option itself. For the purposes of this Rule, the value in relation to the surrender of a lease by the Council is the capitalised value of the rent or licence fee which would have been paid, but for the surrender.

8.1.3.1 Subject to **Rule 8.1.3.2** and **Rule 8.1.4**, in respect of the Disposal of Property by lease or licence or other agreement for a rent or licence fee or other annual payment:

- (a) the CD-SR may approve any Disposal where the annual rent or fee or other annual payment is £50,000 or less;
- (b) the Executive Member for Central Services may approve any Disposal where the annual rent or fee or other annual payment is £100,000 or less;
- (c) the Executive may approve any Disposal but any Disposal where the annual rent or fee or other annual payment is more than £100,000 shall be subject to the approval of the Executive.

For the purpose of this Rule, the annual rent or fee or other payment means the initial rent or fee payable or other payment to the Council (but ignoring any discount or rent-free period). For the purposes of this Rule in relation to options, the annual rent or fee means the initial rent or fee payable to the Council under the lease or licence resulting from the option.

8.1.3.2 In the case of the Disposal of property by lease where a premium is payable to the Council the approval required shall be sought pursuant to the value bands referred to in **Rule 8.1.2**.

8.1.4.1 Disposals at an Undervalue

Where the disposal of any property is being considered which is likely to result in either a sale or long lease (seven years or more) at an undervalue the following provisions shall apply subject to Rule 8.1.4.2:-

- (a) In respect of Disposal of Property other than by lease or licence or other agreement for rent or licence fee or other annual payment the relevant approvals shall be sought in accordance with the following:

Approver	Maximum market value	Maximum undervalue authority
Corporate Director – Strategic Resources	£50,000	100%
Corporate Director – Strategic Resources	£250,000	50%
Executive Member for Central Services	£250,000	100%
Executive Member for Central Services	£500,000	50%
Executive	No limit	100% except where the undervalue is £2m or more
Secretary of State	No limit	No limit

- (b) In respect of Disposal of Property by lease or licence or other agreement for rent or licence fee or other annual payment the relevant approvals shall be sought in accordance with the following:

Approver	Maximum annual rental value	Maximum undervalue authority
Corporate Director – Strategic Resources	£10,000	100%
Corporate Director – Strategic Resources	£25,000	50%
Executive Member for Central Services	£25,000	100%
Executive Member for Central Services	£100,000	50%
Executive	No limit	100% except where the undervalue is £2m or more
Secretary of State	No limit	No limit

- (c) In respect of Disposal of Property by lease or licence involving the payment of a premium the approvals shall be sought according to the value bands in the table in paragraph (a) above.
- (d) For the purposes of this Rule, the undervalue is the difference between the unrestricted value of the property to be disposed of and the consideration for the disposal.
- (e) For all disposals of property at undervalue (except transfers pursuant to the Academies Act 2010, where Rule 8.1.4.2 applies), the purpose for which the property is to be disposed of must be likely to contribute to the promotion or improvement of the economic, social or environmental well being of the whole or any part of the Council's area, or of all or any persons resident or present in its area.

Academies Act 2010

8.1.4.2 In respect of the Disposal of Property by lease, licence, freehold, transfer or otherwise where such Disposal is made in accordance with a Transfer Scheme made by the Secretary of State pursuant to the Academies Act 2010 the relevant approval for the Disposal shall be sought from the Lead Executive Member for (Children's Act 2004), children's services, special education needs and youth justice by the Corporate Director – Strategic Resources; the Executive Member may give such approval regardless of the undervalue of the disposal.

The Right to Buy

8.1.5 Where right to buy applications are made to the Council under the Housing Act 1985 the ACE(LDS), in consultation with the CD-SR, shall be responsible for the admission or denial of the application of the right to buy and, where the right to buy is admitted, the ACE(LDS) shall dispose of the Property in accordance with the said Act.

External Consents to Disposal

8.1.6 The CD-SR is responsible for obtaining such external consents (if any) as are required for a Disposal (except in relation to the disposal of school playing fields, for which the Corporate Director Children and Young People's Service shall be responsible for seeking any necessary approvals).

8.2 Terms of Disposal

8.2.1 The Surveyor is responsible for negotiating the terms for the Disposal of Property and for any subsequent rent reviews, if relevant.

8.2.2 The CD-SR is responsible for approving the terms for the Disposal of Property and shall report such terms to the ACE(LDS).

8.2.3 The ACE(LDS) is responsible for preparing and completing the documentation for the Disposal of Property in accordance with the terms referred to in **Rule 8.2.1** subject to any variations agreed with the CD-SR and subject also to such further terms as the ACE(LDS) considers appropriate in the best interests of the Council.

8.2.4 Except where an approval has been obtained in accordance with **Rule 8.1.4**, the CD-SR shall ensure that whenever terms for a Disposal of a Property are being determined, the best consideration for the Disposal shall be obtained by the Council pursuant to Section 123 of the Local Government Act 1972.

8.3 Method of Disposal

8.3.1 The CD-SR shall take such professional advice from the Surveyor as is necessary to ensure that the most appropriate disposal process is used.

8.3.2 The Surveyor's advice shall take account of all relevant factors relating to a Disposal including the following:-

- (a) the likely value of the Property;
- (b) the potential market for the Property;
- (c) the likelihood of obtaining alternative planning consents for the Property and their effect upon the valuation;
- (d) the costs of the Disposal process (including advertising and other marketing);
- (e) the time likely to elapse between offering the Property for Disposal and the projected completion date of the Disposal; and
- (f) all other relevant factors.

8.4 Disposals by Tender

8.4.1 This **Rule 8.4** applies to all Disposals of Property by tender whether the tender is subject to contract or is capable of immediate acceptance.

8.4.2 A tender may only be considered if:-

- (a) it has been received in a sealed envelope marked "Tender" and indicating the Property referred to in the tender; and
- (b) the identity of the Tenderer cannot be ascertained from the tender envelope; and
- (c) subject to **Rule 8.4.5**, the tender has been returned to the ACE(LDS) before the tender closing date (which shall be a time and date when County Hall is open for business).

8.4.3 The ACE(LDS) shall be responsible for the reception and safe custody of tenders until they are opened.

8.4.4 Tenders must be opened at the same time and in the presence of the ACE(LDS) who shall maintain a record of the tenders received. Such a record shall include the date and time of tender opening, the identity of the Officer present, the identities of Tenderers and the tendered amounts. A copy of such a record shall be provided as soon as practicable to the CD-SR.

8.4.5 If a tender is received after the specified tender closing date it may not be considered unless the ACE(LDS) is satisfied that the tender was 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 Tenderer **and** that other tenders have not been opened.

Tender Evaluation

8.4.6 Tenders shall be evaluated by the CD-SR in consultation with the Surveyor. The CD-SR shall accept the tender which offers the best consideration for the Property in accordance with **Rule 8.2.3** above. The CD-SR shall ensure that the tender evaluation process is fair, and so far as consistent with the achievement of best consideration by the Council, that the basis on which tenders are to be evaluated has been established before tenders are opened. If all of the tenders are not submitted on the same basis (for example, if some tenders are conditional on planning permission being granted for a particular use of the property), then the CD-SR shall consult the Surveyor in relation to the evaluation of the bids, and a document will be produced

by the CD-SR, setting out the reasoning which has been applied to determine which tender has been judged to offer the best consideration for the Property.

Alterations to Tenders

- 8.4.7 Tenders may not be altered by Tenderers after the tender closing date except where the CD-SR is satisfied that arithmetical errors having been inadvertently made by the Tenderer, the Tenderer can be invited to correct them.

Post Tender Negotiations

- 8.4.8 Post tender negotiation may be undertaken in accordance with the following conditions:-

- (a) The CD-SR considers that added value may be obtained;
- (b) the post tender negotiations are undertaken either with all Tenderers, or with such Tenderer(s) as the CD-SR considers it appropriate to invite having regard to the value of their tenders and any conditions attached to them;
- (c) the post tender negotiations are conducted by a team comprising the Surveyor and suitably experienced Officers approved by the CD-SR and trained in post tender negotiations;
- (d) a record of the negotiations and any added value obtained from them is kept by the CD-SR; and
- (e) any such added value obtained by the post tender negotiations is incorporated into the Property Contract with the successful Tenderer.

9.0 MANAGEMENT

Approval for Rent Reviews

- 9.1 The CD-SR may approve the completion of a rent review memorandum provided that the original lease included provisions for the rent review.

Variation of lease terms

- 9.2 The CD-SR may approve any variation to the terms of an existing lease or other agreement (including the grant of a licence to assign or sublet) except that, if the variation would result in a decrease to the rent or licence fee, **Rule 6.1.4** shall apply.

Dilapidations Claims

- 9.3 The CD-SR may approve the settlement of dilapidations claims where the Council is landlord or tenant, and to any value.

Release or variations of restrictive covenants

- 9.4 In respect of the release or variation of restrictive covenants:
- (a) the CD-SR may approve any release or variation up to £500,000 in value;
 - (b) the Executive Member for Central Services may approve any release or variation up to £1,000,000 in value;
 - (c) the Executive may approve any release or variation and must approve any release or variation over £1,000,000 in value.

For the purposes of this Rule, the value is the value of the payment to effect the release or variation.

Restrictions on Title

- 9.5 The CD-SR may instruct the ACE (LDS) to place or remove restrictions on the title of any property owned by the Council, or to place restrictions on the title of properties owned by third parties, provided that such restrictions are to secure a grant or other loan to or from the Council.

10 MORTGAGES

- 10.1 The CD-SR may instruct the ACE(LDS) to enter into a mortgage of property owned by a third party where it is considered appropriate for the Council to secure its interests in respect of a grant or loan made to such a third party.

10.2 In respect of mortgages of property owned by the Council:-

- (a) only the Executive may approve such a mortgage and
- (b) the terms of the mortgage shall be determined by the CD-SR in consultation with the ACE(LDS).

The ACE(LDS) shall take such steps as are necessary to discharge a mortgage (whether the Council is mortgagee or mortgagor) upon the instruction of the CD-SR.

11.0 COMPULSORY PURCHASE AND COMPENSATION

- 11.1 If a Director, in consultation with the CD-SR and the ACE(LDS), considers that it is necessary for compulsory powers to be exercised by the Council to acquire property in connection with a Council function then the Director shall seek all such approvals as are necessary (including, but not limited to, from the Secretary of State) to enable compulsory powers to be used but shall only do so after the Executive has approved the proposed exercise of such powers.
- 11.2 An approval given by the Executive to use compulsory powers shall be deemed to include the approvals necessary to acquire the Property the subject of the Compulsory Purchase Order, this shall apply regardless of:-
- (a) the number of sites to be acquired; and
 - (b) the value of such sites subject to the Executive having first given budgetary approval to the proposed expenditure in connection with their acquisition.
- 11.3 **Rule 6.2** shall apply to the approval of terms for the acquisition of interests under Compulsory Purchase Orders.
- 11.4 The CD-SR shall also be responsible for instructing the Surveyor to agree claims for compensation made by third parties as a consequence of the Compulsory Purchase Order; once the terms have been agreed and approved by the CD-SR they shall be reported to the ACE(LDS) who shall be responsible for preparing and completing the documentation.

12.0 EXCEPTIONS TO PROPERTY PROCEDURE RULES

- 12.1 The CD-SR and the ACE(LDS) may agree specific waivers to the Property Procedure Rules, other than **Rules 6.1, 7.2, 8.1 and 10.2.**

APPENDIX 2B

Rule	Current Wording	Proposed Amendment	Reason
4.4	<p>All Directors are authorised to approve and sign Licences to or from third parties provided that:-</p> <p>(a) the Licence is for a period not exceeding one year; and</p> <p>(b) the Licence is for a fee not exceeding £10,000.</p>	<p>All Directors are authorised to approve and sign Licences to or from third parties provided that:-</p> <p>(a) the Licence is for a period not exceeding one year; and</p> <p>(b) the Licence is for a fee not exceeding £15,000.</p>	<p>The increased limit from £10k to £15k reflects the rising market and will allow directorates to continue to deal with minor matters. (this is especially relevant to the licensing of premises for school use)</p>
6.1.5 (a)	<p>the Corporate Director for the service acquiring the option may approve the securing of an option providing that the anticipated total cost payable to secure the option does not exceed the available budget provision</p>	<p>the CD-SR may approve the securing of an option providing that the anticipated total cost payable to secure the option does not exceed the available budget provision</p>	<p>This brings the securing of options into line with all other acquisitions, where Corporate Directors have no authority to take decisions.</p>
6.1.5	<p>(paragraphs c to e are deleted)</p>	<p>approval for the exercise of any option shall be subject to the same value bands as set out in rules 6.1.3 and 6.1.4.1</p> <p>Should it become necessary to vary the terms of an existing option, approval shall be sought subject to the same value bands as set out in rules 6.1.3 and 6.1.4.1</p>	<p>This brings the securing of land/buildings by option into line with all other acquisitions.</p>
6.1.5	<p>For the purpose of this Rule, the relevant value for securing options is the cost of securing the option (as opposed to the value of any resulting transaction) and the relevant value for triggering options is the value of the transaction to be entered into (as opposed to the cost of securing the option).</p>	<p>For the purpose of this Rule, the relevant value for securing options is the cost of securing the option plus the value of the resulting transaction. The relevant value for exercising options is the value of the transaction to be entered into.</p>	<p>The value of the resulting transaction must be considered when taking the decision to secure an option.</p>

APPENDIX 2B

8.1.2.2	(no entry)	(c) the CD-SR may approve any Disposal of land or property which forms part of the County Farms estate, irrespective of value.	the sale of vacant farms is a matter of policy. Decision to sell need not be value based.												
8.1.3.1	the CD-SR may approve any Disposal where the annual rent or fee or other annual payment is £25,000 or less;	the CD-SR may approve any Disposal where the annual rent or fee or other annual payment is £50,000 or less;	Rents have risen significantly in recent years.												
8.1.3.1	<p>the Executive Member for Central Services may approve any Disposal where the annual rent or fee or other annual payment is £75,000 or less;</p> <p>the Executive may approve any Disposal and must approve any Disposal where the annual rent or fee or other annual payment is more than £75,000</p>	<p>the Executive Member for Central Services may approve any Disposal where the annual rent or fee or other annual payment is £100,000 or less;</p> <p>the Executive may approve any Disposal but any Disposal where the annual rent or fee or other annual payment is more than £100,000 shall be subject to the approval of the Executive.</p>	Rents have risen significantly in recent years.												
8.1.4.1 a	<p>In respect of Disposal of Property other than by lease or licence or other agreement for rent or licence fee or other annual payment the relevant approvals shall be sought in accordance with the following:</p> <table border="1" data-bbox="495 1046 1010 1385"> <thead> <tr> <th data-bbox="495 1046 663 1193">Approver</th> <th data-bbox="663 1046 824 1193">Maximum market value</th> <th data-bbox="824 1046 1010 1193">Maximum undervalue authority</th> </tr> </thead> <tbody> <tr> <td data-bbox="495 1193 663 1385">Corporate Director – Strategic Resources</td> <td data-bbox="663 1193 824 1385">£25,000</td> <td data-bbox="824 1193 1010 1385">100%</td> </tr> </tbody> </table>	Approver	Maximum market value	Maximum undervalue authority	Corporate Director – Strategic Resources	£25,000	100%	<p>In respect of Disposal of Property other than by lease or licence or other agreement for rent or licence fee or other annual payment the relevant approvals shall be sought in accordance with the following:</p> <table border="1" data-bbox="1227 1046 1742 1385"> <thead> <tr> <th data-bbox="1227 1046 1395 1193">Approver</th> <th data-bbox="1395 1046 1556 1193">Maximum market value</th> <th data-bbox="1556 1046 1742 1193">Maximum undervalue authority</th> </tr> </thead> <tbody> <tr> <td data-bbox="1227 1193 1395 1385">Corporate Director – Strategic Resources</td> <td data-bbox="1395 1193 1556 1385">£50,000</td> <td data-bbox="1556 1193 1742 1385">100%</td> </tr> </tbody> </table>	Approver	Maximum market value	Maximum undervalue authority	Corporate Director – Strategic Resources	£50,000	100%	This removes the need for minor undervalue cases to be referred to the Executive Member for Central Services.
Approver	Maximum market value	Maximum undervalue authority													
Corporate Director – Strategic Resources	£25,000	100%													
Approver	Maximum market value	Maximum undervalue authority													
Corporate Director – Strategic Resources	£50,000	100%													

APPENDIX 2B

8.1.4.1 b	In respect of Disposal of Property by lease or licence or other agreement for rent or licence fee or other annual payment the relevant approvals shall be sought in accordance with the following:			In respect of Disposal of Property by lease or licence or other agreement for rent or licence fee or other annual payment the relevant approvals shall be sought in accordance with the following:			This removes the need for minor undervalue cases to be referred to the Executive Member for Central Services.
Approver	Maximum annual rental value	Maximum undervalue authority	Approver	Maximum annual rental value	Maximum undervalue authority		
Corporate Director – Strategic Resources	£5,000	100%	Corporate Director – Strategic Resources	£10,000	100%		
9.3	(none)			The CD-SR may approve the settlement of dilapidations claims where the Council is landlord or tenant, and to any value.			Previously not covered by the PPR. Clarifies the decision maker.
9.5	(none)			The CD-SR may instruct the ACE (LDS) to place or remove restrictions on the title of any property owned by the Council, or to place restrictions on the title of properties owned by third parties, provided that such restrictions are to secure a grant or other loan to or from the Council.			Previously not covered by the PPR. Clarifies the decision maker.

Financial Procedure Rules

CONTENTS

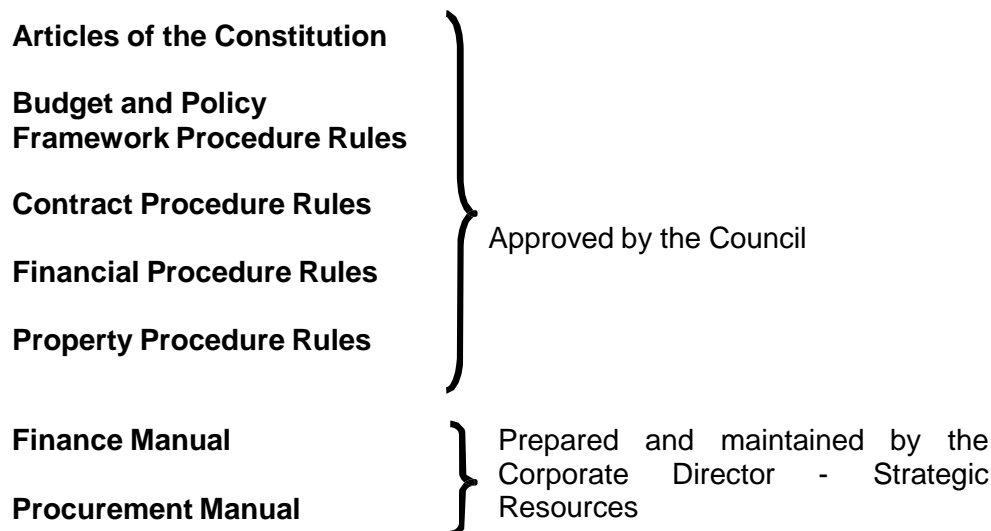
1. **Introduction**
2. **Definitions**
3. **Powers and Duties of the County Council**
4. **Responsibilities**
5. **Medium Term Financial Strategy**
6. **Revenue Budget**
 - Budgetary control principles
 - Structure of the Revenue Budget
 - Setting a Budget/Precept
 - Incurring expenditure/collecting income
 - Monitoring of the Revenue Budget
 - Virement
 - Outturn
7. **Capital Plan**
 - Budgetary control principles
 - Approving a Capital Plan
 - Incurring expenditure against the Capital Plan
 - Monitoring of the Capital Plan
 - Outturn
8. **Grants and External Funding**
9. **Services and Assets**
 - Responsibilities of a Director
 - Payment of Accounts
 - Assets - Leasing Agreements
 - Disposal of Assets
 - Financial Instruments
10. **Inventories and Stores**
11. **Miscellaneous matters**
 - Payroll, Pensions and other Emoluments
 - Travelling and Subsistence Allowances
12. **Income**
 - Fees and charges
 - Debt Write Off
 - Adjustment to an Account
 - Waiving a Charge

13. **Banking**
14. **Treasury Management**
15. **Voluntary Funds**
16. **Insurance**
17. **Risk Management**
18. **Internal Audit**
 - Rules and responsibilities
 - Counter Fraud Strategy
19. **Anti-Corruption**
 - Money Laundering
 - Bribery
 - Conflicts of Interest
20. **Partnership Agreements**
21. **Accountable Body Status**
22. **Revision of Financial Procedure Rules**

1.0 INTRODUCTION

1.1 These **Financial Procedure Rules** form part of the overall control framework within which North Yorkshire County Council operates. They aim to facilitate sound, innovative service delivery by setting out best practice for the administration of all financial matters throughout the Council, ensuring a high quality of financial information, robust financial management and enabling good decision making. They should not be viewed as a barrier to executive action and are constantly kept under review to ensure that they remain relevant to the day to day activities of the Council and contribute to the delivery of value for money.

1.2 The financial control framework can be seen as a hierarchy established as follows:-



1.3 The Constitution defines the rules governing the procedures of the Council including Responsibility for executive and non-executive functions, Access to Information Procedure Rules, Contract Procedure Rules, the Property Procedure Rules and these Financial Procedure Rules.

1.4 The Constitution defines the framework within which the powers to make decisions, take action etc. are delegated to the appropriate level in the organisation through, in particular, the Officers' Delegation Scheme and the Executive Members' Delegation Scheme. In particular the Constitution: -

- ◆ requires all Directors to act within the terms of these Rules in the exercise of their delegated powers
- ◆ empowers the Corporate Director - Strategic Resources to act as the Proper Officer under Section 114 of the Local Government Finance Act 1988
- ◆ empowers the Corporate Director - Strategic Resources to exercise the proper administration of the Council's financial affairs under Section 151 of the Local Government Act 1972.

1.5 The Contract Procedure Rules define the correct procedures to be followed when the Council enters into any contractual arrangement and should be read in conjunction with these Rules. The Property Procedure Rules define the correct procedures for the acquisition, disposal and redeployment of land and buildings and also cover other property related matters.

1.6 The Finance Manual is a comprehensive document detailing all aspects of financial systems and procedures and is designed for use on a day to day basis by staff

involved in any aspect of financial administration. Any new or revised instructions on financial matters issued by the Corporate Director - Strategic Resources will be incorporated into the Finance Manual.

- 1.7 Although all Finance staff report to the Corporate Director - Strategic Resources they provide day to day support to all directorates and service units. They are ready and willing to provide assistance to any Member or Officer regarding financial management, administration or budgetary control issues. In particular, their advice should be sought by anyone wishing to create a new, or amend an existing, financial procedure.
- 1.8 The statutory responsibility for the creation and maintenance of the financial control framework throughout the Council rests solely with the Corporate Director - Strategic Resources. With the assistance of the Internal Audit Service the Corporate Director - Strategic Resources will monitor adherence to these Rules.
- 1.9 The application and content of these Financial Procedure Rules is reviewed regularly. The Corporate Director - Strategic Resources therefore welcomes feedback on the operation of these Rules, or any aspect of the Finance Manual, to ensure that they both remain effective and relevant to the day to day operational activities of the Council.

2.0 DEFINITIONS

- 2.1 In these Rules, unless the context otherwise requires:-

Asset is any asset including material and intellectual property, but excluding any estate or interest in land and buildings, (i.e. 'Property' as defined by these Rules).

Budget Holder is an officer nominated by a Director and/or Service Unit Head as being responsible for managing a defined sum of money (i.e. 'Budget').

Corporate Director - Strategic Resources (CD-SR) means the Corporate Director - Strategic Resources, the officer appointed by the Council to exercise the powers defined in Section 151 of the Local Government Act 1972.

Council means the North Yorkshire County Council.

CPR means the Contract Procedure Rules.

Director shall apply to any, or all, of the following Officers:-

Chief Executive Officer
Corporate Director Business and Environmental Services
Corporate Director Children and Young People's Service
Corporate Director Health and Adult Services
Corporate Director - Strategic Resources

Exchequer Services Officer means the employee of the Council nominated to this post within Strategic Resources by the CD-SR.

Executive means the body described in Article 7 of the Constitution.

Financial Instrument means a document such as a share, bond, bill of exchange, future or options contract) that has monetary value or evidences a legally enforceable agreement between two or more parties regarding a right to payment of money.

Head of Internal Audit means the Head of Internal Audit for Veritau.

Internal Audit Service means that service provided to the Council by Veritau.

Leasing Agreement is a contract for the provision of finance to enable goods or services (but not Property) to be obtained and where ownership in any goods does not necessarily pass to the Council at the end of the contract period.

Member means any elected Member of the Council

Money Laundering Reporting Officer means the Head of Internal Audit

Officer means any employee of the Council or other authorised agent. **Person** means any individual, partnership, company, trust, other local authority, Government department or agency.

Portfolio Holder is the Member who, as a member of the Executive, has primary responsibility for a defined area of service(s).

Property refers to any estate or interest in land and/or buildings.

PPR means the Property Procedure Rules.

Rules means these Financial Procedure Rules.

Service Unit Head is an Officer responsible for a defined function or activity within a Directorate and who reports directly to the relevant Director.

Services means the provision by a contractor of any services or similar facilities or works for the Council.

Terms of Reference for Internal Audit set out the purpose, authority and responsibility of Internal Audit. These are reviewed annually and any amendments approved by the Audit Committee.

Veritau means the local authority controlled company established by the Council and the City of York Council to provide internal audit and information governance services.

2.2 Reference in these Rules to a Director or the CD-SR shall be taken to include such Officers as are designated by those Directors to undertake the duties and responsibilities set out in these Rules, except in the case of the following Rules:-

- (i) Director - **Rules 6.10, 6.11, 6.16, 7.9, 7.13 and 19.7**
- (ii) CD-SR - **Rules 4.3, 4.4, 4.5, 4.6, 4.7, 4.16, 5.1, 6.16, 14.5, 14.6, 14.8, 14.9, 18.7 and 22.1**

where delegation is not permitted. A record of all duties and responsibilities as delegated under these Rules is to be maintained, as appropriate, by each Director and the CD -SR.

2.3 (a) The PPR apply to the acquisition, disposal and redeployment of Property.

(b) The CPR apply to the procurement of works, supplies and services.

2.4 References in these Rules to

- (i) any legislation includes a reference to any amended or re-enactment of such legislation;
- (ii) the singular includes the plural and vice versa;
- (iii) the masculine includes the feminine and vice versa.

3.0 POWERS AND DUTIES OF THE COUNTY COUNCIL

- 3.1 Any power or duty of the Council in relation to these Rules may be exercised by a person or body which, under the Constitution, has delegated powers in that regard.
- 3.2 For the purposes of **Rules 6 and 7** of these Rules 'policy' means any Council or service commitment as expressed in financial terms and therefore implicit within any Revenue Budget and/or Capital Plan approved by the Executive and/or the Council.

4.0 RESPONSIBILITIES

Preamble

These Financial Procedure Rules have been approved with the intention of enabling the delegation of financial responsibility to the lowest appropriate level of management within the Council. They also set out the working arrangements by which the Council gives effect to its statutory financial responsibilities. In particular they define the role and responsibilities of any officer designated as a 'Budget Holder'.

Rules

- 4.1 These Rules are made by the Council and are subject to the relevant provisions of the Local Government Act 1972, the Local Government Finance Act 1988, the Local Government and Housing Act 1989 and Part 2 of the Local Government Act 2003. They set out the working arrangements by which the Council gives effect to its statutory financial responsibilities.
- 4.2 These Rules apply to all activities of the Council although the CD-SR may approve variations from the Rules to reflect specific circumstances. At present the only approved variations relate to primary/secondary/special schools operating under the approved LMS Contract Procedure Rules and LMS Financial Procedure Rules. No other variations from the Rules have currently been approved.
- 4.3 The CD-SR will, for the purposes of Section 151 of the Local Government Act 1972 and Section 114 of the Local Government Finance Act 1988, be responsible for the proper administration of the Council's financial affairs and the submission of reports to the Council (or any of its constituent parts) on the discharge of that responsibility.
- 4.4 The CD-SR has a statutory responsibility to ensure that adequate systems and procedures exist to account for all income due to, and expenditure payments made on behalf of the Council and that controls operate to protect the assets of the Council from loss, waste, fraud or other impropriety. In addition to these Rules the CD-SR may discharge that responsibility in part by the issue and maintenance of financial instructions with which any Officer, together with any person employed by an organisation contracted to the Council, must comply.
- 4.5 As 'Section 151' Officer of the Council the CD-SR shall be responsible for the production and certification of the Statement of Final Accounts in accordance with the Accounts and Audit (England) Regulations 2011. The CD-SR shall also be responsible for all arrangements relating to the external audit of the Statement of

Final Accounts in accordance with those Regulations. This responsibility also extends to financial information contained within any statutory plan published by the Council.

- 4.6 The CD-SR shall, in compliance with Section 114 of the Local Government Finance Act 1988 report to the Council if the Council, its Executive, a committee of the Council, an Officer of the Council or a joint committee on which the Council is represented:-
- (i) has made or is about to make a decision which involves or would involve the Council incurring expenditure which is unlawful;
 - (ii) has taken or is about to take a course of action which, if pursued to its conclusion, would be unlawful and likely to cause a loss or deficiency on the part of the Council; or
 - (iii) is about to enter an item of account (in the ledger), the entry of which is unlawful.

The CD-SR shall also make a report if it appears that the expenditure proposed by the Council in a financial year is likely to exceed the resources available to it to meet the expenditure.

- 4.7 The CD-SR shall, in compliance with Sections 25 – 28 of Part 2 of the Local Government Act 2003
- (i) submit a formal report to the County Council when the Council Tax precept is being made regarding the robustness of the estimates included in the annual Budget and the adequacy of the reserves for which the Budget provides (Section 25)
 - (ii) submit a report about the inadequacy of the reserves in accordance with the Section 27 requirements if the Secretary of State has set a minimum level of reserves for the Council under his Section 26 powers
 - (iii) ensure that the County Council has adequate budget monitoring arrangements in place throughout the year that includes a regular review of the planned level of reserves incorporated in the annual Budget / Precept setting calculations (Section 28).
- 4.8 Every Director, Service Unit Head and Budget Holder shall be responsible for the observance of these Rules within their service area and for the training of staff under their supervision to enable them to comply with these Rules. This principle also applies to any instructions or guidance published in the Finance Manual, issued under the authority of these Rules.
- 4.9 If any Director, Service Unit Head or Budget Holder employs a consultant, agency staff or an external contractor to undertake any duties which would normally be undertaken by an Officer of the Council they must undertake their best endeavours to ensure that every such person acts in accordance with these Rules. It is the responsibility of the Director, Service Unit Head, or Budget Holder (as appropriate) to ensure such persons are aware of this responsibility and are given training if appropriate to enable them to carry out these duties. Every agreement for such work should include adequate remedies to enable the Council to secure reimbursement if there is a failure to comply with these Rules which leads to a financial loss for the Council.

- 4.10 The nature and format of all accountancy systems and related financial procedures and records must be in a form agreed with the CD-SR who shall have regard to the provision of Section 151 of the Local Government Act 1972, the Accounts and Audit (England) Regulations 2011, and such other statutory provisions which, from time to time, shall affect the financial administration of the Council or its constituent services. The financial ledger maintained by the CD-SR will be regarded as the primary financial record of the Council, both for actual expenditure/income transactions as well as budget allocations and subsequent virements. The CD-SR shall be consulted at an early stage regarding proposed changes to any financial systems, procedures or records and his approval obtained before such changes are implemented.
- 4.11 The principles referred to in **Rule 4.10** shall also be applied to any partnership or joint working arrangement with a third party whereby the Council agrees to allocate to, or receive (and then administer) funds from, a third party under the terms of the partnership or joint working arrangement. No funds should be allocated to, or received from, a third party on this basis without the agreement of the CD-SR as to the financial systems and procedures that will be adopted either by the Council or the third party. This Rule shall be deemed to apply to any proposal for the Council to act as the 'Accountable Body' for the purposes of administering any external funding for which the Council and its partners for that purpose have applied.
- 4.12 Where appropriate, reports to the County Council, the Executive or any committees or sub-committees, must contain a financial statement or appraisal setting out the full financial implications arising from any proposals contained within the report. The financial statement or appraisal must be agreed with the CD-SR in advance of the report being distributed to Members.

Such reports may cover:-

- (i) a new policy
- (ii) a variation of existing policy, or
- (iii) a variation in the means or timescale for implementing an existing policy

which may increase (or decrease) net expenditure in the current or subsequent years.

- 4.13 Each Director, Service Unit Head and Budget Holder is responsible for the proper financial management of all resources allocated to them within their operational areas. They shall devise and implement such controls and procedures, in consultation with the CD-SR, as are necessary to carry out their duties and prevent loss, waste, fraud and other impropriety in relation to the assets or integrity of the Council.
- 4.14 Each Director and/or Service Unit Head shall define budgetary control policy for the resources (revenue or capital) allocated to their operational area and ensure it is operated in practice. This includes identifying Budget Holders for every revenue budget head, or capital scheme, and their limits of authority (see **Rules 6.11 and 7.9**). The same principle shall apply to any funds allocated to, or received from, a third party under a partnership or joint working arrangement (see **Rule 4.11**).
- 4.15 Failure to comply with these Rules, and any related instructions or guidance contained in the Finance Manual may lead to disciplinary action being taken against individual Officers.
- 4.16 The CD-SR shall be responsible for monitoring adherence to these Rules.

5.0 MEDIUM TERM FINANCIAL STRATEGY

Preamble

In order for the Council to be able to plan the development of its services and determine priorities for the allocation of resources between those services it needs to undertake multi-year financial planning. The Council will do this by preparing a Medium Term Financial Strategy for incorporation in the Council Plan.

Rules

- 5.1 The CD-SR shall, in consultation with the Chief Executive Officer and other Directors, prepare a Medium Term Financial Strategy (**'the MTFS'**) for consideration by the Council.
- 5.2 The CD-SR shall determine the format of the MTFS and the timing of reports relating thereto, subject to any overriding requirements of the Council.
- 5.3 The MTFS shall include the financial effects of all known commitments in the multi-year period, together with any proposals for significant changes to the level of existing services, or for developing new services.
- 5.4 The MTFS shall include the respective impacts of both revenue and capital expenditure, for that period on the level of Precept (and its Council Tax equivalent), any provisions or self-fund insurance arrangements, cash flow, working balances and treasury management policy.
- 5.5 For the purposes of this Rule the duration of the 'multi-year' period shall be determined from time to time by the Council based upon advice provided by the CD-SR in consultation with the Chief Executive Officer and other Directors.

6.0 REVENUE BUDGET

Preamble

The Revenue Budget is an estimate of the annual income and expenditure requirements of the Council and thereby sets out the financial implications of its approved policies. Once approved by the Council it gives each Director the authority to incur expenditure, and collect income, and also provides the basis on which the financial performance of the Council, and each Directorate, will be monitored. These Rules provide a comprehensive framework for the preparation, monitoring and reporting of the Revenue Budget against these criteria.

Rules

Budgetary Control Principles

- 6.1 The Rules in this Section are based on the following budgetary control principles established by the Council:-
 - (i) any under or overspending of Revenue Budget at the financial year end may be carried forward (subject to (iii))
 - (ii) mechanisms shall be defined by the CD-SR to ensure budgetary monitoring and control is carried out throughout the Council on a frequency commensurate with materiality and risk.(see **Rule 6.16**)

- (iii) that within these principles any designated service may be subject to any specific Regulations relating to their year-end surpluses/deficits as shall be approved from time to time by the Council.

6.2 The Executive has overall responsibility for all aspects of the Revenue Budget of the Council. Any financial matter arising during a given financial year that cannot be resolved at Directorate level, using the powers/responsibilities defined in this Rule, shall be brought to the attention of the Executive at the earliest opportunity. If and when any matters are reported to the Executive it will be the responsibility of the CD-SR to provide specific advice to the Executive regarding how the financial implications of the matter might be addressed and/or resolved.

Structure of the Revenue Budget

6.3 The Council will, when formally setting its annual Precept (see **Rule 6.4 - 6.7**), also approve an annual Budget for each Directorate. This 'Directorate' Budget will comprise a single sum (i.e. expenditure less related income) which typically will also be allocated across a range of functions and/or activities within each Directorate; the functions and/or activities identified will normally reflect the service areas, or other organisational arrangements adopted within the Directorate. These Budgets will be determined, before the start of each financial year, in a format to be agreed by the CD-SR and will represent the base line to which, in any given financial year, the Rules that follow in this Section shall apply.

Setting a Budget/Precept

6.4 The CD-SR will specify the format of the annual Revenue Budget and the timing of any reports, subject to any overriding requirements of the Council. In practice the overall Revenue Budget will comprise a number of budgets (usually based on defined Directorates) identified as appropriate to the financial management arrangements of the Council (see **Rule 6.3**).

6.5 The CD-SR shall be responsible for submitting any reports regarding the overall Revenue Budget of the Council that will enable it to comply with its statutory responsibility to determine an annual Precept. Once the Precept has been determined by the Council it shall be the responsibility of the CD-SR to notify the collecting authorities.

6.6 As part of the process of approving the overall Revenue Budget of the Council the Executive shall define the arrangements whereby each Directorate prepares its own budget for consideration by the Executive. These arrangements will be defined to enable the baseline estimates of the Council to be prepared, to fulfil the function referred to in **Rule 6.3**.

6.7 If required, under the terms of **Rule 6.6**, each Director shall prepare a draft Revenue Budget relating to their Directorate for the next financial year, in consultation with the CD-SR, for submission to the Executive. Any such draft Revenue Budget shall be accompanied by a joint report from the appropriate Director and the CD-SR, which shall specify any variations relative to existing budgets and policies together with any implications for future financial years.

Incurring expenditure/collecting income

- 6.8 From the start of each financial year:-
- (i) expenditure may be incurred within the overall Revenue Budget approved by the Council. Given the terms of **Rule 6.3**, this authority to spend is effectively applied at Directorate level.
 - (ii) similarly, the responsibility for making appropriate arrangements to collect any income reflected in approved Budgets shall be exercised by Directorates in line with the Council's income management systems.
- 6.9 Expenditure on behalf of the Council can only be committed against authorised budgets and in accordance with the policies for which the budget was established. Any significant commitment to continuing liabilities (including establishment changes - see **Rule 6.10**) in future years in excess of current budget provision or any proposed change in policy likely to affect the current approved budget and/or the MTFs (see **Rule 5.3**) shall be the subject of a report to the Executive prepared by the Director setting out clearly the full financial implications. Such proposals may relate to expenditure/income or both and this should be made explicit in any statement of financial implications (see **Rule 6.2**).
- 6.10 Any changes to the existing staffing arrangements either in terms of the number of posts and/or their grade shall be approved by the Director in consultation with the Portfolio Holder if they generate additional full year costs in excess of £250,000. Where staffing changes involve a package of changes, or cover more than one Service area within a Directorate a single approval should be sought before any commitments are made. The limit, for the purposes of this Rule, shall be determined by reference to the total value of the proposal including on-costs.

Monitoring of the Revenue Budget

- 6.11 Once the overall Revenue Budget of the Council for a given financial year has been approved by the Council, each Director shall define budgetary control policy within their own Directorate and ensure it is operated in practice. This will include identifying responsible Budget Holders and the limits of their budgetary authority (see **Rule 4.14**).
- 6.12 Budget Holders may only authorise expenditure from budgets under their direct control (see **Rule 6.11**). If a Budget Holder plans to order items to be charged against the budget of another Budget Holder, he is required to obtain the approval of the other Budget Holder before committing expenditure against that budget.
- 6.13 Throughout the financial year each designated Budget Holder shall monitor income (including any grants) and expenditure against those specific budgets for which they are responsible.
- 6.14 The CD-SR shall provide financial advice to assist Budget Holders to fulfil their responsibilities, consulting their Director in circumstances where it appears that variations to the approved budget will occur.
- 6.15 Budget Holders shall supply the CD-SR with sufficient information, as and when required, to enable accurate budget profiling and/or financial projections to be undertaken.
- 6.16 In accordance with **Rule 6.1(ii)**, budgetary control during a financial year shall be undertaken by a Director as follows:-

- (i) a Director shall maintain an on-going review of all aspects of the budget (including income - see **Rules 12.1/12.2**) under his control; this review shall be undertaken in conjunction with Service Unit Heads and/or Budget Holders and the CD-SR
- (ii) the results of (i) to be reported on a regular basis based on materiality and risk and at least quarterly to the Portfolio Holder for that Directorate
- (iii) that arising from (ii) the Director will be required to bring to the early attention of the Executive any significant matters which if left unresolved may lead to a budget overspending in the current or future years, together with proposals to address that potential situation
- (iv) the CD-SR shall report to the Executive at no less than quarterly intervals throughout the financial year on matters arising from (i) - (iii) above, in particular relating to
 - virements requiring approval (see **Rules 6.18 to 6.24**)
 - service under or overspends which may have implications for the planned outturn for the current (and future) financial year(s)
 - status of the contingency fund, cash flow and working balances.

6.17 If expenditure in excess of the approved net budget of a Directorate is incurred due to an emergency, this expenditure must be reported to the CD-SR as soon as practicable and to the Executive as soon as possible thereafter (see also **Rule 6.2**).

Virement

Preamble

*Virement is the transfer of budget provision between individually defined budget headings and as such it does not create additional budget. When the Council sets its overall Revenue Budget for a given financial year it will effectively approve a series of specific functional net budgets within each Directorate (see **Rule 6.3**)*

*For the purpose of defining the authorisation required for virement to take place within the approved Budget for each Directorate, reference will be made to a '**Division of Service**'. Once these Divisions of Service have been defined they will be used to analyse the Budget for a Directorate and thereafter constitute the base line from which any virements are recorded. Within a Division of Service, it is anticipated that more detailed budget headings (e.g. employees, premises) will be adopted for day to day budgetary control purposes.*

Rules

- 6.18 Directors are responsible for undertaking virements in accordance with these Rules within his/her Directorate and inform the CD-SR as soon as practicable that such virements have taken place. In addition:-
- (i) the CD-SR will be responsible for ensuring that notified virements are reflected in the financial ledger of the Council at the earliest opportunity (see **Rule 4.10**)
 - (ii) once such virements have been reflected in the financial ledger by the CD-SR they will be regarded as the base line (see **Rule 6.3** and **Preamble** above) from which any subsequent virements in that financial year are referenced.
- 6.19 Notwithstanding Rules **6.20 to 6.24**, the approval of the Executive shall be required if any proposed virement involves one or more of the following:-
- (i) a change to current policy (see **Rule 6.9**)
 - (ii) a significant addition to recurring commitments in future financial years (see **Rule 6.9**)
 - (iii) any transfer of resources between the Revenue Budget and the Capital Plan (**see Rule 7.8(iv)**).
- 6.20 Notwithstanding **Rules 6.21 to 6.24** below, the CD-SR has the right to refer any proposed virement to the Executive.
- 6.21 Within a Division of Service, a Director may transfer any sums between defined budget headings (see **Preamble** to this Section) subject only to consultation with the Portfolio Holder and the CD-SR (see also **Rule 6.10** in relation to employee costs).
- 6.22 For transfers between Divisions of Service, if the sum involved is:-
- (i) less than £250,000 or 10% of the gross expenditure of the Division of Service from which the transfer is being made, whichever is the lesser amount, the virement may be actioned by a Director following consultation with the Portfolio Holder and the CD-SR
 - (ii) equal to or greater than £250,000 or 10% of the gross expenditure of the Division of Service from which the transfer is being made, whichever is the lesser amount, the virement shall be subject to approval by the Executive.
- 6.23 Any virement where a change in the previously approved level of net expenditure for a Division of Service is directly related to, and fully offset by, a change in fees, income or other contributions from another authority, organisation or person may be actioned by a Director in consultation with the Portfolio Holder and the CD-SR.
- 6.24 Income received in excess of the budgeted amount for a Division of Service may be spent either within that Division of Service or its equivalent value transferred to another Division of Service. This can be achieved by virement in accordance with the arrangements specified in **Rules 6.21 or 6.22** respectively.

Outturn

- 6.25 With the assistance of all Directors, the CD-SR shall report to the Executive on the outturn of income and expenditure, as soon as practicable after the end of the financial year.

7.0 CAPITAL PLAN

Preamble

Capital expenditure is a necessary element in the development of the Council's services since it generates investment in new and improved assets. In conjunction with the Corporate Capital Strategy and the Asset Management Planning Framework, these Rules provide a framework for the preparation and appraisal of schemes proposed for inclusion in the Capital Plan, appropriate authorisations for individual schemes to proceed and facilitate the overall management of the Capital Plan within defined resource parameters. For the purpose of these Rules the term 'scheme' refers to either individual capital work or programme of works as set out in the Capital Plan.

Rules

Budgetary Control Principles

- 7.1 The Rules in this Section 7 are based on the following principles established by the Council:-
- (i) individual schemes shall be part of an approved Capital Plan before they proceed, that Plan reconciled, at both Directorate and Corporate level, to the resources available
 - (ii) a scheme is defined as either
 - (a) a specific project whose cost, size, configuration, or policy significance requires it to be individually listed in the Capital Plan or
 - (b) an annual programme of planned expenditure for a consistent and designated purpose
 - (iii) mechanisms shall be defined by the CD-SR to ensure that expenditure, and if appropriate, grant and other income is monitored and controlled at individual scheme as well as Directorate level
 - (iv) any under or overspending of the approved Capital Plan at Directorate level at the financial year end may be carried forward
 - (v) any scheme specific funding proposed by a Director must be compatible with the Treasury Management Policy Statement of the Council (see **Rules 14.3 and 14.5**).
- 7.2 During the financial year the Executive has overall responsibility for all aspects of the Capital Plan of the Council. To the extent therefore that any financial matter arising during a given financial year cannot be resolved at Directorate level, using the powers/responsibilities defined in this Section of the Rules, such matter shall be brought to the attention of the Executive at the earliest opportunity (see **Rules 7.13/7.14**). If and when such matter is reported to the Executive it will be the

responsibility of the CD-SR to provide specific advice to the Executive regarding how the financial implications of the matter might be addressed and/or resolved.

Approving a Capital Plan

- 7.3 The CD-SR shall determine the format of the Capital Plan and the timing of reports relating thereto, subject to any overriding requirements of the Council. In practice the approved Capital Plan will comprise a number of individual schemes each of which will be quantified in overall project terms or on an annualised basis, as appropriate.
- 7.4 Each Director shall prepare a draft Capital Plan for their service, in consultation with the CD-SR, for submission to the Executive. This Plan should identify planned expenditure, and funding, at proposed individual scheme or programme level.
- 7.5 The CD-SR shall be responsible for preparing an overall Capital Plan for consideration by the Executive, and approval by the Council, the funding of which shall be compatible at all times with the Treasury Management Policy Statement of the Council.
- 7.6 Individual schemes shall only be included in a Directorate Capital Plan following a project appraisal process undertaken in accordance with the guidelines defined in the **Asset Management Planning Framework** and in accordance with the Property Procedure Rules.

Incurring expenditure against the Capital Plan

- 7.7 Approval of the Capital Plan by the Council shall provide the following authorisations to Directors: -
- (i) Current Year
- (a) to continue to incur expenditure on each scheme in progress at the start of the financial year, and/or to begin to incur expenditure on any approved new scheme starting in that year, providing that total expenditure on either type of individual scheme does not exceed the sum contained in the approved Plan for that scheme by more than 10% or £20,000 (whichever is the greater) and all necessary approvals have been received, where appropriate, from Government Departments and/or any external funding agencies (see **Rule 8.0**)
- (b) the approval in (a) is subject to any additional expenditure on a scheme being met from within the sum total of a Directorate's Capital Plan expenditure limit for that year (as originally approved, or subsequently amended by the Executive) as derived from the process defined in **Rule 7.5**
- (c) to collect all grant and other income related to expenditure incurred on schemes in that year.
- (ii) Subsequent Years
- (a) to make any arrangements necessary for site purchase (but subject to the Property Procedure Rules), to seek planning permissions, to incur professional fees and preliminary expenses as appropriate and to seek any necessary approvals from Government Departments and/or external funding agencies. This approval is subject to any expenditure being met from within the Directorates' Capital Plan expenditure limit for the year in which it is incurred.

- 7.8 Subject to a report by the appropriate Director, the approval of the Executive will be required if:-
- (i) any increase/decrease in the Directorate's previously approved Capital Plan expenditure limit for that year is necessary as a result of:-
 - (a) the cost variation on an individual scheme exceeding the parameters defined in **Rule 7.7**
 - (b) the inclusion of a new scheme
 - (c) the deletion or material modification of an existing approved scheme
 - (d) the loss or revision of any funding which materially affects the ability of a Directorate to undertake its approved Capital Plan
 - (ii) the committed expenditure in later years of the Directorate's Capital Plan is increased for any of the reasons listed under (i) of this Rule
 - (iii) an individual scheme requires expenditure in addition to any arising from the provisions in **Rule 7.7(ii)** to be committed more than one financial year in advance of the financial year in which the actual costs will be incurred
 - (iv) in accordance with **Rule 6.19(iii)** there is a proposed transfer of resources between the Revenue Budget and the Capital Plan.

Monitoring of the Capital Plan

- 7.9 Once an overall Capital Plan has been approved by the Council each Director shall define a budgetary control policy and ensure it is operated in practice, including identifying responsible Budget Holders for each scheme in the Directorate Capital Plan and the limits of their budgetary authority (see **Rule 4.14**).
- 7.10 Throughout the year each designated Budget Holder shall monitor expenditure and, if appropriate, grant and other income, on a scheme by scheme basis against the approved Directorate Capital Plan.
- 7.11 The CD-SR shall provide financial advice to assist Budget Holders to fulfil their responsibilities, consulting their Director in circumstances where it appears that variations to the approved budget for a scheme will occur.
- 7.12 Budget Holders shall supply the CD-SR with sufficient information, as and when required, to enable accurate cost/income profiling and/or financial projections of scheme costs/income to be undertaken.
- 7.13 Budgetary control during a financial year shall be undertaken by a Director as follows:
- (i) a Director shall maintain an on-going review of all aspects of the Capital Plan for their Directorate; this review to be undertaken in conjunction with Service Unit Heads and/or Budget Holders and the CD-SR and based on materiality and risk
 - (ii) the results of (i) to be reported to the Portfolio Holder for that Directorate based on the nature of findings and at least quarterly

(iii) that arising from (ii) a Director will be required to bring to the early attention of the Executive any significant matters which if left unresolved may lead to a scheme budget overspending together with proposals to address that potential situation (see **Rules 7.7/7.8**)

(iv) the CD-SR shall report to the Executive at no less than quarterly intervals throughout the financial year on matters arising from (i) to (iii) above, in particular relating to scheme variations requiring approval (see **Rule 7.7/7.8**).

7.14 Where an underspend relative to the Directorate's approved expenditure limit for the current financial year will result in a significant overspend in future financial years, the Director shall report the matter to the Executive at the earliest opportunity, together with proposals to address the situation.

7.15 If expenditure in excess of the approved Directorate Capital Plan expenditure limit for that year is incurred due to an emergency, this expenditure must be reported to the CD-SR as soon as practicable and to the Executive as soon as possible thereafter (see also **Rule 7.2**).

Outturn

7.16 With the assistance of all Directors, the CD-SR shall report to the Executive on the outturn of expenditure (and funding if appropriate) of each scheme, as soon as practicable after the end of the financial year.

8.0 GRANTS AND EXTERNAL FUNDING

8.1 Authorisation to submit a bid for grant or other external funding, or accept an offer of such funding, must be obtained in advance of bid documents or acceptance documents being signed. This includes a situation where the County Council intends to act as Accountable Body in respect of partnership funding, in which case authorisation to accept this Accountable Body status must also be obtained (See **Rules 8.5 and 21**).

8.2 The implications of Item 6 of the Executive Members' Delegation Scheme must be considered. In particular, this sets a financial limit of £100,000. Above this level, appropriate Member authorisation must always be obtained before documents are signed.

8.3 The CD-SR shall be consulted on, and certify if necessary, any application for grant or external funding.

8.4 The CD-SR shall:

(i) agree the terms and conditions of all grant offers made to the County Council, and

(ii) accept such grant offers and sign appropriate documentation on behalf of the County Council,

PROVIDED that in cases of grant offers that exceed the sum of £50,000 the agreement and acceptance shall be subject to consultation with the Director to whose service the grant is relevant and the Assistant Chief Executive (Legal and Democratic Services).

8.5 Where the application for grant, or other external funding, is being made on behalf of a partnership, for which the County Council will take on the Accountable Body role,

the Director to whom the Accountable Body role is relevant, in consultation with the CD-SR and the Assistant Chief Executive (Legal and Democratic Services), shall agree the terms and conditions of that Accountable Body role, and sign associated documentation on behalf of the County Council.

- 8.6 The CD-SR shall be responsible for the completion, authorisation and submission of any grant or external funding claim forms to the relevant organisation(s) and, if necessary, the External Auditor, in accordance with any guidelines applicable to the claim(s) in question.
- 8.7 Certain grant claims are required to be audited, and an opinion provided on the accuracy of the expenditure being claimed, by the Head of Internal Audit. Each Director shall ensure that records are retained to enable the Chief Internal Auditor to complete this work and be provided with explanations, as necessary, for any matters raised.

9.0 SERVICES AND ASSETS

Preamble

*This Rule refers to the arrangements under which Budget Holders shall undertake the procurement of the services and assets they require and, where relevant, the disposal of surplus assets. **They do not apply to Property (i.e. land and buildings).** Property transactions are regulated by the **PROPERTY PROCEDURE RULES**. These Rules should be read in conjunction with the **CONTRACT PROCEDURE RULES** which describe in detail the procedures Officers must follow when procuring services, assets and property.*

Rules

Responsibilities of a Director

- 9.1 A Director shall be responsible for:
- the procurement of all supplies, services and assets (but **not** Property) relating to the provision of services by his Directorate
 - ensuring that supplies, services and assets ordered are received and are of the correct quality
 - ensuring that supplies, services and assets are only procured by Budget Holders if there is approved budgetary provision to cover the associated costs (see **Rules 6.11 and 7.9**)
 - ensuring adherence to the approved Procurement Strategy of the Council
 - the certification of invoices in accordance with arrangements approved by the CD-SR.

Payment of Accounts

- 9.2 The CD-SR shall arrange the payment of all invoices which are certified duly payable.

Assets - Leasing Agreements (see also Contract Procedure Rule 2.6)

- 9.3 The CD-SR shall undertake the negotiation of terms for, and authorise the leasing of, any assets which the Council, or a Director within the context of his budgetary

responsibility, has decided to acquire where the main purpose of the leasing agreement is to finance the transaction.

- 9.4 A Director for whose service any assets have been acquired under a leasing agreement shall adhere to the terms and conditions of the relevant leasing agreement particularly as this relates to wear and tear, or residual condition of the asset at the end of the leasing period. A full inventory of all leased assets worth more than £1,000 must also be maintained by the Director (see **Rule 10.1**).
- 9.5 Any assets subject to a leasing agreement must not be disposed of without the prior consent of the CD-SR who shall be responsible for notifying the lease company and obtaining their consent to disposal.

Disposal of Assets

- 9.6 Prior to the disposal of any asset, a Director must:-
- (i) ensure that the asset is of no use to any other Directorate;
 - (ii) for assets subject to a leasing agreement consult the CD-SR (see **Rule 9.5**);
 - (iii) Confirm whether the asset was purchased using grant funding, and if so, ensure the disposal and the allocation of proceeds complies with any grant conditions
 - (iv) notify the CD-SR of the intention to dispose of any item which might be regarded as capital.
- 9.7 If the disposal is subject to grant conditions (see **Rule 9.6(iii)**), then those conditions will take precedence, otherwise all disposals must follow the rules set out below.
- 9.8 The procedures defined in the **Contract Procedure Rules** apply to the disposal of any assets of the Council. In particular no quotations or tenders for other than the highest price shall be accepted without reference to **Contract Procedure Rules 8.6, 8.8 and 8.10** and/or **9.3 and 12.2** as appropriate. The provisions of **Contract Procedure Rule 13** shall also apply to any post tender negotiation or clarification.
- 9.9 A Director may dispose of any asset if its estimated disposal value is £20,000 or less (see **Rule 9.10** and **10.3**).
- 9.10 If the estimated disposal value:-
- (i) is greater than £20,000 but less than £100,000 then a Portfolio Holder may authorise the disposal following consultation with the Director and with the approval of the CD-SR
 - (ii) is £100,000 or greater then the approval of the Executive is required.
- 9.11 A Director may dispose of a number of assets simultaneously if their aggregate estimated disposal value is £20,000 or less. If the estimated aggregate disposal value exceeds £20,000 then the provisions of **Rule 9.9** shall apply as appropriate.
- 9.12 For low value items valued at under £500, and to save the costs of disposal, to reduce the need to send items to landfill, and to maximise the use of Council resources, local arrangements can be made in line with the guidance included in the Finance Manual.

Financial Instruments

- 9.13 The CD-SR shall undertake the negotiation of terms and authorise the acquisition or disposal of any financial instrument which the Council or a Director requires within the context of their financial or service responsibility.

10.0 INVENTORIES AND STORES

- 10.1 Each Director shall maintain a written inventory (in a form approved by the CD-SR) of all assets used in his Directorate which belong to the Council whose individual cost or value exceeds £1,000. This Rule also applies to any asset acquired under a leasing agreement (see **Rule 9.4**).
- 10.2 The Director shall be responsible for the custody of all stores, cash and financial documents used in his Directorate. Cash held on any Council premises should not exceed any sums for which the Council is insured.
- 10.3 A Director may arrange for the disposal of unrequired stock or inventory items, up to a limit of estimated value of £20,000 in any period of three consecutive calendar months. Above that figure, **Rules 9.8** and **9.9** shall apply.
- 10.4 A Director and the CD-SR shall be authorised jointly to write off stock and inventory deficiencies up to a limit of £20,000 in any period of three consecutive calendar months. The approval of the Portfolio Holder is required where the value is greater than £20,000 and the approval of the Executive is required where the value is £100,000 or greater.

11.0 MISCELLANEOUS MATTERS

Preamble

In addition to arrangements for the key aspects of financial administration (i.e. Revenue Budget, Capital Plan and Procurement) there are a range of other financial matters that require specific Financial Procedure Rules. These are covered in the remaining sections of this document.

Rules

Payroll, Pensions and Other Emoluments

- 11.1 The calculation and payment of all salaries, wages, pensions, gratuities, compensation and other emoluments payable by the Council to its current and former employees shall be performed in accordance with arrangements approved by the CD-SR.
- 11.2 Each Director shall be responsible for the certification of all amounts properly payable for pay and pensions in accordance with the arrangements approved by the CD-SR.
- 11.3 The CD-SR shall be authorised to implement national pay awards with effect from their implementation dates.

Travelling and Subsistence Allowances

- 11.4 The calculation and payment of all Travelling and Subsistence Allowances payable by the Council to its Members and employees shall be performed in accordance with arrangements approved by the CD-SR.
- 11.5 Each Director shall maintain a record of Officers authorised to certify claims on his behalf. Certification of a claim shall signify that the Director is satisfied that the allowance or expenses are properly payable by the Council in respect of duties performed by the claimant.

12.0 INCOME

Fees and Charges

- 12.1 Each Director shall be responsible for the establishment and ongoing review of fees and charges payable to the Council in respect of activities carried out by the Directorate. For practical purposes this responsibility should be linked to the budget management arrangements established in accordance with **Rules 4.13/4.14**.
- 12.2 Fees and charges within the control of the Council shall be subject to review annually by the relevant Director and the CD-SR except where:
- (i) they are regulated by an existing contract, or set by Government legislation or regulations; or
 - (ii) there is a specific agreement between the Council and relevant third parties setting a different frequency; or
 - (iii) a different frequency is agreed by the CD-SR; or
 - (iv) there is a particular need to review them in advance of the next annual review.
- 12.3 The setting and annual review of fees and charges shall be undertaken to take account of such factors as inflation, the overall cost of the service, changes in the service itself or policy decision. The CD-SR shall provide guidance on undertaking setting and reviewing fees and charges.
- 12.4 All decisions relating to changes to a scheme of fees and charges will be made in consultation with the relevant Portfolio Holder, unless the proposal reflects a change in policy, in which case the matter should be referred to the Executive.
- 12.5 A Director shall agree with the CD-SR the administrative arrangements for the collection of any money due to the Council. The collection of debts will normally be the responsibility of the CD-SR and shall be administered via the corporate debtor system linked to the financial ledger. Any alternative arrangement requires the prior written approval of the CD-SR.
- 12.6 The CD-SR will agree with the Assistant Chief Executive (Legal and Democratic Services) the arrangements by which outstanding debts may be referred for legal action, and the roles to be taken by staff in Finance, or Legal Services, in pursuing such action.

- 12.7 Income may not be used to directly offset payments due. All money received on behalf of the Council shall, as soon as practicable, be either banked for the credit of the Council's account or deposited with the CD-SR. The only exception to this arrangement is for LMS Schools as defined in **Rule 13.3**.

Debt Write-Off

- 12.8 The procedures for writing off debts, including the recovery of overpayments shall be as follows:-
- (i) Amounts not exceeding £100 may be written off by the CD-SR on the recommendation of the Exchequer Services Officer.
 - (ii) Amounts over £100 and not exceeding £10,000 may be written off by the CD-SR in consultation with the Director and the Assistant Chief Executive (Legal and Democratic Services) as necessary.
 - (iii) Amounts over £10,000 and up to, but not including £100,000 may be written off by the CD-SR on the recommendation of a Director, after consultation with the relevant Portfolio Holder.
 - (iv) Amounts of £100,000 and above may only be written off on the authority of the Executive.
- 12.9 The CD-SR shall maintain a record of all such write-offs showing attempted recovery action taken and the justification for non-recovery.
- 12.10 Approval to write off a number of debts simultaneously for the same debtor may be agreed as set out in **Rule 12.8** using the aggregate value of the amounts to determine the relevant threshold value.

Adjustment to an account

- 12.11 Where an invoice has been raised in respect of a debt and it subsequently becomes apparent that the debt was not legally due to the Council (on the grounds that, for example, it was mistakenly believed that the Council had a valid legal claim against the debtor) then the invoice may be cancelled by the CD-SR in consultation with the Assistant Chief Executive (Legal and Democratic Services).

Waiving a charge

- 12.12 In some circumstances it may be appropriate to waive a charge. This must be an explicit feature of a particular charging scheme. A waiver should only be considered if there is some reason why the person receiving the service should continue to do so, and in circumstances in which the charge emerging from the charging scheme may not be fair and reasonable in all the circumstances.
- 12.13 The responsibility for agreeing the terms of any waiver must be included in the terms of the charging scheme.

13.0 BANKING

- 13.1 All arrangements for the operation, supervision and closure of all the Council's bank account(s) shall be made by the CD-SR, who is authorised to operate any bank accounts considered necessary. This Rule also applies to Imprest Bank Accounts (see **Rule 14.2**).

- 13.2 Where appropriate, the CD-SR is required to provide employees with cash or imprest bank accounts to meet minor expenditure on behalf of the Council and to issue procedures for operating these accounts.
- 13.3 Any bank accounts operated under the terms of the 'Bank Accounts for Schools' (BAFS) arrangements, established under the approved LMS scheme, are a permitted exception to **Rule 13.1**.

14.0 TREASURY MANAGEMENT

- 14.1 The Council adopts CIPFA's "Treasury Management in the Public Services Code of Practice 2009" (as amended) as described in Section 5 of the Code, and will have regard to the associated guidance notes.
- 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.
- 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.
- 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 CD-SR, who will act in accordance with the Council's TMPs, as well as CIPFA's Standard of Professional Practice on Treasury Management.
- 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.
- 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.
- 14.7 The Audit Committee shall be responsible for ensuring effective scrutiny of the Treasury Management process.
- 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.
- 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).

15.0 VOLUNTARY FUNDS

Preamble

A voluntary fund is any fund which is held or controlled by the Council as trustee for the benefit of a third party and/or for a specified purpose. Such funds may be administered solely, or in part, by an officer by reason of his or her employment with the Council.

Rules

- 15.1 The CD-SR shall be informed of the purpose and nature of all voluntary funds maintained or managed by any Officer in the course of their duties with the Council.
- 15.2 Voluntary funds registered with the Charity Commissioners must comply with all requirements set by the Commission in respect of the format of accounts and the need for audit or independent examination by a competent person, and must meet the timescales set out for such reports. Although there is no requirement from the Charity Commission, it is a requirement that small registered charities with gross income (or total expenditure) of £25,000 or less will arrange for their accounts to be examined annually by a competent independent person. A copy of the accounts and the appropriate audit or independent examiners report shall be supplied to the CD-SR immediately after the meeting of the body. The CD-SR shall be entitled to verify that the reports have been made and to carry out such checks on the accounts as he considers appropriate.
- 15.3 Voluntary funds not registered with the Charity Commissioners shall have formal accounts prepared and examined annually by a competent person independent of the fund. A copy of the accounts and Independent Examiner's Statement shall be supplied to the CD-SR immediately after the examination. The Corporate Director – Strategic Resources shall be entitled to verify that the reports have been made and to carry out such checks on the accounts as he considers appropriate.
- 15.4 Voluntary Funds, and any related bank accounts, shall be operated in accordance with procedures set out in the Finance Manual.
- 15.5 Any funds administered under the terms of the Council's approved 'Disaster Appeal' arrangements will be governed by the terms of the 'Appeal' agreed at the time.

16.0 INSURANCE

- 16.1 The CD-SR shall effect all insurance cover on behalf of the Council.
- 16.2 A Director shall notify the CD-SR as soon as he becomes aware of:
- (i) any event which may result in a claim against the Council and/or its insurers
 - (ii) any new risks which might require to be insured, together with changed circumstances affecting existing risks
 - (iii) any action(s) taken under the terms of the Council's approved Risk Management Strategy which might affect the Council's current, and future, insurance arrangements (see **Rule 17**).

17.0 RISK MANAGEMENT

- 17.1 Each Director shall take the actions necessary to comply with the terms of the Council's approved Corporate Risk Management Policy and Strategy and the Directorate based derivatives thereof.
- 17.2 These actions may relate to one or more of the following:-
- (i) using the Risk Prioritisation System (RPS) to identify and record risks in the Risk Register(s)
 - (ii) reviewing current, and identifying new, risks and the potential impact thereof on the ongoing capacity of the Council to maintain its services
 - (iii) determining, and effecting, an appropriate management response to those risks
 - (iv) maintaining records of incidents and making such records available to the CD-SR in his capacity as the Council's Risk Management co-ordinator, as necessary (see also **Rule 16.2**).

18.0 INTERNAL AUDIT

Preamble

The Accounts and Audit England (Amendment) Regulations 2011 apply to the Council. This Act requires the Council to maintain an 'adequate and effective internal audit of its accounting records and of its system of internal control'. Section 151 of the Local Government Act 1972 requires that authorities 'make arrangements for the proper administration of their financial affairs'.

The following Rules provide the framework for this statutory duty to be discharged.

Rules

Roles and Responsibilities

- 18.1 The Council has determined the CD-SR shall be responsible for maintaining an adequate and effective internal audit of the activities of the County Council. Operationally, responsibility for internal audit lies with the Head of Internal Audit.
- 18.2 The purpose, authority and responsibility of Internal Audit will be detailed in an Audit Charter and approved by the Audit Committee. The Head of Internal Audit will periodically review the Audit Charter and present it to the CD-SR and Audit Committee for approval.
- 18.3 The Head of Internal Audit will produce an annual internal audit opinion and report that will be used by the Council to inform the Annual Governance Statement.
- 18.4 The Head of Internal Audit shall have regard to the proper practice contained within the Public Sector Internal Audit Standards, and supporting application note, which represent proper practice for internal audit in local government.
- 18.5 Internal Audit will be allowed to act independently and objectively in the planning and operation of work and without undue influence by either Directors or Members.

- 18.6 The Head of Internal Audit may communicate directly with the Leader of the Council, the Executive, the Chief Executive, any Director, the Monitoring Officer, the Chairman of the Audit Committee, and any officer on any matter that he deems appropriate.
- 18.7 Each Director shall make arrangements for the CD-SR or the Head of Internal Audit to:
- (i) enter at all reasonable times on any premises or land used by the Council;
 - (ii) have rights to access all correspondence, documents, books or other records relating to any financial transactions, matter or business of the Council;
 - (iii) require and receive such explanation(s) as he considers necessary to establish the correctness of any matter under examination;
 - (iv) require any officer of the Council to produce cash, stores, or other Council property under his/her control for inspection.
- 18.8 The Head of Internal Audit shall at all times preserve and respect the confidentiality of information received in discharging tasks under this Section of the Financial Procedure Rules.
- 18.9 Each Director, Service Unit Head, Budget Holder or service manager will immediately notify the Head of Internal Audit of any suspected fraud or financial irregularity, or any circumstances which may suggest the possibility of irregularity in the exercise of any of the Council's functions or related to the delivery of any of the Council's services.
- 18.10 The Head of Internal Audit shall determine the scope of any internal enquiries or investigations, subject to consultation with the CD-SR, Human Resources and the appropriate Director.
- 18.11 The Head of Internal Audit, in consultation with the CD-SR and the appropriate Director shall decide whether any matter under investigation should be referred for police investigation and take recovery action as appropriate on such matters.
- 18.12 If a suspected irregularity occurs involving staff who are the responsibility of the CD-SR, the CD-SR shall keep the Chief Executive Officer informed.
- 18.13 Every Director, Service Unit Head and Budget Holder is responsible for the implementation and maintenance of all internal control procedures relating to financial systems and for achieving the economic, effective and efficient use of resources within their Directorate.
- 18.14 It is the responsibility of relevant Council officers to consider and respond promptly to recommendations in audit reports and to ensure any agreed actions are carried out in a timely and efficient manner.

Counter Fraud Strategy

- 18.15 The Head of Internal Audit will lead on the Counter Fraud Strategy within the Council and will undertake a review of the Strategy on, as a minimum, an annual basis.

19.0 ANTI-CORRUPTION

Money Laundering

Preamble

- 19.1 All staff should have regard to the Council's Anti-Money Laundering Policy and supporting Guidance. A member of staff should consider, in line with the Policy and Guidance, reporting any transaction which involves the receipt of £10,000 or more of cash to the Head of Internal Audit (as the Council's Money Laundering Reporting

Officer); notwithstanding such financial limit, any member of staff who has reasonable grounds to believe that money laundering is taking place (or is being attempted) in respect of a smaller amount of cash should report the matter to the Council's Money Laundering Reporting Officer.

Bribery

- 19.2 All staff should act in accordance with the legal framework concerned with bribery and corruption as set out in the Bribery Act 2010 ("the Act") and any successor legislation. Staff should have regard to the Council's Gifts and Hospitality Protocol for Employees, which contains guidance for staff on the main bribery and corruption offences (bribing another person, being bribed, bribing a foreign official and failure of commercial organisations to prevent bribery) and on the rules regulating the acceptance (or otherwise) of gifts and hospitality by Council employees.
- 19.3 All staff must immediately report to their manager or the Monitoring Officer any circumstances where inappropriate gifts or hospitality have been offered to them.

Conflicts of Interest

- 19.4 Council employees are also bound by their contract of employment to comply with the Council's Standards of Conduct Procedure (code of conduct for employees), which contains detailed provisions regarding the conduct of employees, including the avoidance of conflicts and the appearance of conflicts of interest.

20.0 PARTNERSHIP ARRANGEMENTS

- 20.1 Where it is intended that the County Council should enter into a partnership arrangement to further the delivery of County Council policy and/or services, governance arrangements must be agreed before any commitment is made to enter into the partnership. No partnership should be considered unless it can be demonstrated that the County Council can gain some clear benefit with regard to the delivery of Council Plan objectives.
- 20.2 The County Council's Partnership Governance risk assessment must be carried out, and for any proposed partnership that is ranked High or Medium risk under that assessment, and in all cases where the County Council's financial contribution to the partnership exceeds £250,000 per annum, including any grant or external funding for which the County Council would act as Accountable Body, a full assessment must be carried out using the approved Partnership Governance guidance and toolkit.
- 20.3 In such cases, the Director to whom the Partnership role is relevant, in consultation with the CD-SR and the Assistant Chief Executive (Legal and Democratic Services), will agree the terms and conditions and governance documentation for the Partnership on behalf of the County Council. This framework must be agreed by all partners.
- 20.4 In all cases where the risk assessment is ranked high, or where the financial contribution exceeds £250,000, the approval of the Executive is required before any partnership is entered into. This £250,000 should relate to the annual financial contribution to the partnership and/or, the total value of the grants or other external funding for which the County Council intends to apply and act as Accountable Body.
- 20.5 For low risk/low financial value partnerships, not covered by paragraph 20.2, less formal arrangements will apply, as such partnerships are likely to be co-ordinating forums rather than delivery partnerships. In all cases, however, the relevant Director must ensure governance arrangements are in place and documented as necessary to meet the effective management requirements of the partnership.

- 20.6 Unless there is explicit agreement to the contrary, which must be documented fully in the governance documents, the partnership rules will be expected to follow the Financial, Contract and Property Procedure Rules agreed by the County Council. Partners must comply with the anti-corruption and bribery legal framework and confirm their commitment to do so at the commencement of the partnership arrangements. Should any partner breach the anti-corruption and bribery legislation then consideration must be given to the cessation of the partnership arrangements with that partner.
- 20.7 In all cases, where the partnership funding includes funding through grants or other external funding, the provisions of Rule 8 of these Financial Procedure Rules will apply.

21.0 ACCOUNTABLE BODY STATUS

- 21.1 Where it is intended that the County Council should act as Accountable Body for a partnership and related funding, authorisation must be obtained before entering into such an arrangement.
- 21.2 The Director to whom the Accountable Body role is relevant, in consultation with the CD-SR and the Assistant Chief Executive (Legal and Democratic Services), will agree the terms and conditions of that Accountable Body role, and sign associated documentation on behalf of the County Council.
- 21.3 Unless there is explicit agreement to the contrary, which must be documented fully in the Accountable Body agreement, the governance rules of the partnership will be expected to follow the Financial, Contract and Property Procedure Rules agreed by the County Council.
- 21.4 In all cases, where the partnership funding includes grants or other external funding, then the provisions of Rule 8 of these Financial Procedure Rules will apply.

22.0 REVISION OF FINANCIAL PROCEDURE RULES

- 22.1 The CD-SR (in consultation with the Assistant Chief Executive (Legal and Democratic Services)) shall carry out a major review of the application and the effect of these Rules as part of a rolling four year cycle of reviews of the Financial Contract and Property Procedures in time for the beginning of each new Council.

APPENDIX 2D

Rule	Current Wording	Proposed Amendment	Reason
2.1		Member means any elected Member of the Council.	'Member' is not currently a defined term.
4.5	As 'Section 151' Officer of the Council the CD-SR shall be responsible for the production and certification of the Statement of Final Accounts in accordance with the Accounts and Audit England (Amendment) Regulations 2009.	As 'Section 151' Officer of the Council the CD-SR shall be responsible for the production and certification of the Statement of Final Accounts in accordance with the <u>Accounts and Audit (England) Regulations 2011.</u>	To reflect the change in relevant regulations.
	Revenue Budget		
6.1(ii)	The Rules in this Section are based on the following budgetary control principles established by the Council:- (ii) mechanisms shall be defined by the CD-SR to ensure budgetary monitoring and control is carried out throughout the Council on a regular basis (see Rule 6.16)	The Rules in this Section are based on the following budgetary control principles established by the Council:- (ii) mechanisms shall be defined by the CD-SR to ensure budgetary monitoring and control is carried out throughout the Council on a <u>frequency commensurate with materiality and risk.</u> (see Rule 6.16)	Current reference to a 'regular basis' does not reflect the correct approach of taking account of materiality and risk when operating effective budgetary control. Regular is a neutral term and could be taken as being monthly, quarterly, annually, etc.
	Incurring expenditure/collecting income		
6.8(ii)	From the start of each financial year:- (i) expenditure may be incurred within the overall Revenue Budget approved by the Council. Given the terms of Rule 6.3 , this authority to spend is effectively applied at Directorate level. (ii) similarly, the responsibility for making appropriate arrangements to collect any income reflected in approved Budgets shall be exercised at Directorate level.	From the start of each financial year:- (i) expenditure may be incurred within the overall Revenue Budget approved by the Council. Given the terms of Rule 6.3 , this authority to spend is effectively applied at Directorate level. (ii) similarly, the responsibility for making appropriate arrangements to collect any income reflected in approved Budgets shall be exercised by Directorates <u>in line with the Council's income management systems.</u>	An income management system is in development and will reflect best practice, albeit flexibility will be applied where appropriate.

APPENDIX 2D

preamble	<p>Virement</p> <p><i>Virement is the transfer of budget provision between individually defined budget headings. It is a necessary facility to assist the effective day to day management of budgets. When the Council sets its overall Revenue Budget for a given financial year it will effectively approve a series of specific functional net budgets within each Directorate (see Rule 6.3)</i></p> <p><i>For the purpose of defining the authorisation required for virement to take place within the approved Budget for each Directorate, reference will be made to a 'Division of Service'. Once these Divisions of Service have been defined they will be used to analyse the Budget for a Directorate and thereafter constitute the base line from which any virements are recorded. Within a Division of Service, it is anticipated that more detailed budget headings (e.g. employees, premises) will be adopted for day to day budgetary control purposes.</i></p>	<p><i>Virement is the transfer of budget provision between individually defined budget headings <u>and as such it does not create additional budget.</u> When the Council sets its overall Revenue Budget for a given financial year it will effectively approve a series of specific functional net budgets within each Directorate (see Rule 6.3)</i></p> <p><i>For the purpose of defining the authorisation required for virement to take place within the approved Budget for each Directorate, reference will be made to a 'Division of Service'. Once these Divisions of Service have been defined they will be used to analyse the Budget for a Directorate and thereafter constitute the base line from which any virements are recorded. Within a Division of Service, it is anticipated that more detailed budget headings (e.g. employees, premises) will be adopted for day to day budgetary control purposes.</i></p>	<p>Although virement is a necessary tool current wording can indicate/encourage the frequent use of virement, which is not intended. Virement is an exceptional activity and other elements of FPR deal with variations to original budgets set.</p> <p>The use of divisions of service to measure virement against is retained. These are being refreshed in time for Q1 reporting.</p>
6.18	<p>Each Director shall ensure that virement is undertaken as necessary to maintain the accuracy and efficacy of the regular budget monitoring process within his Directorate and inform the CD-SR as soon as practicable that such virements have taken place.</p>	<p>Directors are responsible for undertaking virements in accordance with these Rules within his/her Directorate and inform the CD-SR as soon as practicable that such virements have taken place.</p>	<p>To simplify the Rule and be reflective of the change for the preamble.</p>
6.22	<p>For transfers between Divisions of Service, if the sum involved is:- (i) less than £100,000 or 5% of the gross</p>	<p>For transfers between Divisions of Service, if the sum involved is:- (i) less than <u>£250,000</u> or 10% of the gross</p>	<p>Change in threshold to reflect overall materiality of the Council's budget and</p>

APPENDIX 2D

	<p>expenditure of the Division of Service from which the transfer is being made, whichever is the lesser amount, the virement may be actioned by a Director following consultation with the Portfolio Holder and the CD-SR</p> <p>(ii) equal to or greater than £100,000 or 5% of the gross expenditure of the Division of Service from which the transfer is being made, whichever is the lesser amount, the virement shall be subject to approval by the Executive.</p>	<p>expenditure of the Division of Service from which the transfer is being made, whichever is the lesser amount, the virement may be actioned by a Director following consultation with the Portfolio Holder and the CD-SR</p> <p>(ii) equal to or greater than <u>£250,000 or 10%</u> of the gross expenditure of the Division of Service from which the transfer is being made, whichever is the lesser amount, the virement shall be subject to approval by the Executive.</p>	<p>recognising the responsibility of Directors. All virements between divisions of services can only be carried out in consultation with Portfolio Holders and the CD-SR, which provides internal control and consistency of approach.</p>
	Capital Plan		
7.1	<p>The Council has defined a 'formulaic' model for the allocation of capital resources as between Directorates. Within the framework laid down by this approach, the Rules in this Section 7 are based on the following principles established by the Council:-</p>	<p><u>The Rules in this Section 7 are based on the following principles established by the Council:-</u></p>	<p>The formulaic method of allocation based on a ten year forecast is no longer in operation.</p>
7.13	<p>Budgetary control during a financial year shall be undertaken by a Director as follows:</p> <p>(i) a Director shall maintain an on-going review of all aspects of the Capital Plan for their Directorate; this review to be undertaken in conjunction with Service Heads and/or Budget Holders, the (if appropriate) and the CD-SR</p> <p>(ii) the results of (i) to be reported at least monthly to the Portfolio Holder for that Directorate</p>	<p>Budgetary control during a financial year shall be undertaken by a Director as follows:</p> <p>(i) a Director shall maintain an on-going review of all aspects of the Capital Plan for their Directorate; this review to be undertaken in conjunction with Service Unit Heads and/or Budget Holders and the CD-SR <u>and based on materiality and risk</u></p> <p>(ii) the results of (i) to be reported to the Portfolio Holder for that Directorate <u>based on the nature of findings and at least quarterly</u></p>	<p>As noted in the revenue budget monitoring should take into account materiality and risk of the activities involved.</p> <p>Reporting frequency is based on the findings from review rather than at a simple monthly interval. However, a minimum frequency of quarterly is included.</p>

APPENDIX 2D

	Services and Assets		
9.4	A Director for whose service any assets have been acquired under a leasing agreement shall adhere to the terms and conditions of the relevant leasing agreement particularly as this relates to wear and tear, or residual condition of the asset at the end of the leasing period. A full inventory of all leased assets worth more than £250 must also be maintained by the Director (see Rule 10.1).	A Director for whose service any assets have been acquired under a leasing agreement shall adhere to the terms and conditions of the relevant leasing agreement particularly as this relates to wear and tear, or residual condition of the asset at the end of the leasing period. A full inventory of all leased assets worth more than <u>£1,000</u> must also be maintained by the Director (see Rule 10.1).	£250 is considered too immaterial.
	Disposal of Assets		
9.6(iv)		notify the CD-SR of the intention to dispose of any item which might be regarded as capital.	To ensure that the CD-SR has sight of all asset disposals.
9.9	A Director may dispose of any asset if its estimated disposal value is £10,000 or less (see Rule 9.10 and 10.3).	A Director may dispose of any asset if its estimated disposal value is <u>£20,000</u> or less (see Rule 9.10 and 10.3).	Increase to provide consistency with capital receipt deminimis.
9.11	A Director may dispose of a number of assets simultaneously if their aggregate estimated disposal value is £10,000 or less. If the estimated aggregate disposal value exceeds £10,000 then the provisions of Rule 9.9 shall apply as appropriate.	A Director may dispose of a number of assets simultaneously if their aggregate estimated disposal value is <u>£20,000</u> or less. If the estimated aggregate disposal value exceeds £20,000 then the provisions of Rule 9.9 shall apply as appropriate.	Reflective of change to threshold in 9.9 above.
9.12	For low value items valued at under £100, and to save the costs of disposal, to reduce the need to send items to landfill, and to maximise the use of Council resources, local arrangements can be made in line with the guidance included in Section 14.3 of the Finance Manual.	For low value items valued at under <u>£500</u> , and to save the costs of disposal, to reduce the need to send items to landfill, and to maximise the use of Council resources, local arrangements can be made in line with the guidance included in the Finance Manual.	More reflective of an appropriate materiality level.
	Inventories and Stores		
10.1	Each Director shall maintain a written inventory (in a form approved by the CD-SR) of all assets used in his Directorate which	Each Director shall maintain a written inventory (in a form approved by the CD-SR) of all assets used in his Directorate which belong to the	More reflective of an appropriate materiality level.

APPENDIX 2D

	belong to the Council whose individual cost or value exceeds £250. This Rule also applies to any asset acquired under a leasing agreement (see Rule 9.4).	Council whose individual cost or value exceeds £1,000 . This Rule also applies to any asset acquired under a leasing agreement (see Rule 9.4).	
10.3	A Director may arrange for the disposal of unrequired stock or inventory items, up to a limit of estimated value of £10,000 in any period of three consecutive calendar months. Above that figure, Rules 9.8 and 9.9 shall apply.	A Director may arrange for the disposal of unrequired stock or inventory items, up to a limit of estimated value of £20,000 in any period of three consecutive calendar months. Above that figure, Rules 9.8 and 9.9 shall apply.	Reflects the change to 9.9.
10.4	A Director and the CD-SR shall be authorised jointly to write off stock and inventory deficiencies up to a limit of £10,000 in any period of three consecutive calendar months. The approval of the Portfolio Holder is required where the value is greater than £10,000 and the approval of the Executive is required where the value is £100,000 or greater.	A Director and the CD-SR shall be authorised jointly to write off stock and inventory deficiencies up to a limit of £20,000 in any period of three consecutive calendar months. The approval of the Portfolio Holder is required where the value is greater than £20,000 and the approval of the Executive is required where the value is £100,000 or greater.	Reflects the change to 9.9
	Income – fees and charges		
12.3 to 12.5	<p>12.3 The annual review shall take account of increases in the cost of the service since the fees or charges were last reviewed, and the rate of inflation more generally.</p> <p>12.4 A review may also take account of other changes to the nature of the service, or to a previous policy decision on the extent of any subsidy reflected in the level of the fee or charge.</p> <p>12.5 Where a fee or charge increases by a</p>	<p>12.3 The setting and annual review of fees and charges shall be undertaken to take account of such factors as inflation, the overall cost of the service, changes in the service itself or policy decision. The CD-SR shall provide guidance on undertaking setting and reviewing fees and charges.</p>	Simplify through consolidation of factors and guidance is also available and will be communicated.

APPENDIX 2D

	level that is more or less than the increase in the cost of the service, the financial effect of that variance will be reflected in the growth/savings analysis in the Budget preparation exercise for the relevant period.		
	Debt Write-Off		
12.10 (i) to (iv)	<p>12.10 Approval to write off an individual debtor amount may be given by the CD-SR subject to the following limits:-</p> <p>(i) For a value up to and including £100, on the recommendation of the Exchequer Services Officer.</p> <p>(ii) For a value over £100 but less than £5,000 in consultation with the Director and the Assistant Chief Executive (Legal and Democratic Services) as necessary.</p> <p>(iii) For a value of £5,000 or more but less than £25,000 on the recommendation of a Director, after consultation with the relevant Portfolio Holder.</p>	<p>12.8 <u>The procedures for writing off debts, including the recovery of overpayments shall be as follows:-</u></p> <p><u>(i) Amounts not exceeding £100 may be written off by the CD-SR on the recommendation of the Exchequer Services Officer.</u></p> <p><u>(ii) Amounts over £100 and not exceeding £10,000 may be written off by the CD-SR in consultation with the Director and the Assistant Chief Executive (Legal and Democratic Services) as necessary.</u></p> <p><u>(iii) Amounts over £10,000 and up to, but not including £100,000 may be written off by the CD-SR on the recommendation of a Director, after consultation with the relevant Portfolio Holder.</u></p> <p><u>(iv) Amounts of £100,000 and above may only be written off on the authority of the Executive.</u></p>	<p>New thresholds are set to better reflect materiality and also note that for all amounts up to £100,000 the CD-SR is the authorising officer to ensure debt-write off is an exceptional item only and consistency is applied.</p> <p>Analysis of previous debt write-offs show that there are very few that have required the approval of the Executive. Therefore this change would not have materially impacted on the arrangements for debts previously written off.</p> <p>This change should be read in conjunction with 12.11 below.</p>

APPENDIX 2D

12.11	Write offs for an individual debtor worth £25,000 or more will require the approval of the Executive.	<u>12.0 The CD-SR shall maintain a record of all such write-offs showing attempted recovery action taken and the justification for non-recovery.</u>	Original 12.11 incorporated into 12.10 above and a new requirement for the maintenance of records of write-offs made. This will be available for inspection and reporting.
12.12	Approval to write off a number of debts simultaneously may be agreed as set out in Rules 12.10 and 12.11 above, using the aggregate value of the amounts to determine the relevant threshold value.	12.10 Approval to write off a number of debts simultaneously <u>for the same debtor</u> may be agreed as set out in Rule 12.8 using the aggregate value of the amounts to determine the relevant threshold value.	Change to clarify this rule relates to the same debtor and reflect that 12.10 now incorporates level at which Executive approval is required.
	Recovering Overpayments		
12.16	<p>If an overpayment has been made by the Council to a third party (including, but not limited to, employees and suppliers) then all necessary steps shall be taken to recover the amount of the overpayment. If it is considered inappropriate, however, to recover the overpayment (on grounds including, but not limited to, cost effectiveness or compassionate reasons) then approval not to pursue the overpayment must be obtained from:</p> <ul style="list-style-type: none"> (a) the Service Accountant nominated by the CD-SR in respect of debts up to £500 (b) the CD-SR in respect of debts above £500 and below £5,000 (c) the relevant Portfolio Holder in respect of amounts of £5,000 and above. 	Rule deleted	This section removed. Overpayments to be treated as any other debt and therefore subject to Rule 12.8.

APPENDIX 2D

	Petty Cash		
13.0	See Appendix D for details on section 13.0	Rule section deleted	Section removed. A requirement for the CD-SR to provide for petty cash arrangements is included in the banking section.
	Banking		
14.1	All arrangements for the operation and supervision of the Council's bank account(s) shall be made by the CD-SR. No alternative bank account(s) may be opened without the prior written approval of the CD-SR. The purpose of any new bank account and the identity of the bank and details of the account shall be recorded in writing and retained on an appropriate file by the CD-SR. This Rule also applies to Imprest Bank Accounts (see Rule 13.3).	All arrangements for the operation, supervision and closure of all the Council's bank account(s) shall be made by the CD-SR, <u>who is authorised to operate any bank accounts considered necessary. This Rule also applies to Imprest Bank Accounts (see Rule 14.2).</u>	Simplifies the Rule. Reference to 14.2 reflects required renumbering on sections.
14.2	When the need for a bank account ceases then the CD-SR shall be notified immediately and the account closed in accordance with procedures agreed with the CD-SR.	<u>Where appropriate, the CD-SR is required to provide employees with cash or imprest bank accounts to meet minor expenditure on behalf of the Council and to issue procedures for operating these accounts.</u>	Reflects the deletion of 13.0 Petty Cash. This change notes the requirement of the CD-SR to provide required facility.
	Voluntary Funds		
16.2	Voluntary funds registered with the Charity Commissioners must comply with all requirements set by the Commission in respect of the format of accounts and the need for audit or independent examination by a competent person, and must meet the timescales set out for such reports. Although there is no requirement from the Charity Commission, it is a requirement that small registered charities with gross income (or total expenditure) of £10,000 or less will arrange for their accounts to be examined annually by a	Voluntary funds registered with the Charity Commissioners must comply with all requirements set by the Commission in respect of the format of accounts and the need for audit or independent examination by a competent person, and must meet the timescales set out for such reports. Although there is no requirement from the Charity Commission, it is a requirement that small registered charities with gross income (or total expenditure) of <u>£25,000</u> or less will arrange for their accounts to be examined annually by a competent	Rule now becomes 15.2 under renumbering. Threshold increased to £25,000 to reflect the threshold set by the charity Commission where audit is required on all amounts above £25,000.

APPENDIX 2D

	competent independent person. A copy of the accounts and the appropriate audit or independent examiners report shall be supplied to the CD-SR immediately after the meeting of the body. The CD-SR shall be entitled to verify that the reports have been made and to carry out such checks on the accounts as he considers appropriate.	independent person. A copy of the accounts and the appropriate audit or independent examiners report shall be supplied to the CD-SR immediately after the meeting of the body. The CD-SR shall be entitled to verify that the reports have been made and to carry out such checks on the accounts as he considers appropriate.	
	Internal Audit - preamble		
19.0	<i>The Accounts and Audit England (Amendment) Regulations 2009, issued under the provisions of the Local Government Finance Act 1982, apply to the Council. This Act requires the Council to maintain continuous, adequate and effective internal audit of its accounts. The following Rules provide the framework for this statutory duty to be discharged.</i>	<i>The Accounts and Audit England (Amendment) Regulations 2011 apply to the Council. <u>This Act requires the Council to maintain an 'adequate and effective internal audit of its accounting records and of its system of internal control'</u>. Section 151 of the Local Government Act 1972 requires that authorities 'make arrangements for the proper administration of their financial affairs'.</i>	The Section has been renumbered to 18.0. The preamble now reflects latest guiding Regulations.
	Internal Audit – roles and responsibilities		
19.0	<p>19.1 Every Director, Business Unit Head and Budget Holder is responsible for the implementation and maintenance of all internal control procedures relating to financial systems and for achieving the economic, effective and efficient use of resources within their Directorate.</p> <p>19.2 The Council has determined that the CD-SR shall be responsible for maintaining an adequate and effective internal audit of the activities of the County Council. The CD-SR will set out the purpose, authority and</p>	<p><u>18.13</u> Every Director, <u>Service</u> Unit Head and Budget Holder is responsible for the implementation and maintenance of all internal control procedures relating to financial systems and for achieving the economic, effective and efficient use of resources within their Directorate.</p> <p><u>18.1</u> The Council has determined the CD-SR shall be responsible for maintaining an adequate and effective internal audit of the activities of the County Council. <u>Operationally, responsibility for internal audit lies with the Head of Internal Audit.</u></p>	<p>Correct term is Service Unit Head.</p> <p>To reflect operational arrangements.</p>

APPENDIX 2D

	<p>responsibility of Internal Audit in the Terms of Reference for Internal Audit. The Terms of Reference will be reviewed annually and any amendments will be submitted to the Audit Committee for approval.</p>	<p><u>18.2 The purpose, authority and responsibility of Internal Audit will be detailed in an Audit Charter and approved by the Audit Committee. The Head of Internal Audit will periodically review the Audit Charter and present it to the CD-SR and Audit Committee for approval.</u></p> <p><u>18.3 The Head of Internal Audit will produce an annual internal audit opinion and report that will be used by the Council to inform the Annual Governance Statement.</u></p> <p><u>18.5 Internal Audit will be allowed to act independently and objectively in the planning and operation of work and without undue influence by either Directors or Members.</u></p> <p><u>18.4 The Head of Internal Audit shall have regard to the proper practice contained within the Public Sector Internal Audit Standards, and supporting application note, which represent proper practice for internal audit in local government.</u></p> <p><u>18.14 It is the responsibility of relevant Council officers to consider and respond promptly to recommendations in audit reports and to ensure any agreed actions are carried out in a timely and efficient manner.</u></p>	<p>Reflects the mechanism of the Audit Charter to present purpose, authority and responsibility of Internal Audit.</p> <p>Additional statements that reflect the role of Internal Audit in terms of output and how it conducts its activity.</p> <p>Reflects that the Code of Practice was superseded in April 2013. New wording reflects latest requirements.</p> <p>Addition to reflect the importance of implementing agreed actions relating to internal control matters.</p>
<p>19.4</p>	<p>The Head of Internal Audit shall have regard to all relevant International Auditing Standards, professional guidelines and codes of practice including the Code of Practice for Internal Audit in Local Government in the United Kingdom.</p>		

APPENDIX 2D

	Anti-Corruption – money laundering		Included as a new section.
19.0	<p>Preamble</p> <p><i>The Proceeds of Crime Act (2002), the Money Laundering Regulations (2007) and the Terrorism Act (2000) place certain responsibilities on public authorities and the staff working for them. In addition, any member of staff may commit specific offences under money laundering legislation, particularly if they suspect money laundering is taking place and either become involved with it in some way and/or do nothing about it. The Council has therefore established an internal Anti-Money Laundering Policy and supporting Guidance Note designed to prevent the risk of the Council being involved in money laundering and to enable staff to report suspicions of money laundering activity to the Head of Internal Audit (as the Council’s nominated Money Laundering Reporting Officer).</i></p>	<p>19.1 All staff should have regard to the Council’s Anti-Money Laundering Policy and supporting Guidance. A member of staff should consider, in line with the Policy and Guidance, reporting any transaction which involves the receipt of £10,000 or more of cash to the Head of Internal Audit (as the Council’s Money Laundering Reporting Officer); notwithstanding such financial limit, any member of staff who has reasonable grounds to believe that money laundering is taking place (or is being attempted) in respect of a smaller amount of cash should report the matter to the Council’s Money Laundering Reporting Officer.</p>	Preamble deleted as 19.1 is sufficient to cover relevant requirements.
	Anti-Corruption – bribery		
		<p>Bribery</p> <p>19.2 All staff should act in accordance with the legal framework concerned with bribery and corruption as set out in the Bribery Act 2010 (“the Act”) and any successor legislation. Staff should have regard to the Council’s Gifts and Hospitality Protocol for Employees, which contains guidance for staff on the</p>	Additional paragraphs to set out legislative and other requirements in relation to bribery and conflicts and interest.

APPENDIX 2D

		<p>main bribery and corruption offences (bribing another person, being bribed, bribing a foreign official and failure of commercial organisations to prevent bribery) and on the rules regulating the acceptance (or otherwise) of gifts and hospitality by Council employees.</p> <p>19.3 All staff must immediately report to their manager or the Monitoring Officer any circumstances where inappropriate gifts or hospitality have been offered to them.</p> <p>Conflicts of Interest</p> <p>19.4 Council employees are also bound by their contract of employment to comply with the Council's Standards of Conduct Procedure (code of conduct for employees), which contains detailed provisions regarding the conduct of employees, including the avoidance of conflicts and the appearance of conflicts of interest.</p>	
	Partnership Arrangements		
20.2	The County Council's Partnership Governance risk assessment must be carried out, and for any proposed partnership that is ranked High or Medium risk under that assessment, or in all cases where the County Council's financial contribution to the partnership exceeds £50k per annum, including any grant or external funding for which the County Council would act as Accountable Body, a full assessment	The County Council's Partnership Governance risk assessment must be carried out, and for any proposed partnership that is ranked High or Medium risk under that assessment, <u>and</u> in all cases where the County Council's financial contribution to the partnership exceeds <u>£250,000</u> per annum, including any grant or external funding for which the County Council would act as Accountable Body, a full	Increase in threshold to reflect a better materiality level given that all high and medium risk rated partnerships are subject to a full assessment in any case using the toolkit noted.

APPENDIX 2D

	must be carried out using the approved Partnership Governance guidance and toolkit.	assessment must be carried out using the approved Partnership Governance guidance and toolkit.	
20.6	Unless there is explicit agreement to the contrary, which must be documented fully in the governance documents, the partnership rules will be expected to follow the Financial, Contract and Property Procedure Rules agreed by the County Council.	Unless there is explicit agreement to the contrary, which must be documented fully in the governance documents, the partnership rules will be expected to follow the Financial, Contract and Property Procedure Rules agreed by the County Council. <u>Partners must comply with the anti-corruption and bribery legal framework and confirm their commitment to do so at the commencement of the partnership arrangements. Should any partner breach the anti-corruption and bribery legislation then consideration must be given to the cessation of the partnership arrangements with that partner.</u>	Additional requirement to ensure that partners adopt the same level of standards of practice in this regard.
	Revision of Financial Procedure Rules		
22.1	The CD-SR (in consultation with the Assistant Chief Executive (Legal and Democratic Services)) shall carry out a major review of the application and the effect of these Rules as part of the rolling three year cycle of reviews of the Financial Contract and Property Procedure.	The CD-SR (in consultation with the Assistant Chief Executive (Legal and Democratic Services)) shall carry out a major review of the application and the effect of these Rules as part of a rolling <u>four year cycle of reviews of the Financial Contract and Property Procedures in time for the beginning of each new Council.</u>	Reflects recommendation in July 2013 review of Contract Procedure Rules. This reflects major reviews – annual updates will also be undertaken to ensure adherence to the Rules as well as ensuring they remain suitably up to date.

Contract Procedure Rules

CONTENTS

1. Introduction
2. General
3. Compliance with Legislation and Standards
4. Powers and Key Decisions
5. Form of Contract
6. Signature/Sealing of Contracts
7. Bonds and Liquidated Damages
8. Quotations
9. Tenders
10. Options for Tenders
11. Receipt and Opening of Tenders
12. Tender Evaluation and Acceptance
13. Post Tender Negotiations and Clarifications
14. Purchasing Cards
15. Certification of Contracts
16. Exceptions to Contract Procedure Rules
17. Compliance, Contract Register and Forward Procurement Plan
18. Gateway Process Reports including Notification of Section 151 Officer and Monitoring Officer
19. Contract Monitoring
20. Training for Procurement
21. Declaration of Interests

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.

1.0 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)
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
Contractor	means a person or entity with whom the Council has a contract
Contract Register	means the register of Contracts maintained by the Council as set out in Rule 17.8
Council	means North Yorkshire County Council
CPG	means the Corporate Procurement Group
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
DPC	means a Directorate Procurement Champion
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 £172,514 for services and supplies and £4,322,012 for works
FPP	means the Forward Procurement Plan maintained as described in Rule 17.5

Framework Agreement	means an agreement with one or more public sector bodies 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
ITT	means an Invitation to Tender
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
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 2006 (as amended)
Person	means any individual, partnership, company, trust, other local authority, Government department or agency
PQQ	means the Pre-Qualification Questionnaire
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

Responsible Officer	means the Officer who is responsible for the procurement and/or management of a Contract
Rules	means these Contract Procedure Rules
Internal Audit	means the Council's appointed internal auditors (currently Veritau)
YPO	means the Yorkshire Purchasing Organisation

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 8.8, 8.9, 12.2, 16.1(b and h), 16.3 and 18.1**
 - (ii) CD-SR - **Rules 2.1, 2.4, 2.5, 8.8, 8.9, 12.2, 16.1(b and h), 16.3, 17.3 and 18.1**
 - (iii) ACE(LDS) - **Rules 2.1, 2.4, 2.5, 8.8, 8.9, 12.2, 16.1(b and h) and 16.3**

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).

2.0 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, goods, supplies and 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 and the ACE(LDS) have produced a Procurement Manual which provides detailed guidance on procurement techniques and the effect of the Rules. The Procurement Manual also sets out important issues to be considered in the procurement context. These Rules should be read in conjunction with the Procurement Manual.
- 2.5.1 The CD-SR has also produced a *Finance Manual* which gives advice on financial procedures.
- 2.6 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.
- 2.7 Directors shall ensure that all documentation relating to Contracts and procurement processes (including quotations) is retained in accordance with the Council's Records Retention and Destruction Schedule
- 2.8 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.
- 2.9 Wherever possible and appropriate procurement shall be undertaken using the standard precedent documents contained in the Procurement Manual applying to PQQ's, ITT's or to submit quotations. Wherever alternative documents are to be used they must be approved by ACE(LDS) in consultation with CPG (or DPCs) as appropriate.

3.0 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 2006.

- 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

4.0 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, goods, supplies or 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 and, 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.

5.0 FORM OF CONTRACT

- 5.1 Every contract exceeding £100 in value shall be evidenced in writing (by the use of an order form, exchange of correspondence or other written medium).
- 5.2 Every contract exceeding £20,000 in value shall be documented by a written form of agreement. Wherever appropriate and possible, 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) as to their effect has been sought and considered.
- 5.3 The written form of agreement for all contracts exceeding £20,000 in value must clearly specify the obligations of the Council and the Contractor and shall include:-
- (a) the work to be done or the goods or services to be supplied
 - (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 Where considered appropriate by the CD-SR, term contracts and framework contracts may include a financial limit above which value, work to be done or goods or services to be supplied shall be subject to a separate procurement exercise in accordance with these Rules.

5.5 The written form of agreement for all contracts exceeding £20,000 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 Prevention of Corruption Acts 1889 to 1916 or 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 or services from a third party and the Council may recover the cost of doing so from the Contractor."

5.6 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 £20,000 in value.

5.7 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 5.5** above, but should be included where appropriate.

6.0 SIGNATURE/SEALING OF CONTRACTS

6.1 Every written Contract must be either signed or sealed in accordance with this Rule and where Contracts have a value exceeding £50,000 they must be either sealed, or signed by two Officers as described below.

6.2 The ACE(LDS) and such of his staff as he may designate are authorised to sign any such contract.

6.2.1 The ACE(LDS) also authorises such Contracts to be signed by Directors (or by an Officer authorised by a Director to sign on the Director's behalf) up to and including £500,000 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

6.2.2 Contracts that exceed £500,000 shall be signed by:

- (a) the ACE(LDS) (or a Legal and Democratic Services' Officer authorised by him); and
- (b) an authorised signatory in the relevant Directorate (or another Legal and Democratic Services' Officer authorised by the ACE(LDS)).

6.2.3 Only the ACE(LDS) (or a Legal and Democratic Services' Officer 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.

7.0 BONDS AND LIQUIDATED DAMAGES

7.1 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 in all contracts which exceed £100,000 in value. Such consideration shall be recorded in the Gateway Processes (Gateway 2).

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.

8.0 QUOTATIONS

8.1 Where the estimated value of a contract is £5,000 or less the invitation of quotations is not mandatory, but written quotations should be invited where appropriate and best value should always be sought.

8.2 If the estimated value of a contract exceeds £5,000 but is less than £100,000 at least three written quotations must be invited from suitable potential Contractors. The estimated value of the Contract shall be recorded in writing prior to quotations being sought. Quotations with a value exceeding £5,000 should be invited using the E-

Sourcing System and quotations above £20,000 **must** be invited using the E-Sourcing system.

- 8.3 All potential Contractors invited to submit quotations shall be provided in all instances with identical information and instructions. Where considered appropriate, Directors may permit potential Contractors who have been selected to submit quotations under **Rule 8.2** to also submit variant quotations (i.e. quotations which do not comply with some or all of the requirements of the primary quotation). The same opportunity to submit variant quotations must be given to all potential Contractors.
- 8.4 A written quotation may only be considered if:-
- (a) it has been received electronically through the E-Sourcing System, or
 - (b) it has been received in a sealed envelope marked "Quotation" and indicating the subject matter of the quotation and
 - (c) it has been opened after the expiry of the deadline for submissions and at the same time as other quotations for the same subject matter in the presence of at least two Officers authorised to open quotations.
- 8.5 Before quotations of a value in excess of £20,000 are requested it must be recorded in writing whether the lowest price or the most economically advantageous quotation should be accepted. Where both price and quality are to be factors (i.e. where the most economically advantageous quotation applies) the quality criteria must be identified and the weighting between price and quality established and recorded before quotations are requested. The criteria should be stated in the request for quotation sent to suppliers.
- 8.6 Price/quality quotation evaluation models shall be lodged with Internal Audit before any quotations are opened. The Director shall evaluate quotations using the evaluation model lodged with Internal Audit.
- 8.7 If a quotation other than the lowest or the most economically advantageous quotation (as the case may be) 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 quotation is accepted.
- 8.8 A quotation for a price in excess of £100,000 may be accepted if (and only if):-
- (a) the original documented estimated price was less than £100,000 **and**
 - (b) the price quoted does not exceed that original documented estimated price by more than 10% **and**
 - (c) the written approval of the Director (in consultation with the CD-SR) has been obtained.
- If the conditions at (a), (b) and (c) are not met, Directors must seek tenders in accordance with **Rules 9 and 10**.
- 8.9 Where a quotation involves payment to the Council, the provisions of **Rules 8.5 and 8.7** shall apply except that the word "lowest" shall be replaced by the word "highest" in these paragraphs.

- 8.10 Quotations may be altered only in accordance with **Rules 13.1 and 13.2**.

Financial Stability

- 8.11 Before a Contract is awarded after a quotation exercise such steps shall be taken, 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.

9.0 TENDERS

- 9.1 If the estimated value of the Contract is £100,000 or more electronic tenders shall be invited in accordance with the provisions of this Rule.
- 9.2 If the estimated value of the Contract exceeds the relevant EU Threshold the additional requirements for OJEU Procurements, set out in **Rule 10.3**, shall be followed.

General Requirements

- 9.3 Before Directors invite tenders it shall be recorded in writing for all Contracts whether the Contract will be awarded on the basis of price or the Most Economically Advantageous Tender (MEAT), a combination of price and quality.
- 9.4 If a Contract is to be awarded on the basis of the MEAT, the criteria to be used in the assessment of the quality elements of the tenders and the weighting between price and quality shall be established and recorded in writing before tenders are invited. For all Contracts, the tender assessment criteria, sub-criteria and weightings shall be stated in the ITT.
- 9.5 If a Contract is to be awarded on a price only basis it shall be recorded whether the award will be made on the basis of the lowest price or any other tendered price. Where a tender involves payment to the Council, the provisions of this Rule shall apply except that the word "lowest" shall be replaced by the word "highest".
- 9.6 All Participants invited to submit tenders shall be provided with identical instructions and information.
- 9.7 Where considered appropriate, a Director may, in consultation with the DPC, permit Participants to submit variant 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 tenders shall be given to all Participants. Variant tenders shall only be considered if the Participant also submits a compliant primary tender.
- 9.8 Evaluation models for PQQ's and ITT's shall be lodged with Internal Audit before any submission documents are opened. The evaluation model shall not be divulged to Participants.
- 9.9 Directors shall invite tenders on the basis of one of the options identified in **Rule 10**.

10.0 OPTIONS FOR TENDER

Tenderers shall be invited on the basis of one of the following options:

10.1 Open Tenders

10.1.1 If a Director, in consultation with the DPC, considers it to be appropriate that any ITT shall be available to all potential Participants then the following procedures shall apply:-

- (i) A notice advertising the opportunity shall be published through the E-Sourcing System 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 ITT documents may be obtained and the closing date for receipt of tenders by the Council.
- (ii) The deadline date for the return of tenders shall be at least 28 days after the publication of the first advertisement of the ITT and, where relevant, at least 14 days after the last ITT advertisement is published.
- (iii) The criteria which are to be applied in the evaluation of the tenders shall be recorded in writing before ITT's are issued and shall be included in the documents provided to all Participants.
- (iv) The evaluation of the tenders shall be carried out by Officers, nominated by the Director in consultation with the DPC, who are considered appropriate having regards for the subject matter and value of the Contract.
- (v) The evaluation model shall be lodged with Internal Audit before any submission documents are opened, The evaluation model shall not be divulged to Participants.

10.2 Restricted Tenders

10.2.1 If a Director, in consultation with the DPC, considers it appropriate that any ITT shall be restricted to selected Participants by issuing a PQQ to all potential Participants followed by an ITT to those Participants selected at the PQQ stage then the following procedures shall apply:

- (i) A notice advertising the opportunity and inviting expressions of interest shall be published through the E-Sourcing System 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 and invite potential Participants to complete and submit a PQQ to the Council in order to be considered to be invited to tender. The notice shall include details as to how PQQ's are to be submitted and the closing date for their receipt by the Council.
- (ii) The deadline date for return of PQQ's shall be at least 28 days after the publication of the first advertisement of the opportunity and, where relevant, at least 14 days after the last advertisement is published.
- (iii) The selection criteria which are to be applied in the evaluation of the PQQ's shall be recorded in writing before the PQQ's are invited and shall be included in the documents provided to all Participants.

- (iv) The evaluation of the PQQ's shall be carried out by Officers, nominated by the Director in consultation with the DPC, who are considered appropriate having regards for the subject matter and value of the Contract.
- (v) After evaluation of the PQQ's, ITT's shall be published to at least five Participants or, if less than five potential Participants applied or are considered suitable, such Participants as have been selected by the Director.
- (vi) The deadline date for the receipt of tenders shall be at least 28 days after the date of dispatch of the ITT's.
- (vii) The criteria which are to be applied in the evaluation of the tenders shall be recorded in writing before ITT's are published and shall be included in the documents provided to all Participants.
- (viii) The evaluation of tenders shall be carried out by Officers, nominated by the Director in consultation with the DPC, who are considered appropriate having regards for the subject matter and value of the Contract.
- (ix) The evaluation model shall be lodged with Internal Audit before any submission documents are opened. The evaluation model shall not be divulged to potential Contractors.

10.3 OJEU Tenders

Tenders for Contracts which exceed the EU Threshold shall be invited and awarded as prescribed in **Rule 10.1** or **Rule 10.2** but taking into account the following amendments:

- 10.3.1 **Open Tenders:** the deadline date for the return of tenders shall be a minimum of 52 days after the publication of the first advertisement of the ITT. The actual deadline date shall be determined having taken into consideration the complexity of the Contract and the time required for the completion of the tender documents by Participants. The requirement for 52 days may be reduced to 40 days when using the E-Sourcing System.
- 10.3.2 **Restricted Tenders:** the deadline date for the return of PQQ's shall be at least 37 days after the publication of the first advertisement of the opportunity. The deadline date for the receipt of tenders shall be at least 40 days after the date of publication of the ITT. The requirement for 37 days may be reduced to 30 days after the publication of the first advertisement of the opportunity for the return of the PQQ and reduced to 35 days for the return of the ITT after the date of its publication when using the E-Sourcing System.
- 10.3.3 The minimum deadline dates for **Open and Restricted tenders** may be reduced to a period generally not less than 36 days and in any event not less than 22 days if a Prior Information Notice (PIN) has been published in accordance with the PCR's.

10.4 Framework Agreements

- 10.4.1 If a Director considers it appropriate to establish a Framework Agreement then the Framework Agreement shall be established using the procedures set out in either **Rule 10.1** or **10.2**.

10.4.2 Where the value of the proposed Framework Agreement exceeds the EU threshold, the procedure prescribed by the PCR's shall apply to all aspects of the procurement and to the subsequent operation of the Framework Agreement including, but not limited to:-

- (i) the procurement methodology;
- (ii) the placement of orders under the Framework Agreement;
- (iii) further competition between Contractors appointed to the Framework Agreement.

10.4.3 The duration of a Framework Agreement shall be limited, as prescribed by the PCR's, to a maximum of four years including any extension periods.

10.5 **Approved Lists**

10.5.1 If a Director considers it appropriate to maintain a list of suitable Contractors for particular types of work and/or goods and/or services, where the estimated value of the work and/or goods and/or services is below the relevant EU Threshold, the list of suitable Contractors shall be established using the procedures set out below:-

- (i) A notice inviting expressions of interest shall be published through the E-Sourcing System 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 and invite potential Participants to apply to the Council to be considered for inclusion on the approved list by the Council. The notice shall include details as to how expressions of interest are to be submitted and the closing date for their receipt by the Council.
- (ii) The deadline date for the return of expressions of interest shall be at least 28 days after the publication of the first advertisement of the expressions of interest and, where relevant, at least 14 days after the last advertisement is published.
- (iii) The selection criteria which are to be applied in the evaluation of the expressions of interest shall be recorded in writing before expressions of interest are invited and shall be included in the documents provided to all Participants.
- (iv) The evaluation of expressions of interest shall be carried out by Officers, nominated by the Director in consultation with the DPC, who are considered appropriate having regards for the subject matter and value of the Contract. The Director shall then maintain a list of such approved Contractors categorised by works/goods/services type and value as may be applicable.
- (v) The Director shall review the performance of all Contractors on the approved list at regular intervals, not exceeding 12 months from the date of appointment of the Contractor to the approved list.
- (vi) The Director may remove Contractors from an approved list where the Director and CD-SR agree that such removal is appropriate, having regards

for the conduct, performance and/or status of the Contractor in relation to those standards identified in the original expressions of interest.

- (vii) The Director may, after consultation with the CD-SR approve an application from a potential Contractor to be added to an existing approved list.
- (viii) ITT's or Invitations to Quote shall be invited in accordance with **Rule 10** or **Rule 8**.
- (ix) The Director shall maintain records of the tenders or quotations invited from an approved list such that the names of the Contractors invited to tender, the selection process and Contracts awarded to each Contractor are available for inspection.
- (x) Approved Lists may remain in force for a maximum of five years. Before the expiration of the Approved List a replacement shall be established, if appropriate, in accordance with **Rule 10.5**.

10.6.1 **Negotiated Procedure and Competitive Dialogue**

Where a Director, in consultation with the CD-SR, agrees that it is appropriate, the Negotiated Procedure or the Competitive Dialogue Procedure may be used for the invitation to tenders in accordance with the requirements of the PCR's.

11.0 **RECEIPT AND OPENING OF TENDERS**

11.1 A written tender may only be considered if:-

- (a) it has been received electronically through the E-Sourcing System, or
- (b) (where permitted) it has been received in hard copy in a sealed envelope marked "Tender" and indicating the subject matter of the tender, and the identity of the Participant cannot be ascertained from the tender envelope,
- (c) and subject to **Rule 11.4**, it has been returned electronically through the E-Sourcing System or to the ACE(LDS) (or a person designated by him) in accordance with the instructions contained in the ITT before the tender closing date.

11.2 The ACE(LDS) (or a person designated by him) shall be responsible for the reception and safe custody of tenders until they are opened.

11.3 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). Whoever opens the tenders shall maintain a record of the tenders received. Such a record shall include the date and time of 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 tenders and to Internal Audit.

11.4 If a Tender is received after the specified tender closing date it may not be considered unless the ACE(LDS) is satisfied that the 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 and that other tenders have not been opened.

12.0 TENDER EVALUATION AND ACCEPTANCE

- 12.1 The Director shall evaluate tenders using the evaluation model lodged with Internal Audit in accordance with **Rules 9.8, 10.1.1(v) and 10.2.1(ix)**.
- 12.2 If a tender other than the MEAT or the lowest price is to be accepted the written approval of the Director, after consultation with the CD-SR, shall be obtained and a signed and dated record kept of the reasons for the action taken shall be made however, no such approval can be given where the Contract is subject to PCR's other than in exceptional circumstances agreed by the ACE(LDS).
- 12.3 Each Director shall maintain an electronic or written record of all successful Participants in a form approved by the CD-SR in accordance with the Council's Document Retention Policy.
- 12.4 If, as a result of the tender evaluation process the Director is satisfied that an arithmetical error has been made inadvertently by a Participant such an error may, after consultation with the Participant, be corrected. The Director shall record any such correction in writing.
- 12.5 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 shall be undertaken in accordance with the Gateway Process (Gateway 3).
- 12.6 On completion of the evaluation of the tenders received and once all internal approvals have been obtained, the Director shall write to all Participants informing them of the outcome of the tender evaluation and providing feedback on the content of their tender. Where appropriate such feedback shall be given in accordance with the PCR's.
- 12.7 For OJEU tenders the Director shall wait a minimum of ten days 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.
- 12.8 Where the tender involves payment to the Council **Rule 12.2** shall apply except that the word "highest" shall be substituted for "lowest" in that Rule.

13.0 POST TENDER NEGOTIATION AND CLARIFICATION

- 13.1 Post tender negotiations may not be undertaken where the value of the Contract exceeds the relevant EU Threshold.
- 13.2 Post tender negotiations with selected tenderers shall be carried out where:-
 - 13.2.1 post tender negotiations are permitted by law; and

- 13.2.2 the Director in consultation with the CPG considers that added value may be obtained; and
- 13.2.3 that post tender negotiations are to be conducted by a team of suitably experienced officers approved by the Director and who have been trained in post tender negotiations; and
- 13.2.4 a comprehensive, written record of the negotiations is kept by the Council; and
- 13.2.5 a clear record of the added value to be obtained as a result of the post tender negotiations is incorporated into the Contract with the successful Participant.
- 13.3 **Rules 13.1 and 13.2** shall not operate to prevent clarification of all or part of any tender to the extent permitted by law and where such clarifications are sought the provisions of **Rules 13.2.3 and 13.2.4** shall apply, except that the word "clarification" shall be substituted for the word "negotiation" in these Rules.

14.0 PURCHASING CARDS

- 14.1 Where purchasing cards are issued by the Council the following provisions shall apply:-
- (a) their use shall be subject to the procedures laid down by the CD-SR
 - (b) cards shall only be issued to, and used by, Officers nominated by a Director (in consultation with the CD-SR)
 - (c) for the purpose of **Rule 5.1** the payment invoice will constitute evidence in writing of the contract.

15.0 CERTIFICATION OF CONTRACTS

- 15.1 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 and the CD-SR.

16.0 EXCEPTIONS TO CONTRACT PROCEDURE RULES

- 16.1 A Director does not need to invite quotations or tenders in accordance with **Rules 8, 9 and 10** 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
 - (b) purchases at public auctions (including internet auction sites, e.g. Ebay) where the Director is satisfied that value for money will be achieved; or

- (c) the purchase of supplies, works or services which are of such a specialised nature as to be obtainable from one Contractor only, except where the value of the Contract exceeds the relevant EU Threshold; or
- (d) the instruction of Counsel by the ACE(LDS); or
- (e) repairs to or the supply of parts for existing proprietary machinery or plant except where the value of the Contract exceeds the relevant EU Threshold; or
- (f) social care Contracts with a value below the EU Threshold where:-
 - (i) the service is currently supplied by a Contractor to the satisfaction of the Corporate Director Health and Adult Services or the Corporate Director Children and Young People's Service, is considered to be offering value for money and where the foreseeable disruption to service users cannot justify the invitation of further quotations or tenders, 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 quotations or tenders to be invited, or
 - (iii) where the Corporate Director Health and Adult Services and the Corporate Director Children and Young People's Service is satisfied that the urgency of the need for the service prevents the invitation of quotations or tenders in which case consideration shall be given to the duration of that service; or
- (g) social care Contracts which are classifiable as 'Part B Services' under the PCR's where:-
 - (i) the service is currently supplied by a Contractor to the satisfaction of the Corporate Director Health and Adult Services or the Corporate Director Children and Young People's Service, is considered to be offering value for money and where the foreseeable disruption to service users cannot justify the invitation of further quotations or tenders, 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 or the Corporate Director Children and Young People's Service considers it inappropriate for quotations or tenders to be invited, or
 - (iii) where the Corporate Director Health and Adult Services or the Corporate Director Children and Young People's Service is satisfied that the urgency of the need for the service prevents the invitation of quotations or tenders in which case consideration shall be given to the duration of that service
- (h) Contracts where the Director with the agreement of the ACE(LDS) and the CD-SR agree that for reasons of extreme urgency brought about by

unforeseeable events unattributable to the Council, the timescales for obtaining quotations or tenders cannot be met. A written record shall be signed and dated by the Director, whenever this rule applies.

16.2 Where any of the exceptions set out in (a) to (h) above are applied a written record of the decision and justification shall be signed and kept as part of the Gateway Process.

16.3 **Waivers**

16.3.1 Specific exceptions to Rules **8, 9 and 10** are permitted in such other circumstances as the CD-SR and the ACE(LDS) may agree.

16.3.2 Requests for waivers shall be made using a form prescribed by the ACE(LDS) and the CD-SR which shall specify the reasons for the request and include a completed risk assessment of the proposal.

16.3.3 The ACE(LDS) shall maintain a register of all requests made under this Rule and the responses given to them.

17.0 **COMPLIANCE, CONTRACT REGISTER AND FORWARD PROCUREMENT PLANS**

17.1 Every officer shall comply with these Rules and any unauthorised failure to do so may lead to disciplinary action.

17.2 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 *Procurement Manual* and the *Finance Manual* referred to in **Rule 2.5**.

17.3 The CD-SR shall be responsible for monitoring adherence to these Rules.

17.4 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.

17.5 **DPC's** are responsible for the production of a FPP which will be completed in such format as CPG shall require.

17.6 The DPC's shall each present an updated FPP to their respective directorate management teams quarterly for approval throughout the year.

17.7 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.

17.8 The Council maintains a Contract Register the purpose of which is to:

- (a) record key details of all contracts with an aggregate value of £20,000 or more; and
- (b) identify a contract reference number.

17.9 DPC's shall ensure that:-

- (a) all relevant contracts (including those Contracts to which **Rule 16** applies) are entered onto the Contract Register and the appropriate Contract number recorded
- (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.

18.0 GATEWAY PROCESS REPORTS INCLUDING NOTIFICATION OF SECTION 151 OFFICER AND MONITORING OFFICER

18.1 When a procurement is being considered which is expected to exceed the financial value thresholds specified in **Rule 18.2** then the Responsible Officer must complete the necessary Gateway Process report for consideration by the relevant Directorate Management Team or the relevant Director, the Assistant Director with responsibility for finance within that Directorate, 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 available to the CD-SR and the ACE(LDS).

18.2 The whole contract financial value thresholds for the purposes of **Rule 18.1** are:

- (a) works contracts - £100,000
- (b) goods, supplies and services contracts £100,000.

18.3 When a procurement is being considered which is expected to exceed the financial value thresholds specified in **Rule 18.4** then the Responsible Officer must ensure the necessary Gateway Process report prepared in accordance with **Rule 18.1** is also considered by the ACE(LDS) or by a LDSO authorised by him. No procurement should commence before the Gateway Process report is approved.

18.4 The whole Contract financial value thresholds for the purpose of **Rule 18.3** are:

- (a) works Contracts - £1m
- (b) goods, supplies and service Contracts - EU Threshold.

18.5 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 18.1 and 18.3**.

19.0 CONTRACT MONITORING

- 19.1 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 (Gateway 4). Such records shall also be used on the basis for any permitted extension to the Contract.

Contract Variation

- 19.2 Contracts may be varied 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.

20.0 TRAINING FOR PROCUREMENT

- 20.1 Any officer involved in procurement activities shall have received a level of formal training commensurate with the nature of the procurement activity being undertaken.

21.0 DECLARATION OF INTERESTS

- 21.1 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).

- This page is left blank intentionally -

CONTRACT PROCEDURE RULES**SUGGESTED AMENDMENTS**

Rule	Current Wording	Proposed Amendment	Reason
	<i>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 property contracts), including those made in the course of the discharge of functions which are the responsibility of the Executive.</i>	<i>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 <u>those stated in Rule 2.2</u>), including those made in the course of the discharge of functions which are the responsibility of the Executive.</i>	To provide clarity
1.1	E-Sourcing system means the Council's chosen E-sourcing system (currently YORTender) or an approved alternative	E-Sourcing system means the Council's chosen E-sourcing system (currently <u>YORTender</u>) or an approved alternative	Correction of typing error
1.1	EU Threshold the current threshold above which the PCR's apply, currently £173,934 for services and supplies and £4,348,350 for works	EU Threshold the current threshold above which the PCR's apply, currently <u>£172,514</u> for services and supplies and <u>£4,322,012</u> for works	Updating of threshold values to reflect the revised EU Threshold
1.1	Gateway Process means the Council's risk based gateway procurement process that combines assessment and understanding of various aspects of risk with appropriate review and scrutiny at defined points in the procurement cycle	Gateway Process means the Council's <u>value</u> based gateway procurement process that combines assessment and understanding of various aspects of <u>value</u> with appropriate review and scrutiny at defined points in the procurement cycle	Definition amended to reflect the removal of the risk-based Gateway Process in favour of the value-based Gateway Process
1.1	Rules menas these Rules	Rules <u>means</u> these <u>Contract Procedure</u> Rules	To correct a typing error and to add clarity
1.2	(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	(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	To update the Rules which refer explicitly to Directors, CD-SR and ACE(LDS)

Rule	Current Wording	Proposed Amendment	Reason
	<p>the case of the following Rules:-</p> <p>(i) Director - Rules 8.8, 8.9, 12.2, 16.1(h), 16.3 and 18.1</p> <p>(ii) CD-SR - Rules 2.1, 2.4, 2.5, 8.8, 8.9, 12.2, 16.1(h), 16.3, 17.3 and 18.1</p> <p>(iii) ACE(LDS) - Rules 2.1, 2.4, 2.5, 8.8, 8.9, 12.2, 16.1(h) and 16.3</p> <p>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)</p>	<p>the case of the following Rules:-</p> <p>(i) Director - Rules 8.8, 8.9, 12.2, 16.1(<u>b and h</u>), 16.3 and 18.1</p> <p>(ii) CD-SR - Rules 2.1, 2.4, 2.5, 8.8, 8.9, 12.2, 16.1(<u>b and h</u>), 16.3, 17.3 and 18.1</p> <p>(iii) ACE(LDS) - Rules 2.1, 2.4, 2.5, 8.8, 8.9, 12.2, 16.1(<u>b and h</u>) and 16.3</p> <p>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)</p>	
2.9	<p>Wherever possible and appropriate procurement shall be undertaken using the standard precedent documents contained in the Procurement Manual applying to PQQ's, ITT's or to submit quotations. Wherever alternative documents are to be used they must be approved by ACE(LDS) in consultation with CPG (or Directorate Procurement Champion) as appropriate.</p>	<p>Wherever possible and appropriate procurement shall be undertaken using the standard precedent documents contained in the Procurement Manual applying to PQQ's, ITT's or to submit quotations. Wherever alternative documents are to be used they must be approved by ACE(LDS) in consultation with CPG (or <u>DPCs</u>) as appropriate.</p>	To use the properly defined term
5.7	<p>Other standard Rules are contained in the Procurement Manual relating to, for example, freedom of information, data protection, equalities, Public Services (Social Value) Act 2012, sustainability and best value; these are not mandatory for each such written agreement referred to in Rule 5.5 above, but should be included where appropriate.</p>	<p>Other standard Rules are contained in the Procurement Manual relating to, for example, freedom of information, data protection, equalities, Public Services (Social Value) Act 2012, sustainability and best value; these are not mandatory for each such written agreement referred to in Rule 5.5 above, but should be included where appropriate.</p>	To remove a typing error
6.2	<p>The ACE(LDS) and such of her staff as she may designate are authorised to sign any such contract.</p>	<p>The ACE(LDS) and such of <u>his</u> staff as <u>he</u> may designate are authorised to sign any such contract.</p>	To reflect the new ACE(LDS)
6.2.2	<p>Contracts that exceed £500,000 shall be signed by:</p> <p>a) the ACE(LDS) (or a Legal and Democratic Services' Officer authorised by her); and</p> <p>b) an authorised signatory in the relevant Directorate (or another Legal and Democratic</p>	<p>Contracts that exceed £500,000 shall be signed by:</p> <p>a) the ACE(LDS) (or a Legal and Democratic Services' Officer authorised by <u>him</u>); and</p> <p>b) an authorised signatory in the relevant Directorate (or another Legal and Democratic Services'</p>	To reflect the new ACE(LDS)

Rule	Current Wording	Proposed Amendment	Reason
	Services' Officer authorised by the ACE(LDS)).	Officer authorised by the ACE(LDS)).	
8.2	If the estimated value of a contract exceeds £5,000 but is less than £20,000 at least three written quotations must be invited from suitable potential Contractors. The estimated value of the contract shall be recorded in writing prior to quotations being sought.	If the estimated value of a contract exceeds £5,000 but is less than £20,000 at least three written quotations must be invited from suitable potential Contractors. The estimated value of the contract shall be recorded in writing prior to quotations being sought. If the estimated value of a contract exceeds £20,000, but is less than £100,000 at least three written quotations must be invited from suitable potential Contractors. The estimated value of the Contract shall be recorded in writing prior to quotations being sought. <u>Quotations with a value exceeding £5,000 should be invited using the E-Sourcing System and quotations above £20,000 must be invited using the E-Sourcing system.</u>	Amalgamation of Rules 8.2 and 8.3 to reflect the preference that all quotations above £5,000 should be invited using the E-Sourcing System and the requirement that all quotations above £20,000 must be invited using the E-Sourcing System. This is to enable compliance with the Local Government Transparency Code 2014.
8.3	If the estimated value of a contract exceeds £20,000, but is less than £100,000 at least three written quotations must be invited from suitable potential contractors. The estimated value of the contract shall be recorded in writing prior to quotations being sought and quotations must be invited using the E-Sourcing system.		
8.3	All potential Contractors invited to submit quotations shall be provided in all instances with identical information and instructions. Where considered appropriate, Directors may permit potential Contractors who have been selected to submit quotations under Rules 8.2 and 8.3 to also submit variant quotations (ie quotations which do not comply with some or all of the requirements of the primary quotation). The same opportunity to submit variant quotations must be given to all potential Contractors.	All potential Contractors invited to submit quotations shall be provided in all instances with identical information and instructions. Where considered appropriate, Directors may permit potential Contractors who have been selected to submit quotations under Rules 8.2 and 8.3 to also submit variant quotations (i.e. quotations which do not comply with some or all of the requirements of the primary quotation). The same opportunity to submit variant quotations must be given to all potential Contractors.	To correct the reference and typing error
8.6	Before quotations of a value in excess of £20,000 are requested it must be recorded in writing whether the lowest price or the most economically advantageous quotation should be accepted. Where both price and quality are to be factors (ie where most economically advantageous quotation applies) the quality criteria must be identified and the weighting between price and quality established and recorded before quotations are requested. The criteria should be stated in the request for quotation sent to suppliers.	Before quotations of a value in excess of £20,000 are requested it must be recorded in writing whether the lowest price or the most economically advantageous quotation should be accepted. Where both price and quality are to be factors (i.e. where most economically advantageous quotation applies) the quality criteria must be identified and the weighting between price and quality established and recorded before quotations are requested. The criteria should be stated in the request for quotation sent to suppliers.	Correction of a typing error

Rule	Current Wording	Proposed Amendment	Reason
8.9	Where a quotation involves payment to the Council, the provisions of Rules 8.6 and 8.8 shall apply except that the word “lowest” shall be replaced by the word “highest” in these paragraphs.	Where a quotation involves payment to the Council, the provisions of Rules 8.5 and 8.7 shall apply except that the word “lowest” shall be replaced by the word “highest” in these paragraphs.	Renumbering to reflect the amalgamation of Rules 8.2 and 8.3
9.7	Where considered appropriate, a Director may, in consultation with the DPC, permit Participants to submit variant tenders (ie tenders which do not comply with some or all of the requirements of the primary tender). The same opportunity to submit variant tenders shall be given to all Participants. Variant tenders shall only be considered if the Participant also submits a compliant primary tender.	Where considered appropriate, a Director may, in consultation with the DPC, permit Participants to submit variant tenders (<u>i.e.</u> tenders which do not comply with some or all of the requirements of the primary tender). The same opportunity to submit variant tenders shall be given to all Participants. Variant tenders shall only be considered if the Participant also submits a compliant primary tender.	Correction of a typing error
10.2.1	(i) A notice inviting expressions of interest shall be published through the E-Sourcing System 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 and invite potential Participants to complete and submit PQQ to the Council in order to be considered to be invited to tender. The notice shall include details as to how PQQ's are to be submitted and the closing date for their receipt by the Council.	(i) A notice inviting expressions of interest shall be published through the E-Sourcing System 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 and invite potential Participants to complete and submit <u>a</u> PQQ to the Council in order to be considered to be invited to tender. The notice shall include details as to how PQQ's are to be submitted and the closing date for their receipt by the Council.	Correction of a typing error
10.2.1	(vi) The deadline date for the receipt of tenders shall be at least 40 days after the date of dispatch of the ITT's.	(vi) The deadline date for the receipt of tenders shall be at least <u>28</u> days after the date of dispatch of the ITT's.	Amendment to reflect the number of days required in the Pubic Contracts Regulations 2006
10.3.1	Open Tenders: the deadline date for the return of tenders shall be a minimum of 52 days after the publication of the first advertisement of the ITT. The actual deadline date shall be determined having taken	Open Tenders: the deadline date for the return of tenders shall be a minimum of 52 days after the publication of the first advertisement of the ITT. The actual deadline date shall be determined having taken	Amendment to reflect the number of days required in the Pubic Contracts Regulations 2006 when using an E-Sourcing

Rule	Current Wording	Proposed Amendment	Reason
	into consideration the complexity of the Contract and the time required for the completion of the tender documents by Participants.	into consideration the complexity of the Contract and the time required for the completion of the tender documents by Participants. <u>The requirement for 52 days may be reduced to 40 days when using the E-Sourcing System.</u>	System.
10.3.2	Restricted Tenders: the deadline date for the return of PQQ's shall be at least 37 days after the publication of the first advertisement of the opportunity. The deadline date for the receipt of tenders shall be at least 40 days after the date of publication of the ITT.	Restricted Tenders: the deadline date for the return of PQQ's shall be at least 37 days after the publication of the first advertisement of the opportunity. The deadline date for the receipt of tenders shall be at least 40 days after the date of publication of the ITT. <u>The requirement for 37 days may be reduced to 30 days after the publication of the first advertisement of the opportunity for the return of the PQQ and reduced to 35 days for the return of the ITT after the date of its publication when using the E-Sourcing System.</u>	Amendment to reflect the number of days required in the Public Contracts Regulations 2006 when using an E-Sourcing System.
10.4.2	The procedure prescribed by the PCR's shall apply to all aspects of the procurement and to the subsequent operation of the Framework Agreement including, but not limited to: (i) the procurement methodology; (ii) the placement of orders under the Framework Agreement; (iii) further competition between Contractors appointed to the Framework Agreement (ie further competitions).	<u>Where the value of the proposed Framework Agreement exceeds the EU threshold, the procedure prescribed by the PCR's shall apply to all aspects of the procurement and to the subsequent operation of the Framework Agreement including, but not limited to:-</u> (i) the procurement methodology; (ii) the placement of orders under the Framework Agreement; (iii) further competition between Contractors appointed to the Framework Agreement.	To provide clarity
10.5.1	(i) A notice inviting expressions of interest shall be published through the E-Sourcing System 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 and invite Participants to apply to the Council to be considered for inclusion on the approved list by the Council. The notice shall	(i) A notice inviting expressions of <u>interest</u> shall be published through the E-Sourcing System 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 and invite Participants to apply to the Council to be considered for inclusion on the approved list by the Council. The notice shall	To correct a typing error

Rule	Current Wording	Proposed Amendment	Reason
	include details as to how expressions of interest are to be submitted and the closing date for their receipt by the Council.	include details as to how expressions of interest are to be submitted and the closing date for their receipt by the Council.	
11.1	A written tender may only be considered if:- (a) it has been received electronically through the e-tendering system, or	A written tender may only be considered if:- (a) it has been received electronically through the <u>E-Sourcing System</u> , or	To reflect the defined term
11.1	c) and subject to Rule 11.4, it has been returned electronically through the E-Sourcing System or to the ACE(LDS) (or a person designated by her) in accordance with the instructions contained in the ITT before the tender closing date.	c) and subject to Rule 11.4, it has been returned electronically through the E-Sourcing System or to the ACE(LDS) (or a person designated by <u>him</u>) in accordance with the <u>instructions</u> contained in the ITT before the tender closing date.	To reflect the new ACE(LDS) and to correct a typing error
11.2	The ACE(LDS) (or a person designated by her) shall be responsible for the reception and safe custody of tenders until they are opened.	The ACE(LDS) (or a person designated by <u>him</u>) shall be responsible for the reception and safe custody of tenders until they are opened.	To reflect the new ACE(LDS)
11.3	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 her) or, where Legal and Democratic Services is undertaking the procurement, the CD-SR (or an Officer designated by her). Whoever opens the tenders shall maintain a record of the tenders received. Such a record shall include the date and time of 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 tenders and to Internal Audit.	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 <u>him</u>) or, where Legal and Democratic Services is undertaking the procurement, the CD-SR (or an Officer designated by him). Whoever opens the tenders shall maintain a record of the tenders received. Such a record shall include the date and time of 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 tenders and to Internal Audit.	To reflect the new ACE(LDS)
12.8	Where the tender involves payment to the Council Rule 12.2 shall apply except that the word "highest" shall be substituted for "lowest" in those Rules.	Where the tender involves payment to the Council Rule 12.2 shall apply except that the word "highest" shall be substituted for "lowest" in <u>that</u> Rules.	To correct a typing error

Rule	Current Wording	Proposed Amendment	Reason
16.1	<p>A Director does not need to invite quotations or tenders in accordance with Rules 8, 9 and 10 in the following circumstances:-</p> <p>(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</p> <p>(b) purchases at public auctions, or</p>	<p>A Director does not need to invite quotations or tenders in accordance with Rules 8, 9 and 10 in the following circumstances:-</p> <p>(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</p> <p>(b) purchases at public auctions, (<u>including internet auction sites, e.g. Ebay</u>) where the Director is satisfied that value for money will be achieved; or</p>	<p>To take into account the growing use of internet auction sites and to ensure that the exemption is only applied where value for money can be obtained</p>
16.1	<p>f) social care Contracts with a value below the EU Threshold where:-</p> <p>(i) the service is currently supplied by a Contractor to the satisfaction of the Corporate Director Health and Adult Services or the Corporate Director Children and Young People's Service, is considered to be offering value for money and where the foreseeable disruption to service users cannot justify the invitation of further quotations or tenders, or</p> <p>(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 quotations or tenders to be invited, or</p> <p>(iii) where the Corporate Director Health and</p>	<p>f) social care Contracts with a value below the EU Threshold where:-</p> <p>(i) the service is currently supplied by a Contractor to the satisfaction of the Corporate Director Health and Adult Services or the Corporate Director Children and Young People's Service, is considered to be offering value for money and where the foreseeable disruption to service users cannot justify the invitation of further quotations or tenders, or</p> <p>(ii) the service is of a specialist or personal nature and where service users <u>must</u> 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 quotations or tenders to be invited, or</p> <p>(iii) where the Corporate Director Health and</p>	<p>To correct a typing error</p>

Rule	Current Wording	Proposed Amendment	Reason
	Adult Services and the Corporate Director Children and Young People's Service is satisfied that the urgency of the need for the service prevents the invitation of quotations or tenders in which case consideration shall be given to the duration of that service; or	Adult Services and the Corporate Director Children and Young People's Service is satisfied that the urgency of the need for the service prevents the invitation of quotations or tenders in which case consideration shall be given to the duration of that service; or	
17.8	The Council maintains a Contract Register the purpose of which is to: (a) record key details of all contracts with an aggregate value of £10,000 or more; and (b) identify a contract reference number.	The Council maintains a Contract Register the purpose of which is to: (a) record key details of all contracts with an aggregate value of <u>£20,000</u> or more; and (b) identify a contract reference number.	To enable compliance with the Local Government Transparency Code 2014.
18.2	The whole contract financial value thresholds for the purposes of Rule 18.1 are: a) works contracts - £100,000 b) goods and services contracts £100,000.	The whole contract financial value thresholds for the purposes of Rule 18.1 are: a) works contracts - £100,000 b) goods, <u>supplies</u> and services contracts £100,000.	To ensure consistency
18.3	When a procurement is being considered which is expected to exceed the financial value thresholds specified in Rule 18.4 then the Responsible Officer must ensure the necessary Gateway Process report prepared in accordance with Rule 18.1 is also considered by the ACE(LDS) or by a LDSO authorised by her. No procurement should commence before the Gateway Process report is approved.	When a procurement is being considered which is expected to exceed the financial value thresholds specified in Rule 18.4 then the Responsible Officer must ensure the necessary Gateway Process report prepared in accordance with Rule 18.1 is also considered by the ACE(LDS) or by a LDSO authorised by <u>him</u> . No procurement should commence before the Gateway Process report is approved.	To reflect the new ACE(LDS)
18.4	The whole Contract financial value thresholds for the purpose of Rule 18.3 are: a) works Contracts - £1m b) goods and service Contracts - EU Threshold.	The whole Contract financial value thresholds for the purpose of Rule 18.3 are: a) works Contracts - £1m b) goods, <u>supplies</u> and service Contracts - EU Threshold.	To ensure consistency