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GOVERNANCE COMMITTEE

TUESDAY, 26TH NOVEMBER, 2019, 6.00 PM

WHEEL ROOM, CIVIC CENTRE, WEST PADDOCK, LEYLAND PR25
1DH

AGENDA

1 Apologies for absence

2 Declarations of Interest

Members are requested to indicate at this stage in the proceedings any items on the agenda in which they intend to declare an interest. Members are reminded that if the interest is a Disclosable Pecuniary Interest (as defined in the Members' Code of Conduct) they must leave the room for the whole of that item. If the interest is not a Disclosable Pecuniary Interest, but is such that a member of the public could reasonably regard it as being so significant that it is likely that it would prejudice their judgment of the public interest (as explained in the Code of Conduct) then they may make representations, but then must leave the meeting for the remainder of the item.

3 Minutes of meeting Tuesday, 24 September 2019 of Governance Committee	(Pages 3 - 6)
4 Audit Plan Progress Report 2019/20 April - October 2019	(Pages 7 - 14)
5 Audit Progress Report and Sector Update	(Pages 15 - 26)
Report of the Council's External Auditor, Grant Thornton attached.	
6 Treasury Management Activity Mid-year review 2019/20	(Pages 27 - 46)
7 Constitution - Contract Procedure Rules	(Pages 47 - 96)

Gary Hall
INTERIM CHIEF EXECUTIVE

Electronic agendas sent to Members of the Governance Committee Councillors Ian Watkinson (Chair), James Flannery (Vice-Chair), Christine Melia, Angela Turner, Damian Bretherton, Colin Clark and Margaret Smith

The minutes of this meeting will be available on the internet at
www.southribble.gov.uk

Forthcoming Meetings

6.00 pm Tuesday, 28 January 2020 - Wheel Room, Civic Centre, West Paddock,
Leyland PR25 1DH

MINUTES OF	GOVERNANCE COMMITTEE
MEETING DATE	Tuesday, 24 September 2019
MEMBERS PRESENT:	Councillors Ian Watkinson (Chair), James Flannery (Vice-Chair), Christine Melia, Damian Bretherton, Colin Clark and Margaret Smith
OFFICERS:	Gary Hall (Interim Chief Executive), Jane Blundell (Interim Section 151 Officer), Janice Bamber (Interim Head of Shared Assurance Services), Dave Whelan (Legal Services Manager/Interim Monitoring Officer), Darren Cranshaw (Assistant Director of Scrutiny & Democratic Services) and Tony Furber (Principal Financial Accountant)
EXTERNAL AUDITOR:	Mark Heap (Grant Thornton)
OTHER MEMBERS AND OFFICERS:	Councillor Paul Foster (Leader of the Council and Leader of the Labour Group), Councillor Keith Martin, Councillor Phil Smith and Councillor Michael Titherington (Deputy Leader of the Council, Cabinet Member (Health, Wellbeing and Leisure) and Deputy Leader of the Labour Group)
PUBLIC:	1

8 Apologies for absence

Apologies for absence were received from Councillor Ange Turner.

9 Declarations of Interest

There were no declarations of interest.

10 Minutes of the Last Meeting

RESOLVED (Unanimously):

That the minutes of the Governance Committee meeting held on Thursday, 30 May 2019 be agreed as a correct record and signed by the Chair.

11 Audit Progress Report and Sector Update

Mark Heap from the Council's External Auditor, Grant Thornton, presented the audit progress report and sector update.

It was reported that Grant Thornton was working with officers to progress the financial statements audit and value for money conclusion. Following questions around the timescales involved, the November Governance Committee meeting was an indicative target date, but this could not be guaranteed as it was dependent on

what came out of the audit findings work being undertaken. There was an acknowledgment that further testing or investigation might be required depending on what was found. Reassurance was provided that the delay was not due to a lack of resources.

The Annual Governance Statement considered at the last meeting of the Governance Committee would also need to be considered again by the Committee.

The External Auditor was unable to speculate on the ramifications of the audit findings until the work was complete, but commented on the effective and professional working relationship with officers. Confirmation was also provided that the External Auditor had been kept updated on the Preston, South Ribble and Lancashire City Deal as part of regular liaison with the Interim Chief Executive.

The certification of claims and returns was on track for completion by the 30 November deadline and regular liaison meetings take place between the External Auditor, Interim Chief Executive and members of the Financial Services Team.

An overview was provided on the Ministry of Housing, Communities and Local Government independent probe into local government audit, within initial recommendations due in December and final report next March.

RESOLVED (Unanimously):

That the report and update be noted.

12 Internal Audit Progress Report as at 31 August 2019

The Interim Head of Shared Assurance Services presented the internal audit progress report as at 31 August 2019. The report outlined progress against the Internal Audit Plan 2019/2020 with the audits completed, in progress and planned for the remainder of the year. It was reported that the percentage of audit plan completed for this period had not been achieved due to exceptional additional work required into certain irregularities, which could not have been planned for. There had also been some resource issues last year, but additional capacity had been provided to help deliver the audit plan.

Reassurance was provided that there was sufficient resources to undertake the audit plan and processes were in place should further resources be required. It was also reported that a report had been presented to the last Shared Services Joint Committee on reviewing the Shared Assurance function which would be brought back to the Shared Services Joint Committee in December. The long-term sickness issue in the Shared Assurance team was being resolved, with temporary resources in place until the permanent solution was implemented.

Further information was provided on the key findings from the internal audit of commercial properties which had been accepted with a follow-up internal audit planned for later in the year. Confirmation was provided that the commercial property database was fit for purpose when used effectively.

Following the Health and Safety audit reassurance was provided that the action plan produced was being implemented as a priority and taken extremely seriously by the Leadership Team. It was felt that a culture change was needed so that everyone

takes responsibility for Health and Safety with robust monitoring arrangements in place.

Confirmation was provided that the minor non-material weaknesses identified in the cash and bank, treasury management and main accounting internal audits had all been rectified.

Reassurance was provided that the legacy issues currently being investigated would be reported to the Government Committee at the appropriate time.

The number of days allocated to GDPR (General Data Protection Regulations) had been exceeded as some issues had been identified and it was felt prudent to undertake a more in-depth audit into this important issue for the Council.

A commitment was provided that the Internal Audit Plan would be completed by the end of the financial year.

RESOLVED (Unanimously):

That the report be noted.

13 Treasury Management Annual Report 2018/19 and June Quarter Monitoring 2019/20

The Principal Financial Accountant presented a report of the Interim Section 151 Officer outlining the financing of the Council capital programme, borrowing need, treasury position and investment performance. The report also included investment strategy monitoring as at 30 June 2019. There were no concerns or issued identified and the investment returns were better than had been anticipated.

An explanation was provided as to why there was such a variance in the capital expenditure estimate against actual in table 1 of the report, which was not felt to be unusual in local government. However, there would be a piece of work looking at how forecasting of the capital programme could be improved and better presented to assist Members in their decision-making and monitoring role. This would also include looking at how the capital programme was developed.

RESOLVED (Unanimously):

That the report be noted.

14 Governance Committee Forward Plan

RESOLVED (Unanimously):

That the forward plan be noted.

Chair

Date

Agenda Item 4

REPORT TO	ON
Governance Committee	26 November 2019



TITLE	REPORT OF
Audit Plan Progress Report 2019/20 April - October 2019	Interim Head of Shared Assurance

Is this report confidential?	No
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PURPOSE OF THE REPORT

1. To provide the Governance Committee with a summary of Internal Audit work undertaken for South Ribble Council and the Shared Services element for the period 1st April 2019 to 31st October 2019.

RECOMMENDATIONS

2. Members are asked to consider and note the content of the report.

EXECUTIVE SUMMARY

3. Governance Committee are required to be informed of and review Internal Audit work as part of their review of the Council's internal control environment and overall Governance arrangements. To that end the Appendix to the report outlines the progress of work to 31st October 2019 and the status of planned and ongoing work.
4. The detailed information in regard to progress against individual areas of work / auditable areas has been provided at Appendix 1.

CORPORATE OUTCOMES

5. The report relates to the following corporate priorities: (*tick all those applicable*):

Excellence, Investment and Financial Sustainability	<input checked="" type="checkbox"/>
Health, Wellbeing and Safety	<input type="checkbox"/>
Place, Homes and Environment	<input type="checkbox"/>

Projects relating to People in the Corporate Plan:

BACKGROUND TO THE REPORT

6. This is the progress report of work undertaken for the 2019/20 Plan, which was previously agreed with the Governance Committee.

PROPOSALS (e.g. RATIONALE, DETAIL, FINANCIAL, PROCUREMENT)

Audit Plan Progress

7. This is the report in respect of the period 1st April 2019 – 31st October 2019; it includes those items carried forward from 2018/19, that are now completed, progress against the 2019/20 plan and the status of individual audit areas. The appendix outlines the actual time spent against the planned time for each area and the assurance opinion where work is completed.
8. A number of reviews have been commenced in the previous month due to staffing issues being addressed (this is outlined below in a separate paragraph). The Audit reviews that have commenced are:-
 - Ethical Culture Review
 - Environmental Health
 - Environmental Enforcement –Fixed Penalty Notices
 - Tree Inspections and Maintenance
9. A number of reports are at Draft Report stage and are awaiting review by the Acting Principal Auditor and / or the Interim Head of Shared Assurance. These are outlined below:-
 - GDPR Compliance Review
 - Credit Cards
 - Car Park Management / Enforcement
 - NFI Data Matching Reviews
 - Shared Services Review of Accounts
10. The following table outlines the main pieces of work undertaken and completed in the last period:-

Audit Area	Assurance Rating	Comments
Performance Management Information (see paragraph 11 below)	Limited	Audit originally completed in 2018/19, however, additional work was requested from Interim Chief Executive, additional work was completed and identified significant issues in the definitions, calculations, retention of supporting documentation and reporting of Performance Indicators across a wide sample. Actions arising are being agreed with Leadership Team, these will then be implemented, a revised Data Quality Policy has been produced and includes data quality review and sign off by Senior Leaders to ensure indicators are clearly defined, accurately calculated, evidence retained and accurately

		reported. A follow up will be undertaken in 3-6 months in line with Audit practice.
Review of Independent Reference Group / Annual Governance Statement	N/A	A review was undertaken of the actions taken against recommendations arising from the IRG; this was completed and a report prepared. The findings arising will be reported to a future Governance Committee meeting as part of the review of the Annual Governance Statement.

- 11.** The Performance Management Audit was initially completed in April 2019, the opinion of the control environment was classed as Adequate, however, on presenting the piece of work to the incoming Interim Chief Executive for review he raised concerns that the original piece of work indicated that there may be an issue with systems / processes in place and that the opinion assigned did not correlate with the findings, in that, the opinion should have been Limited. In order to verify the extent of the issue and to clarify the opinion of the control environment relating to Performance Management Information, the Interim Chief Executive required further testing to be undertaken. The further testing identified that there are issues within the systems / processes relating to Performance Management Information and that these issues and weaknesses in control have resulted in the opinion of the control environment being classified as **Limited**. Management Actions are to be discussed and agreed with Leadership Team as part of the review of the Annual Governance Statement.
- 12.** Work has been ongoing during the latest period in respect of the investigations / issues arising primarily undertaken by the Interim Head of Shared Assurance, however, some support has been required from the Acting Principal Auditor and one of the temporary members of staff due to other issues arising in respect of work that is required for the Annual Governance Statement.
- 13.** Following the last Governance Committee meeting, further resource of a second temporary auditor has been appointed with a contract to the 24th December 2019; the first temporary auditor's contract has been extended to the 31st March 2020. A member of the substantive audit team is acting up to the Principal Auditor role, this will continue whilst temporary arrangements are in place. Further the investigation work is coming to a close, however, the Interim Head of Shared Assurance will be required to focus on the control issues arising and the effects the findings have on the Annual Governance Statement and the Governance of the Council. Further reports will be produced with Management Actions to ensure the issues arising will be addressed.
- 14.** The '% of audit plan completed' for South Ribble for this period is 28% for planned work and 57.6% for planned and unplanned work, however, there are a significant number of days been spent on the investigation work which has impacted on the planned work and the work undertaken for Chorley Borough Council. Whilst overall the total number of days of audit work for SRBC is 292 days, this does not equate to 85% of the audit plan being completed. This is the impact of the investigation work which currently totals 117 days plus 45 days for the IRG / AGS work.
- 15.** The level of completion of the audit plan is being closely monitored and reviewed by the Interim Head of Shared Assurance. This impact will lessen as the benefit of the temporary arrangements put in place comes to fruition. The completion of some major pieces of work including Creditors and GDPR Compliance review will aid with the lessening of the current impact.

AIR QUALITY IMPLICATIONS

16. No implications

COMMENTS OF THE STATUTORY FINANCE OFFICER

17. The unplanned work particularly in relation to the investigation has impacted on the planned audit work in the period to October. Interim staffing arrangements have been put in place to mitigate this, including the employment of temporary staff. This additional cost has been funded from underspends within the overall shared services budget.

COMMENTS OF THE MONITORING OFFICER

18. Under the Accounts and Audit Regulations 2015 the Council is required to 'undertake an effective internal audit to evaluate the effectiveness of its risk management, control and governance processes, taking into account public sector internal auditing standards or guidance'. This report provides an update to the Committee for consideration and noting. There are some exceptional circumstances this year which has resulted in a significant amount of unplanned work.

OTHER IMPLICATIONS:

► Risk	The matters raised in the report are cross cutting and impact upon those individual services reviewed and the Internal Control environment of the Council. Failure to report the progress of the Audit Plan to the Governance Committee would result in the lack of awareness of those charged with the responsibility for the Governance of the Council of issues in regard to the Council's overall control environment. This could result in financial, legal and / or reputational harm to the Council.
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BACKGROUND DOCUMENTS

South Ribble Internal Audit Plan 2019/20
Shared Financial Services Audit Plan 2019/20

APPENDICES (or There are no appendices to this report)

Appendix 1 – SRBC Internal Audit Plan 2019/20 Progress April – October 2019 for SRBC and Shared Services

Janice Bamber
Interim Head of Shared Assurance

Report Author:	Telephone:	Date:
Janice Bamber, Interim Head of Shared Assurance Services	01772 625272	11 th November 2019

Appendix 1

**INTERNAL AUDIT PLANS 2019/20
SOUTH RIBBLE COUNCIL**

WORK AREA	RISK	EST (Days)	ACT	BAL	REVIEW STATUS	ASSURANCE RATING	STATUS
AUDIT PLANNED WORK							
Areas of work to be identified		60	0	60			
CORPORATE							
Corporate Complaints	Medium	10	5.2	4.8			Review of Complaints ongoing as part of investigation work
RESOURCES & TRANSFORMATION							
HR							
Absence Management	Medium	10	0	10			
Democratic Services							
Ethical Culture Review	High	10	0.2	9.8	Commenced		Audit scope agreed with Service Lead
Customer & Digital							
ICT Review	High	20	3.3	16.7			Meeting with MIAA to agree areas to be reviewed and assessment of audit work previously undertaken within ICT
GDPR Compliance Reviews	High	10	26.1	(16.1)	Draft Report		Draft Report completed and with Interim Head of Shared Assurance for review.
Council Tax	High	5	0	5			
NNDR	High	5	0	5			
Housing Benefits	High	5	0	5			
Finance							
Income Collection & Receipt	High	25	0	25			
Credit Cards	High	10	19.2	(9.2)	Draft report		Draft Report complete; with Interim Head of Shared Assurance for review
REGENERATION & GROWTH							
Neighbourhoods & Development							
My Neighbourhood Processes	High		0	0	Deleted		Not required as Member & Officer working group to review My Neighbourhoods following changes to areas.
Environmental Health	High	20	0.2	19.8	Commenced		Increase days taken from My Neighbourhoods to as a number of areas are being reviewed.
Environmental Enforcement – Fixed Penalty Notices	High	5	0.2	4.8	Commenced		Additional audit to replace My Neighbourhoods, specific area in respect of Fixed Penalty Notices to be reviewed following discussions with Director
Leases / Licences to Community Centres etc.	High	10	0	10			
Parks & Neighbourhoods							
Car Park Management / Enforcement	High	10	8.8	1.2	Draft Report		Audit Work completed and Draft Report prepared. File and Report with Acting Principal Auditor for review
Tree Inspections & Maintenance	High	10	0	10	Commenced		Scope agreed
TOTAL PLANNED WORK		225	63.2	161.8			28% of planned work completed
UNPLANNED WORK							
Performance Management Information (additional work)		0	21.5	(21.5)	Completed		Further work completed, reported to Leadership Team and management actions to be agreed as part of Annual Governance Statement work

Review of IRG / AGS		0	45	(45)	Completed		Work undertaken to review IRG recommendations and action taken against those actions for inclusion in and review of Annual Governance Statement.
Total Unplanned Work		0	66.5	(66.5)			
TOTAL WORK (Planned & Unplanned)		225	129.7	95.3			57.6% of work plan completed (Planned & Unplanned)

ONGOING WORK THROUGHOUT THE YEAR							
CORPORATE AREAS							
Annual Governance Statement	N/A	20	13.1	6.9	Ongoing		Work was completed on initial AGS, following issues arising from investigations and IRG review, AGS is to be reviewed so further work is required
Assurance Mapping	N/A	10	4.5	5.5	Ongoing		Work is being undertaken to map all sources of Assurance across Council to complement Audit Planning process and ensure work Internal Audit undertake complements any other assurance work rather than duplicates.
Anti-Fraud & Corruption	N/A	10	0	10			
NFI	N/A	5	0.5	4.5	Ongoing		Preparation for the Council Tax Single Person Discount / Electoral Register exercise later this financial year
Governance Committee	N/A	10	3	7	Ongoing		Preparation of reports for Governance Committee
Total Corporate Areas		55	21.1	33.9			
PROJECT SUPPORT							
HR and Payroll system update	Project		0.2		Project Support		Advice re risk and controls re enhancement to HR systems
InPhase Development	Project		4.6		Project Support		Advice re risk and controls re implementation of improved Project Management System.
Project Support Total Days		20	4.8	15.2			
GDPR Implementation	Project	5	4	1	Project Support		Increased Audit presence within project group
Project Support Totals		25	8.8	16.2			
TOTAL ONGOING WORK		80	29.9	50.1			37% of Ongoing work completed
OTHER WORK							
Residual Work from 2018/19							
Commercial Properties	N/A		4.6		Completed	Limited	Follow Up Quarter 4
Health & Safety	N/A		9.9		Completed	Adequate	Actions implemented to improve culture
Residual Work Total Available Days		10	14.5	(4.5)			
GENERAL Areas							
GRACE System Administration	N/A	10	0	10			
Post Audit Reviews	N/A	5	0.3	4.7			Review of previous 2 years management actions to determine if implemented or status of implementation, results will be reported to Governance Committee.
General Areas Total Available Days		15	0.3	14.7			

Contingency / Irregularities						
Contingency / Consultancy			5.1		Ongoing	Advice / Support from Internal Audit in respect of issues arising, fraud awareness, scam emails received etc.
Investigations / Irregularities			112.6		In Progress	Ongoing investigation work by Interim Head of Shared Assurance primarily regarding current issues.
NB. Investigation work / reports / outcomes will be reported to Governance Committee at the appropriate time, any reporting at this time may hamper / hinder any ongoing process.						
Contingency/Irregularities Total		10	117.6	(107.6)		
Total Other Work		35	162.3	(127.3)		
TOTALS		340	292	48		

INTERNAL AUDIT PLANS 2019/20
SHARED SERVICES

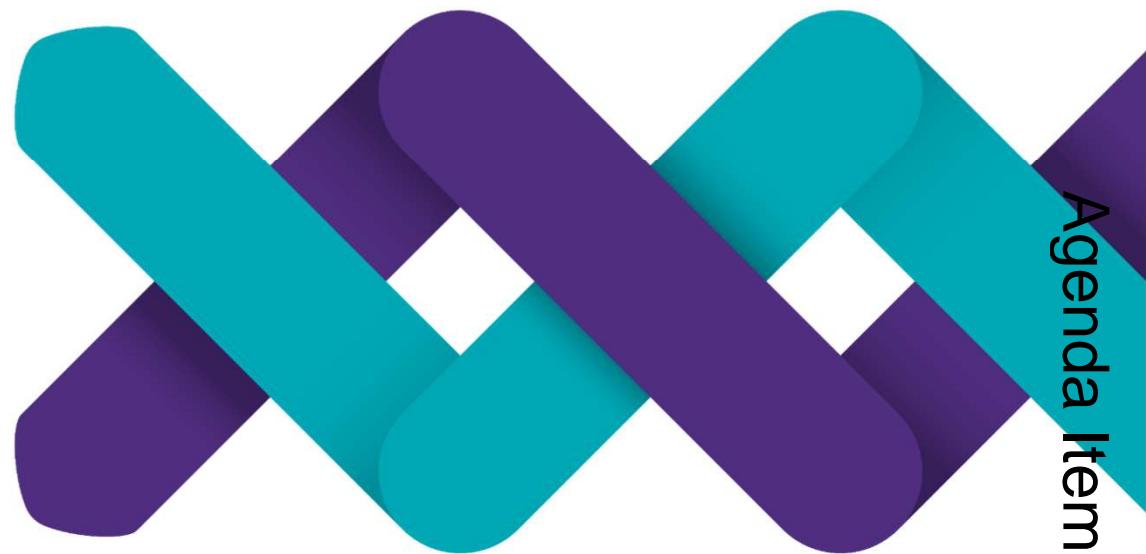
WORK AREA	RISK	EST (Days)	ACT	BAL	REVIEW STATUS	ASSURANCE RATING	COMMENTS
AUDIT PLANNED WORK							
Creditors	High	20	15.7	4.3	Ongoing		Testing ongoing, expected completion November 2019
Financial Systems;	High	20	0	20			
Procurement	High	30	0	30			
Money Laundering	High	20	0	20			
NFI Data Matching Reviews of Financial Matches inc. Creditors / Payroll / Housing Benefits	Medium	10	10.2	(0.2)	Draft report		Work undertaken on Creditors & Payroll matches re: employees, Draft report with Interim Head of Shared Assurance for review
Total Planned Work		100	25	75			
UNPLANNED WORK							
Shared Services Review of Accounts			7	(7)	Draft report		Report is with Interim Head of Shared Assurance for review
Total Unplanned Work			7	(7)			
OTHER WORK							
General Areas							
GRACE System Administration	N/A	5	0.2	4.8			
Post Audit Reviews	N/A	5	0	5			
Total General Areas		10	0.2	9.8			
Residual Work from 2018/19							
Cash & Bank			12.1		Completed	Substantial	
Treasury Management			1.1		Completed	Substantial	
Payroll			2.9		Completed	Limited	Management Actions agreed; Limited assurance opinion due to issues in respect of Contract extensions re Payroll contract
Main Accounting					Completed	Substantial	
Total Residual Work		5	16.1	(10.1)			
Contingency / Irregularities							
Total Contingency / Irregularity Work		5	0	5			
TOTALS		120	48.3	71.7			40% of plan work completed (including unplanned work)

Audit Progress Report and Sector Update

South Ribble Borough Council

14 November 2019

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Agenda Item 5

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Introduction

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This paper provides the Governance Committee with a report on progress in delivering our responsibilities as your external auditors.

The paper also includes:

- a summary of emerging national issues and developments that may be relevant to you as a local authority; and
- includes a number of challenge questions in respect of these emerging issues which the Committee may wish to consider (these are a tool to use, if helpful, rather than formal questions requiring responses for audit purposes)

Members of the Governance Committee can find further useful material on our website, where we have a section dedicated to our work in the public sector. Here you can download copies of our publications

www.grantthornton.co.uk

If you would like further information on any items in this briefing, or would like to register with Grant Thornton to receive regular email updates on issues that are of interest to you, please contact either your Engagement Lead or Engagement Manager.

Update at 14 November 2019

2018-19 Audit Work

Our 2018-19 audit of your financial statements and our work on the value for money conclusion is continuing. We will update the Committee of progress at the meeting.

Other areas

Certification of claims and returns

We certify the Council's annual Housing Benefit Subsidy claim in accordance with procedures agreed with the Department for Work and Pensions. The certification work for the 2018/19 is in progress and will be completed by the 30 November deadline. We will report our findings to the Governance Committee in January 2020.

Meetings

We meet regularly with the Chief Executive and Finance Officers as part of our liaison meetings. We continue to be in discussion with finance staff regarding emerging developments and to ensure the audit process is smooth and effective.

Events

We provide a range of workshops, along with network events and publications to support the Council. Our annual workshop for your finance team will take place early in 2020 and invites have now been sent.

Further details of the publications that may be of interest to the Council are set out in our Sector Update section of this report.

Audit Fees

During 2017, PSAA awarded contracts for audit for a five year period beginning on 1 April 2018. 2019/20 is the second year of that contract. Since that time, there have been a number of developments within the accounting and audit profession. Across all sectors and firms, the Financial Reporting Council (FRC) has set out its expectation of improved financial reporting from organisations and the need for auditors to demonstrate increased scepticism and challenge and to undertake additional and more robust testing.

Our work in the Local Government sector in 2018/19 has highlighted areas where financial reporting, in particular, property, plant and equipment and pensions, needs to improve. There is also an increase in the complexity of Local Government financial transactions and financial reporting. This combined with the FRC requirement that all Local Government audits are at or above the "few improvements needed" (2A) rating means that additional audit work is required.

We are currently reviewing the impact of these changes on both the cost and timing of audits. We will discuss this with your s151 Officer including any proposed variations to the Scale Fee set by PSAA Limited, before communicating fully with the Governance Committee.

As a firm, we are absolutely committed to meeting the expectations of the FRC with regard to audit quality and local government financial reporting.

Audit Deliverables

2018/19 Deliverables	Planned Date	Status
Audit Findings Report The Audit Findings Report was reported to the July Governance Committee.	TBC	Ongoing
Auditors Report This is the opinion on your financial statement, annual governance statement and value for money conclusion.	TBC	Ongoing
Annual Audit Letter This letter communicates the key issues arising from our work.	TBC	Ongoing
2019/20 Deliverables	Planned Date	Status
Fee Letter Confirming audit fee for 2018/19.	April 2019	Complete
Accounts Audit Plan We are required to issue a detailed accounts audit plan to the Governance Committee setting out our proposed approach in order to give an opinion on the Council's 2019-20 financial statements.	March 2020	Not yet due
Interim Audit Findings We will report to you the findings from our interim audit and our initial value for money risk assessment within our Progress Reports.	April 2020	Not yet due
Audit Findings Report The Audit Findings Report will be reported to the July Governance Committee.	July 2020	Not yet due
Auditors Report This is the opinion on your financial statement, annual governance statement and value for money conclusion.	July 2020	Not yet due
Annual Audit Letter This letter communicates the key issues arising from our work.	August 2020	Not yet due

Sector Update

Councils are tackling a continuing drive to achieve greater efficiency in the delivery of public services, whilst facing the challenges to address rising demand, ongoing budget pressures and social inequality.

Our sector update provides you with an up to date summary of emerging national issues and developments to support you. We cover areas which may have an impact on your organisation, the wider NHS and the public sector as a whole. Links are provided to the detailed report/briefing to allow you to delve further and find out more.

Our public sector team at Grant Thornton also undertake research on service and technical issues. We will bring you the latest research publications in this update. We also include areas of potential interest to start conversations within the organisation and with Governance Committee members, as well as any accounting and regulatory updates.

- **Grant Thornton Publications**
- **Insights from local government sector specialists**
- **Reports of interest**
- **Accounting and regulatory updates**

More information can be found on our dedicated public sector and local government sections on the Grant Thornton website by clicking on the logos below:

Public Sector

Local
government

CIPFA – CFO confidence survey

In July, the Chartered Institute of Public Finance and Accountancy (CIPFA) reported the results of their annual confidence survey.

The survey found that the majority of local government finance officers have lost confidence in their future financial positions over the last year.

Seventy per cent of respondents said they were either slightly less or much less confident in their financial position this year compared to 2018-19.

The survey also found that 68% said they were either slightly less or much less confident in their ability to deliver services in 2020-21. Sixty-two per cent expressed equal confidence in their financial position for 2019-20 as they had last year.

CIPFA found that the area of greatest pressure for top tier authorities was children's social care, with the number of authorities rating it as the biggest pressure rising by six percentage points.

For districts the greatest pressures were housing, cultural services and environmental services.

Rob Whiteman, CIPFA chief executive, said: "Local government is facing greater demand pressures than ever before, with particularly pressures in adults' and children's social care and housing. Local authorities also lack certainty about their future financial positions, so it's unsurprising to see confidence on the decline."

"We have repeatedly pointed out that local government is in need of a sustainable funding solution, but meeting this demand requires more than pennies and pounds. The sector as a whole must come together to address the challenges of effective service delivery."

CIPFA's survey received a total of 119 responses from authorities in the UK - 56 top tier authorities, 47 English districts, 12 Scottish authorities, and 4 Welsh authorities.



On the same theme, a Local Government Association (LGA) survey, also reported in July, found that almost two-thirds of councils believe cash for services like adult social care, child protection and preventing homelessness will dry up by 2024-25.

The survey got responses from 141 of the 339 LGA member councils in England and Wales.

It also found that 17% of councils were not confident of realising all of the savings they had identified this year (2019-20).

The LGA said that councils needed a guarantee they will have enough money to meet growing demand pressures in particular in adult social care, children's services, special educational needs, homelessness support and public health.



Financial confidence

Challenge question:

How confident is your Authority in relation to its financial position?
Has this changed from previous years?



MHCLG – Independent probe into local government audit

In July, the then Communities secretary, James Brokenshire, announced the government is to examine local authority financial reporting and auditing.

At the CIPFA conference he told delegates the independent review will be headed up by Sir Tony Redmond, a former CIPFA president.

The government was “working towards improving its approach to local government oversight and support”, Brokenshire promised.

“A robust local audit system is absolutely pivotal to work on oversight, not just because it reinforces confidence in financial reporting but because it reinforces service delivery and, ultimately, our faith in local democracy,” he said.

“There are potentially far-reaching consequences when audits aren’t carried out properly and fail to detect significant problems.”

The review will look at the quality of local authority audits and whether they are highlighting when an organisation is in financial trouble early enough.

It will also look at whether the public has lost faith in auditors and whether the current audit arrangements for councils are still “fit for purpose”.

On the appointment of Redmond, CIPFA chief executive Rob Whiteman said: “Tony Redmond is uniquely placed to lead this vital review, which will be critical for determining future regulatory requirements.

“Local audit is crucial in providing assurance and accountability to the public, while helping to prevent financial and governance failure.”

He added: “This work will allow us to identify what is needed to make local audit as robust as possible, and how the audit function can meet the assurance needs, both now and in the future, of the sector as a whole.”

In the question and answer session following his speech, Brokenshire said he was not looking to bring back the Audit Commission, which appointed auditors to local bodies and was abolished in 2015. MHCLG note that auditing of local authorities was then taken over by the private, voluntary and not-for-profit sectors.

He explained he was “open minded”, but believed the Audit Commission was “of its time”.

Local authorities in England are responsible for 22% of total UK public sector expenditure so their accounts “must be of the highest level of transparency and quality”, the Ministry of Housing, Local Government and Communities said. The review will also look at how local authorities publish their annual accounts and if the financial reporting system is robust enough.

Redmond, who has also been a local authority treasurer and chief executive, is expected to report to the communities secretary with his initial recommendations in December 2019, with a final report published in March 2020. Redmond has also worked as a local government boundary commissioner and held the post of local government ombudsman.



National Audit Office – Code of Audit Practice

The Code of Audit Practice sets out what local auditors of relevant local public bodies are required to do to fulfil their statutory responsibilities under the Local Audit and Accountability Act 2014. ‘Relevant authorities’ are set out in Schedule 2 of the Act and include local councils, fire authorities, police and NHS bodies.

Local auditors must comply with the Code of Audit Practice.

Consultation – New Code of Audit Practice from 2020

Schedule 6 of the Act requires that the Code be reviewed, and revisions considered at least every five years. The current Code came into force on 1 April 2015, and the maximum five-year lifespan of the Code means it now needs to be reviewed and a new Code laid in Parliament in time for it to come into force no later than 1 April 2020.

In order to determine what changes might be appropriate, the NAO is consulting on potential changes to the Code in two stages:

Stage 1 involves engagement with key stakeholders and public consultation on the issues that are considered to be relevant to the development of the Code.

This stage of the consultation is now closed. The NAO received a total of 41 responses to the consultation which included positive feedback on the two-stage approach to developing the Code that has been adopted. The NAO state that they have considered carefully the views of respondents in respect of the points drawn out from the [Issues paper](#) and this will inform the development of the draft Code. A summary of the responses received to the questions set out in the [Issues paper](#) can be found below.

[Local audit in England Code of Audit Practice – Consultation Response \(pdf – 256KB\)](#)

Stage 2 of the consultation involves consulting on the draft text of the new Code. To support stage 2, the NAO has published a consultation document, which highlights the key changes to each chapter of the draft Code. The most significant changes are in relation to the Value for Money arrangements. Rather than require auditors to focus on delivering an overall, binary, conclusion about whether or not proper arrangements were in place during the previous financial year, the draft Code requires auditors to issue a commentary on each of the criteria. This will allow auditors to tailor their commentaries to local circumstances. The Code proposes three specific criteria:

- a) Financial sustainability: how the body plans and manages its resources to ensure it can continue to deliver its services;
- b) Governance: how the body ensures that it makes informed decisions and properly manages its risks; and
- c) Improving economy, efficiency and effectiveness: how the body uses information about its costs and performance to improve the way it manages and delivers its services.

The consultation document and a copy of the draft Code can be found on the NAO website. The consultation is open until 22 November 2019. The new Code will apply from audits of local bodies’ 2020-21 financial statements onwards.

Link to NAO webpage for the Code consultation:

<https://www.nao.org.uk/code-audit-practice/code-of-audit-practice-consultation/>

Consultation response
by the National Audit Office

Local audit in England
Code of Audit Practice

Issues paper: Consultation
response

Local Government Association – Profit with a purpose – delivering social value through commercial activity

The Local Government Association (LGA) report 'Profit with a purpose' focuses on some of the practicalities of how councils can deliver social value through their commercial activity.

Through 'key questions' to ask, the guidance supports councils to face the challenge of how to undertake commercial activity and achieve greater value for the public purse in ways that better meet society's needs and outcomes for people and communities.

In addition, the publication features a number of short case studies highlighting some of the innovative commercial practice already achieving results for communities.

The LGA comments that the best approaches ensure the generation of social value is the primary factor driving commercial activity; from the initial decision to develop a commercial vision to how the approach is developed, and implemented, councils which are pulling ahead ensure social value is placed centre stage.

The guidance starts with an overview of what the LGA understands by 'profit with a purpose', the guidance explores different types of social value and the role of councils in driving social value alongside their commercial ambition.

The guidance then looks at how consideration and delivery of social value should be practically considered when deciding on whether to embark on commercial activity, the need for social value to be prioritised alongside financial return and the key questions councils should consider when embarking on a commercial initiative.

Following on from this, there are specific chapters on; embedding social value in governance of alternative service delivery vehicles, the role of procurement in contracting services that deliver social value and finally how to contract and performance manage social value through your service providers.

Each chapter outlines the factors that need to be considered and the 'key questions' councils should be asking themselves.

In addition, a number of short case studies are provided to highlight some of the innovative commercial practice already achieving results for communities.

The report can be downloaded from the LGA website:

<https://www.local.gov.uk/profit-purpose-delivering-social-value-through-commercial-activity>



Profit with a purpose

Delivering social value through commercial activity

Profit with a purpose

Challenge question:



If your Authority is looking at commercial activity, have you considered the LGA report?

Public Accounts Committee – Local Government Governance and Accountability

The Public Accounts Committee has found that the Government has not done enough to ensure that, at a time when local authority budgets are under extreme pressure, governance systems are improved.

The Ministry of Housing, Communities & Local Government (the Department) is responsible for: ensuring that this framework contains the right checks and balances, and changing the system if necessary. The Secretary of State also has powers to intervene in cases of perceived governance failure. The framework includes: officers with statutory powers and responsibilities; internal checks and balances such as audit committees and internal audit; and external checks and balances such as external audit and sector-led improvement overseen by the Local Government Association. These arrangements represent a significant reduction in the level of central oversight in recent years following the government's decision to abolish the Audit Commission and the Standards Board for England as part of a broader reform of local audit, inspection and reporting.

The Public Accounts Committee report summary notes "Local authorities have a good overall track record with governance arrangements generally robust across the sector, and there is evidence that local authority governance compares favourably to that of the health sector. However, this is not universal and in some authorities governance is under strain, as funding reduces and responsibilities and exposure to commercial pressures change. We are worried to hear about audit committees that do not provide sufficient assurance, ineffective internal audit, weak arrangements for the management of risk in local authorities' commercial investments, and inadequate oversight and scrutiny. This is not acceptable in the more risky, complex and fast-moving environment in which local authorities now operate."

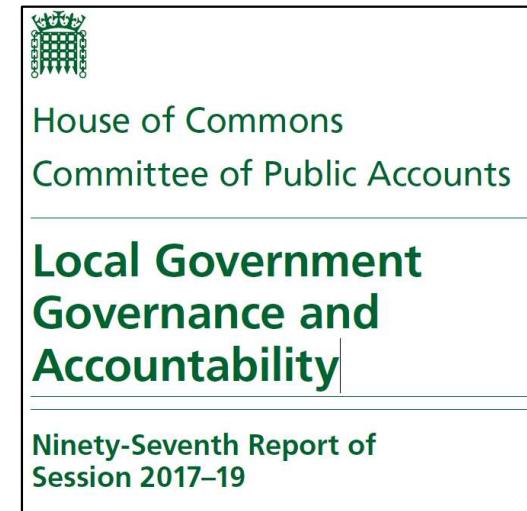
The Department has been reactive and ill-informed in its approach to oversight of the local governance system. However, the Department has now recognised that the network of bodies with responsibility for the local governance framework is fragmented and lacking the leadership needed to drive change. Encouragingly, the Department has now committed to enhancing its oversight role and producing a proactive work programme to deliver this change. We urge the Department to ensure that this activity leads to concrete actions and outcomes on a timely basis. When a local authority fails this has a significant impact on local people and the Department has a responsibility to work with local government to ensure that problems are caught early and that it can pinpoint at-risk councils. Since the abolition of the Audit Commission and other changes culminating in the Local Audit and Accountability Act 2014 there is no central assessment of value for the money, which means the Department's work is fundamental."

The report makes five conclusions, with associated recommendations:

- 1) The Department is not yet providing effective leadership of the local governance system.
- 2) The Department does not know why some local authorities are raising concerns that external audit is not meeting their needs.
- 3) The Department lacks reliable information on key governance risks, or relies on weak sources of information, meaning it has no way of pinpointing the at-risk councils.
- 4) The Department's monitoring is not focused on long-term risks to council finances and therefore to services.
- 5) There is a complete lack of transparency over both the Department's informal interventions in local authorities with financial or governance problems and the results of its formal interventions.

The Government response is available on the website below:

<https://www.parliament.uk/documents/commons-committees/public-accounts/Gov-response-to-Public-Accounts-on-the-93-98-reports.pdf>



Agenda Item 6

REPORT TO	ON
Governance Committee	26 November 2019



TITLE	REPORT OF
Treasury Management Activity Mid-year review 2019/20	Interim Section 151 Officer

Is this report confidential?	No
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PURPOSE OF THE REPORT

1. To report on Treasury Management performance in financial year 2019/20 to the end of September.

RECOMMENDATIONS

2. That the report be noted.

EXECUTIVE SUMMARY

3. During the first six months of 2019/20, the Council had an average daily cash balance of £39.9m and earned interest of £182k, a return of 0.91%. The investment balance at the end of September was £44.6m.
4. On 9 October 2019, the Public Works Loans Board (PWLB) announced an increase of 1% in the margin of its lending rates above gilt yields. The effect of this is to significantly increase the potential cost of future borrowing. It also raises the possibility of sources of borrowing other than the PWLB being a more affordable option in the future.
5. The forecast rise in the Bank of England base rate has been further deferred and is not now expected until the final quarter of 2020. This is only necessary for reports of longer than 4 sides – otherwise delete the heading.

CORPORATE OUTCOMES

6. The report relates to the following corporate priorities: (*tick all those applicable*):

Excellence, Investment and Financial Sustainability	<input checked="" type="checkbox"/>
Health, Wellbeing and Safety	<input type="checkbox"/>
Place, Homes and Environment	<input type="checkbox"/>

Projects relating to People in the Corporate Plan:

Our People and Communities	
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BACKGROUND TO THE REPORT

7. The Annual Investment Strategy for 2019/20 was included in the Treasury Strategy 2019/20 to 2022/23, which was approved by Council on 27 February 2019. The report emphasised that the Council's investment priorities will be Security first, portfolio Liquidity second, and only then return (Yield).
8. The Treasury Management Annual Report 2019/20 was presented to Governance Committee on 24 September 2019. The report indicated that an average return on investments of 0.91% had been achieved, which exceeded the target rate of 0.66%, being seven day LIBID plus 15%.
9. The Code of Practice for Treasury Management requires Councils to review their treasury strategies and activities half yearly. This report satisfies that requirement.

TREASURY ACTIVITY

10. Investment activity up to the end of September 2019 is summarised in the following table.

Table 1 - Investment Activity	Average Daily Investment £000	Earnings to 30 September 2019 £	Average Rate %
Debt Management Office	0	0	0.00
Other fixed term deposits	18,467	91,708	0.99
Notice Accounts	9,000	47,730	1.06
Call accounts	2,152	6,482	0.60
Money Market Funds	10,238	36,111	0.70
Total	39,857	182,031	0.91

11. The DMO's Debt Management Account Deposit Facility (DMADF) was not used in the first half of the financial year.
12. The average daily investment of £39.857m continues to be well above the £10m minimum balance invested for the Council to qualify as a professional investor under MiFID II requirements.
13. A full list of investment counterparties and their associated limits is shown at Appendix A.

- 14.** A full list of investments as at 30 September 2019 is presented as Appendix B. All investments were within the maximum limits per counterparty permitted by the approved Investment Strategy for 2019/20.
- 15.** The investment durations per bank or building society suggested by Link Asset Services as at November 2019 are presented in Appendix C. The Council receives weekly updates, and suggested durations are checked online at the time of placing any term deposits with banks or building societies. The limit per institution is as approved by Council on 27 February 2019.
- 16.** The average interest earned of 0.91% exceeds the target of 0.66% (being the average LIBID 7-day rate plus 15%). It also exceeds the Link Asset Services suggested earnings rate of 0.75% for 2019/20 (see Table 3 below).
- 17.** The comparison to the interest receivable budget is as follows:

Table 2 - Interest Receivable Budget	Budget for 2019/20	Actual to 30 September 2019		Forecast for year
	£000	£000	£000	£000
Interest earned	220	182	320	
Total	220	182	320	

- 18.** No long-term borrowing has been taken to the date of preparing this report. The funding of the 2019/20 Capital Programme requires an element of long-term borrowing and the cost of financing this has been included in the revenue budget for the year. Savings in interest payable may be achieved by delaying external borrowing, or using the Council's cash balances as an alternative to taking external loans from the Public Works Loan Board (PWLB) or other source. Interest earned on cash balances would reduce as a consequence, but the Council would lose interest receivable at approximately 0.85% to 1.00%, but avoid the relatively higher cost of paying interest to an external lender. For example, the rate on a 40-year annuity loan from the PWLB on 1 November was 3.15%.
- 19.** On 9 October 2019, without any prior notice or indication that such a move might be expected, the Public Works Loans Board (PWLB) announced an increase of 1% in the margin of its lending rates above gilt yields. Although the rates available from day-to-day will continue to vary, as they did before the announcement, in short this means that the rate payable on any future borrowings from the PWLB will be 1% higher than it would otherwise have been. As an example, on 8 October the interest rate on a new 40-year annuity in loan was 1.95% and on the 9 October the rate was 2.97%. From this it can be seen that the result is a rise of half or more in the costs of new PWLB loans, with significant implications for future spending and financing plans. One possibility that it raises is that more competitive rates may now be available in the commercial market. Early indications are that this is only likely to be viable for amounts of £25-30m and more, but the option will be considered before any further new borrowings are entered into. It is also possible that the Municipal Bonds Agency will be offering loans to local authorities in the future. The Council's approved Borrowing Strategy does not specify choice of lender and so no amendment is required.

TREASURY CONSULTANTS ADVICE

20. Appendix D presents the advice of Link Asset Services in respect of economic matters and interest rates in the first half of 2019/20.
21. In addition, a detailed comparison of interest rate forecasts is presented as Appendix E. Bank rate and PWLB borrowing rate forecasts are given from the December quarter of 2019 through to the March quarter of 2022.
22. The next increase in Bank Rate from 0.75% to 1.00% is now expected in the December quarter of 2020. When this year's Treasury Strategy was prepared, it was expected that Base Rate would reach 1.00% in the quarter just ended in September 2019.
23. Link's suggested budgeted investment earning rates for investments up to about three months duration in each financial year are as follows:

Table 3 - Average Earnings in each financial year			
	Revised November 2019	Revised August 2019	Original February 2019
2019/20	0.75%	0.75%	1.00%
2020/21	1.00%	1.00%	1.25%
2021/22	1.00%	1.00%	1.75%
2022/23	1.50%	1.50%	2.00%
2023/24	1.50%	1.50%	2.25%
2024/25	1.75%	1.75%	2.50%
Later years	2.25%	2.25%	2.50%

24. The most recent estimate is compared to the estimated earnings rate available at the time the Treasury Management Strategy was presented for approval in February 2019, and Link's update in August 2019. The suggested earnings rates have fallen from 1.00% to 0.75% in this financial year. This target was exceeded in the first half of 2019/20, with the average to 30 September 2018 being 0.91%. The average is currently expected to remain above the target for the remainder of the financial year.
25. In the forecast interest rates shown at Appendix E, PWLB borrowing rates are currently significantly higher than was expected when the Treasury Strategy for 2019/20 onwards was prepared. This is because of the increase of 1% in the margin of PWLB rates above gilt yields, as referred to above, although the difference in the forecast is less than the full 1%, because of variations in other underlying factors, principally the ongoing deferral of any rise in base rate. Overall, the forecast indicates a pattern of gradually rising rates, but this remains subject to the usual range of risk factors in respect of inflation, monetary policy decisions and domestic and international economic performance and particularly to the continuing uncertainties around the outcome of the Brexit process.

CONSULTATION CARRIED OUT AND OUTCOME OF CONSULTATION

26. No consultation has been undertaken in preparing this report.

AIR QUALITY IMPLICATIONS

27. The report has no air quality implications.

COMMENTS OF THE STATUTORY FINANCE OFFICER

28. The report meets the requirement of the Treasury Management Code of Practice that the Treasury Strategy and activity should be reviewed half-yearly and so is a key element in the reporting under Council's financial management and administration framework.

COMMENTS OF THE MONITORING OFFICER

29. The Monitoring Officer has no concerns or issues with what is proposed in this report.

OTHER IMPLICATIONS:

<ul style="list-style-type: none">▶ Risk ▶ Equality & Diversity	The Council's treasury management strategy and policies are designed to ensure the effective control and management of the risks associated with such activities.
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BACKGROUND DOCUMENTS

Treasury Strategy 2018/19 to 2022/23 (Council 27/2/19)

APPENDICES (or There are no appendices to this report)

- Appendix A Investment Counterparties
- Appendix B List of Investments as at 30 September 2019
- Appendix C Suggested Investment Durations as at November 2019
- Appendix D Economics and Interest Rates – Treasury Advisors' advice
- Appendix E Comparison of Interest Rates Forecasts

**Jane Blundell
Interim S151 Officer**

Report Author: Tony Furber, Principal Financial Accountant	Telephone: 01772 625376	Date: 14 November 2019
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Investment Counterparties 2019/20

Category	Institutions	LAS Colour Code	Maximum Period	Limit per Institution
Banks & Building Societies: Call Accounts /Term Deposits / Certificates of Deposit (CDs)				
Government related/guaranteed	DMADF (DMO) UK Local Authority	Yellow Yellow	6 months 2 years	Unlimited £6m per LA
UK part-nationalised institutions	Royal Bank of Scotland group	Blue	1 year	£6m per group
UK-incorporated Institutions	UK banks and building societies of high credit quality	Orange Red Green	1 year 6 months 3 months	£6m per group (or independent institution)
Non-UK Banks	Non-UK banks of high credit quality	Orange Red Green	1 year 6 months 3 months	£4m per group (or independent institution); £8m in total for this category
Money Market Funds				
Money Market Funds	MMFs of high credit quality - AAA rated		Instant access	£5m per fund

There are no changes from the Investment Counterparties list approved by Council as part of the Treasury Management Strategy 2019-20 to 2022-23 on 27 February 2019.

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Investments as at 30 September 2019

Counterparty	Type	Amount £000	Rate %	Date of investment	Date of Maturity
Chorley Borough Council	Term	6,267	0.70	03/09/2019	10/11/2019
Lancashire County Council	Term	5,000	1.08	31/10/2018	31/10/2019
Goldman Sachs International Bank	Term	2,000	0.92	04/06/2019	04/12/2019
Goldman Sachs International Bank	Term	2,000	0.94	19/06/2019	19/12/2019
Bank of Scotland	Term	2,000	1.10	15/01/2019	15/01/2020
Goldman Sachs International Bank	Term	2,000	0.82	26/07/2019	27/01/2020
Lancashire County Council	Term	1,000	1.12	04/02/2019	04/02/2020
Coventry Building society	Term	2,000	0.83	22/08/2019	24/02/2020
Fixed Term Deposits sub total		22,267	Listed in order of maturity		
Santander UK - 180 Day	Notice	5,000	1.00		
Bank of Scotland - 175 Day	Notice	4,000	1.13		
Notice Accounts sub total		9,000			
Barclays (deposit account)	Call	849	0.60		
Barclays (current account)	Call	2			
Call Accounts sub total		851			
Aberdeen/Standard Life MMF	MMF	5,000	0.68 (1)		
BlackRock MMF	MMF	5,000	0.68 (1)		
Federated MMF	MMF	2,500	0.68 (1)		
Money Market Funds sub total		12,500			
Total		44,618			

Note:

(1) MMF rates are variable. This is the calculated average for the year to September.

Summary of Investments by Counterparty	Type	Amount £000	Limit £000
Aberdeen/Standard Life MMF	MMF	5,000	5,000
Barclays	Call	851	6,000
Bank of Scotland	Term & Notice	6,000	6,000
BlackRock MMF	MMF	5,000	5,000
Chorley Borough Council	Term	6,267	6,000
Coventry Building Society	Term	2,000	6,000
Federated MMF	MMF	2,500	5,000
Goldman Sachs International Bank	Term	6,000	6,000
Lancashire County Council	Term	6,000	6,000
Santander UK - 180 Day	Notice	5,000	6,000
Total Investments		44,618	

Suggested Investment Durations as at 12 November 2019			
Country	Counterparty	Suggested Duration	Limit per institution **
United Kingdom	Royal Bank of Scotland Plc	12 mths	£6m per group
	National Westminster Bank Plc	12 mths	
	Bank of Scotland Plc	12 mths	£6m per group
	Lloyds Bank Plc	12 mths	
	Barclays Bank Plc	6 mths	£6m
	Close Brothers Ltd	6 mths	£6m
	Coventry Building Society	6 mths	£6m
	Goldman Sachs International Bank	6 mths	£6m
	HSBC Plc	12 mths	£6m
	Leeds Building Society	100 days	£6m
	Nationwide Building Society	6 mths	£6m
	Santander UK Plc	6 mths	£6m
	Skipton Building Society	100 days	£6m
	Standard Chartered Bank	6 mths	£6m
	Sumitomo Mitsui Banking Corporation Europe Ltd	6 mths	£6m
	Yorkshire Building Society	100 days	£6m

Notes:

Clydesdale Bank, Co-operative Bank, Nottingham BS, Principality BS, and West Bromwich BS had no suggested investment duration.

** Permitted by Council approval 27 February 2019.

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Economics and interest rates

1 Economics update

UK. This first half year has been a time of continuing political uncertainty centred on the continuing debate around the outcome of the Brexit process. To this has now been added the announcement of a further general election. Given these circumstances, any interest rate forecasts are subject to material change as the situation evolves. If the UK does indeed leave the EU on the basis of an agreed deal, then it is possible that growth could recover relatively quickly. The MPC could then need to address the issue of whether to raise Bank Rate at some point in the coming year when there is little slack left in the labour market. This could then cause wage inflation to accelerate, which would then feed through into general inflation. If, on the other hand, the UK were to leave the EU without an agreed deal Brexit, with resultant impacts on the economy, then growth could further weaken and the MPC would be likely to cut the Bank Rate in order to support growth. However, with Bank Rate still only at 0.75%, it has relatively little room to make a big impact and the MPC would probably suggest that it would be up to the Chancellor to provide help to support growth by way of a fiscal boost by way of e.g. tax cuts, increases in the annual expenditure budgets of government departments and services and expenditure on infrastructure projects.

The first half of 2019/20 has seen UK **economic growth** fall as the continuing uncertainty has taken a toll. In its Inflation Report of 1 August, the Bank of England was notably downbeat about the outlook for both the UK and major world economies. The MPC meeting of 19 September reemphasised their concern about the downturn in world growth and also expressed concern that prolonged Brexit uncertainty would contribute to a build-up of spare capacity in the UK economy, especially in the context of a downturn in world growth. This mirrored investor concerns around the world which are now expecting a significant downturn, or possibly even a recession, in some major developed economies. It was therefore no surprise that the Monetary Policy Committee (MPC) has, so far, left the Bank Rate unchanged at 0.75% throughout 2019 and is expected to hold off on changes until there is clarity in respect of the Brexit process. However, it is also worth noting that the current government has made some significant spending commitments and a relaxation in the austerity programme, which have now also been mirrored by opposition parties in the early stages of the general election campaign. If implemented, these will provide some support to the economy and, conversely, take some pressure off the MPC to cut Bank Rate to support growth.

As for **inflation** itself, CPI has been hovering around the Bank of England's target of 2% during 2019, but fell to 1.7% in August. It is likely to remain close to 2% over the next two years and so it does not pose any immediate concern to the MPC at the current time. However, it is forecast that, if there were to be a no deal Brexit, then inflation could rise towards 4%, primarily as a result of imported inflation on the back of a weakening pound.

With regard to the **labour market**, despite the contraction in quarterly GDP growth of -0.2% q/q, (+1.3% y/y), in quarter 2, employment continued to rise, but at only a muted rate of 31,000 in the three months to July after having risen by no less than 115,000 in quarter 2 itself: the latter figure, in particular, suggests that firms are preparing to expand output and suggests there could be a return to positive growth in quarter 3. Unemployment continued at a 44 year low of 3.8% on the Independent Labour Organisation measure in July and the participation rate of 76.1% achieved a new all-time high. Job vacancies fell for a seventh consecutive month after having previously hit record levels. However, with unemployment continuing to fall, this month by 11,000, employers will still be having difficulty filling job vacancies with suitable staff. It was therefore unsurprising that wage inflation picked up to a high point of 3.9% in June before easing back slightly to 3.8% in July, (3 month average regular pay, excluding bonuses). This meant that in real terms, (i.e. wage rates higher than CPI inflation), earnings grew by

about 2.1%. As the UK economy is very much services sector driven, an increase in household spending power is likely to feed through into providing some support to the overall rate of economic growth in the coming months. The latest GDP statistics also included a revision of the savings ratio from 4.1% to 6.4% which provides reassurance that consumers' balance sheets are not over stretched and so will be able to support growth going forward. This would then mean that the MPC would need to consider carefully at what point to take action to raise Bank Rate if there is an agreed Brexit deal, as the recent pick-up in wage costs is consistent with a rise in core services inflation to more than 4% in 2020.

In the **political arena**, the forthcoming general election could result in a potential loosening of monetary policy and therefore medium to longer dated gilt yields could rise on the expectation of a weak pound and concerns around inflation picking up although, conversely, a weak international backdrop could provide further support for low yielding government bonds and gilts.

USA. President Trump's massive easing of fiscal policy in 2018 fuelled a temporary boost in consumption in that year which generated an upturn in the rate of strong growth to 2.9% y/y. Growth in 2019 has been falling back after a strong start in quarter 1 at 3.1%, (annualised rate), to 2.0% in quarter 2. Quarter 3 is expected to fall further. The strong growth in employment numbers during 2018 has reversed into a falling trend during 2019, indicating that the economy is cooling, while inflationary pressures are also weakening. The Fed finished its series of increases in rates to 2.25 – 2.50% in December 2018. In July 2019, it cut rates by 0.25% as a 'midterm adjustment' but flagged up that this was not to be seen as the start of a series of cuts to ward off a downturn in growth. It also ended its programme of quantitative tightening in August, (reducing its holdings of treasuries etc). It then cut rates again in September to 1.75% - 2.00% and is thought likely to cut another 25 bps in December. Investor confidence has been affected by the progressive increases in tariffs President Trump has imposed on Chinese imports, with China responding with increases in tariffs on American imports. This trade war is seen as depressing US, Chinese and world growth. In the EU, it is also particularly impacting Germany as exports of goods and services are equivalent to 46% of total GDP. It will also impact developing countries dependent on exporting commodities to China.

EUROZONE. Growth has been slowing from +1.8 % during 2018 to around half of that in 2019. Growth was +0.4% q/q (+1.2% y/y) in quarter 1 and then fell to +0.2% q/q (+1.0% y/y) in quarter 2 and there appears to be little upside potential to the growth rate in the rest of 2019. German GDP growth fell to -0.1% in quarter 2; industrial production was down 4% y/y in June with car production down 10% y/y. Germany would be particularly vulnerable to a no deal Brexit depressing exports further and if President Trump imposes tariffs on EU produced cars. The European Central Bank (ECB) ended its programme of quantitative easing purchases of debt in December 2018, which meant that the central banks in the US, UK and EU had all ended the phase of post financial crisis expansion of liquidity supporting world financial markets by purchases of debt. However, the downturn in EZ growth in the second half of 2018 and into 2019, together with inflation falling well under the upper limit of its target range of 0 to 2%, (but it aims to keep it near to 2%), has prompted the ECB to take new measures to stimulate growth. At its March meeting it said that it expected to leave interest rates at their present levels "at least through the end of 2019", but that was of little help to boosting growth in the near term. Consequently, it announced a third round of Targeted Longer-Term Refinancing Operations (TLTROs). This provides banks with cheap borrowing every three months from September 2019 until March 2021 which means that, although they will have only a two-year maturity, the Bank is making funds available until 2023, two years later than under its previous policy. As with the last round, the new TLTROs will include an incentive to encourage bank lending, and they will be capped at 30% of a bank's eligible loans. However, since then, the downturn in EZ and world growth has gathered momentum so at its meeting on 12 September, it cut its deposit rate further into negative territory, from -0.4% to -0.5%, and announced a resumption of quantitative easing purchases of debt. It also increased the

maturity of the third round of TLTROs from two to three years. However, it is doubtful whether this loosening of monetary policy will have much impact on growth and unsurprisingly, the ECB stated that governments will need to help stimulate growth by fiscal policy. On the political front, Austria, Spain and Italy are in the process of forming coalition governments, with the potential for some unlikely combinations of parties, which in turn raises questions around their likely endurance. The recent results of two recent German state elections will put further pressure on the frail German CDU/SDP coalition government.

CHINA. Economic growth has been weakening over successive years, despite repeated rounds of central bank stimulus and medium term risks are increasing. Major progress still needs to be made to eliminate excess industrial capacity and the stock of unsold property, and to address the level of non-performing loans in the banking and credit systems. Progress also still needs to be made to switch investment from property construction and infrastructure to consumer goods production. The trade war with the US does not currently appear to have had a significant effect on GDP growth as some of the impact of tariffs has been offset by falls in the exchange rate and by transhipping exports through other countries, rather than directly to the US.

JAPAN - has been struggling to stimulate consistent significant GDP growth and to get inflation up to its target of 2%, despite huge monetary and fiscal stimulus. It is also making little progress on fundamental reform of the economy.

WORLD GROWTH. The trade war between the US and China is a major concern to financial markets and is depressing worldwide growth, as any downturn in China will spill over into impacting countries supplying raw materials to China. Concerns are focused on the synchronised general weakening of growth in the major economies of the world compounded by fears that there could even be a recession looming up in the US, although these fears are arguably overstated. These concerns have resulted in government bond yields in the developed world falling significantly during 2019. If there were to be a major worldwide downturn in growth, then central banks in most of the major economies would have only a limited range of options available, in terms of monetary policy measures, when rates are already very low in most countries (apart from the US), and there are concerns about how much distortion of financial markets has already occurred with the current levels of quantitative easing purchases of debt by central banks. The latest Purchasing Managers' Index survey statistics of economic health for the US, UK, EU and China have all been sub 50 which gives a forward indication of a downturn in growth; this confirms investor sentiment that the outlook for growth during the rest of this financial year is weak.

2 Interest rate forecasts

The Council's treasury advisor, Link Asset Services, has provided the following forecast.

This forecast includes the increase in margin over gilt yields of 100bps introduced on 9.10.19.

Link Asset Services Interest Rate View										
	Dec-19	Mar-20	Jun-20	Sep-20	Dec-20	Mar-21	Jun-21	Sep-21	Dec-21	Mar-22
Bank Rate View	0.75	0.75	0.75	0.75	1.00	1.00	1.00	1.00	1.00	1.25
3 Month LIBID	0.70	0.70	0.70	0.80	0.90	1.00	1.00	1.00	1.10	1.20
6 Month LIBID	0.80	0.80	0.80	0.90	1.00	1.10	1.10	1.20	1.30	1.40
12 Month LIBID	1.00	1.00	1.00	1.10	1.20	1.30	1.30	1.40	1.50	1.60
5yr PWLB Rate	2.30	2.50	2.60	2.70	2.70	2.80	2.90	3.00	3.00	3.10
10yr PWLB Rate	2.60	2.80	2.90	3.00	3.00	3.10	3.20	3.30	3.30	3.40
25yr PWLB Rate	3.30	3.40	3.50	3.60	3.70	3.70	3.80	3.90	4.00	4.00
50yr PWLB Rate	3.20	3.30	3.40	3.50	3.60	3.60	3.70	3.80	3.90	3.90

The above forecasts have been based on an assumption that there will ultimately be an agreed Brexit deal. Given the current level of uncertainties, this is a significant assumption and so forecasts may need to be materially reassessed in the light of events over the next weeks and months.

It has been little surprise that the Monetary Policy Committee (MPC) has left Bank Rate unchanged at 0.75% so far in 2019 due to the continuing political uncertainty. In its meeting on 1 August, the MPC became more dovish as it was more concerned about the outlook for both the global and domestic economies. That is shown in the policy statement, based on an assumption that there is an agreed deal on Brexit, where the suggestion that rates would need to rise at a "gradual pace and to a limited extent" is now also conditional on "some recovery in global growth". Brexit uncertainty has had a dampening effect on UK GDP growth in 2019, especially around mid-year. If there were to be a no deal Brexit, then it is likely that there would be one or more reductions in Bank Rate to help support economic growth. The September MPC meeting expressed even more concern about world growth and the effect that prolonged Brexit uncertainty is likely to have on growth.

Bond yields / PWLB rates. There has been much speculation recently that we are currently in a bond market bubble. However, given the context of heightened expectations that the US could be heading for a recession, and a general background of a downturn in world economic growth, together with inflation generally at low levels in most countries and expected to remain subdued, conditions are ripe for low bond yields. While inflation targeting by the major central banks has been successful over the last thirty years in lowering inflation expectations, the real equilibrium rate for central rates has fallen considerably due to the high level of borrowing by consumers. This means that central banks do not need to raise rates as much now to have a major impact on consumer spending, inflation, etc. This has pulled down the overall level of interest rates and bond yields in financial markets over the last thirty years. We have therefore seen, over the last year, many bond yields up to ten years in the Eurozone actually turn negative. In addition, there has, at times, been an inversion of bond yields in the US whereby ten year yields have fallen below shorter term yields. In the past, this has been a precursor of a recession. The other side of this coin is that bond prices are elevated as investors would be expected to be moving out of riskier assets i.e. shares, in anticipation of a downturn in corporate earnings and so selling out of equities. However, stock markets are also currently at high levels as some investors have focused on chasing returns in the context of very low interest rates on cash deposits.

What we saw during the last half year up to 30 September is a near halving of longer term PWLB rates to completely unprecedented historic low levels. There is though, an expectation that financial markets have gone too far in their fears about the degree of the downturn in US and world growth. If, as expected, the US only suffers a mild downturn in growth, bond markets in the US are likely to sell off and that would be expected to put upward pressure on bond yields, not only in the US, but due to a correlation between US treasuries and UK gilts, which at various times has been stronger, but at other times weaker, in the UK. However, forecasting the timing of this and how strong the correlation is likely to be, is very difficult to do with any degree of confidence.

One potential danger that may be lurking in investors' minds is that Japan has become trapped in a twenty year cycle of failing to successfully stimulate economic growth and inflation, despite a combination of massive monetary and fiscal stimulus by both the central bank and government. Investors could be concerned that this type of situation condition might become more general and widely spread.

Another danger is that unconventional monetary policy post 2008, (ultra-low interest rates plus quantitative easing), may end up doing more harm than good through prolonged use. Low interest rates have encouraged a debt fuelled boom which now makes it harder for economies to raise interest rates. Negative interest rates could damage the profitability of commercial banks and so impair their ability to lend and / or push them into riskier lending. Banks could also end up holding large amounts of their government's bonds and so create a vicious circle, where the credit rating of the debt of a nation is downgraded, causing bond prices to fall, in turn leading to losses on debt portfolios held by banks and insurers and so reducing their capital and forcing them to sell bonds. This, in turn, would then cause further falls in their prices and so on. In addition, the financial viability of pension funds could be damaged by low yields on holdings of bonds.

The balance of risks to the UK

- The overall balance of risks to economic growth in the UK is probably to the downside due to the continuing uncertainties over Brexit, as well as a softening of the global economic picture.
- The balance of risks to increases in Bank Rate and shorter term PWLB rates are broadly similarly to the downside.

One factor that is both an upside and downside risk is that all central banks are now working in very different economic conditions than before the 2008 financial crash. There has been a major increase in consumer and other debt due to the exceptionally low levels of borrowing rates which have prevailed for the eleven years since 2008. This means that the neutral rate of interest in an economy, (i.e. the rate that is neither expansionary nor deflationary), is difficult to determine definitively in this new environment, although central banks have made statements that they expect it to be much lower than before 2008. Central banks could, therefore, over or under-do increases in central interest rates.

Downside risks to current forecasts for UK gilt yields and PWLB rates currently include:

- **Brexit** – if it were to cause significant economic disruption and a major downturn in the rate of growth.
- **Bank of England** takes action too quickly, or too far, over the next three years to raise Bank Rate and causes UK economic growth, and increases in inflation, to be weaker than currently anticipated.
- A resurgence of the **Eurozone sovereign debt crisis**. In 2018, Italy was a major concern due to having a populist coalition government which frequently took an anti-austerity and anti-EU stance. However, in September 2019 there was a major change in the balance of the coalition and this has resulted in a much more EU friendly

government. This has eased the pressure on Italian bonds. It remains to be seen whether the new coalition will endure.

- Weak capitalisation of some **European banks**, particularly Italian banks.
- **German minority government.** In the German general election of September 2017, Angela Merkel's CDU party was left in a vulnerable minority position. Then in October 2018, the results of the Bavarian and Hesse state elections further undermined the SPD party and showed a sharp fall in support for the CDU. As a result, the SPD had a major internal debate as to whether it could continue to support a coalition that is so damaging to its electoral popularity. After the result of the Hesse state election, Angela Merkel announced that she would not stand for re-election as CDU party leader at her party's convention in December 2018. However, this makes little practical difference as she has continued as Chancellor, though more recently concerns have arisen over her health.
- **Other minority EU governments.** Austria, Sweden, Spain, Portugal, Netherlands and Belgium all have vulnerable minority governments dependent on coalitions which could prove fragile.
- **Italy, Austria, the Czech Republic and Hungary** now form a strongly anti-immigration bloc within the EU. There has also been rising anti-immigration sentiment in Germany and France.
- There are concerns around the level of **US corporate debt** which has swollen massively during the period of low borrowing rates in order to finance mergers and acquisitions. This has resulted in the debt of many large corporations being downgraded to a BBB credit rating, close to junk status. Indeed, 48% of total investment grade corporate debt is rated at BBB. If such corporations fail to generate profits and cash flow to reduce their debt levels as expected, this could tip their debt into junk ratings which will increase their cost of financing and further negatively impact profits and cash flow.
- **Geopolitical risks**, for example in North Korea, but also in Europe and the Middle East, which could lead to increasing safe haven flows.

Upside risks to current forecasts for UK gilt yields and PWLB rates

- **Brexit** – if agreement was reached all round that removed all threats of economic and political disruption between the EU and the UK.
- The **Bank of England is too slow** in its pace and strength of increases in Bank Rate and, therefore, allows inflationary pressures to build up too strongly within the UK economy, which then necessitates a later rapid series of increases in Bank Rate faster than is currently expected.
- **UK inflation**, whether domestically generated or imported, returning to sustained significantly higher levels causing an increase in the inflation premium inherent to gilt yields.

	Bank Rate %			PWLB Borrowing Rates % (including 0.20% certainty rate adjustment)											
				5 year			10 year			25 year			50 year		
	Nov 19	Jul 19	Feb 19	Nov 19	Jul 19	Feb 19	Nov 19	Jul 19	Feb 19	Nov 19	Jul 19	Feb 19	Nov 19	Jul 19	Feb 19
Dec-19	0.75	0.75	1.00	2.30	1.60	2.10	2.60	1.90	2.50	3.30	2.50	3.00	3.20	2.40	2.80
Mar-20	0.75	0.75	1.00	2.50	1.70	2.20	2.80	2.00	2.60	3.40	2.60	3.10	3.30	2.50	2.90
Jun-20	0.75	0.75	1.25	2.60	1.80	2.30	2.90	2.10	2.60	3.50	2.70	3.20	3.40	2.60	3.00
Sep-20	0.75	1.00	1.25	2.70	1.90	2.30	3.00	2.20	2.70	3.60	2.80	3.20	3.50	2.70	3.00
Dec-20	1.00	1.00	1.25	2.70	2.00	2.40	3.00	2.30	2.80	3.70	2.90	3.30	3.60	2.80	3.10
Mar-21	1.00	1.25	1.50	2.80	2.10	2.50	3.10	2.40	2.90	3.70	3.00	3.40	3.60	2.90	3.20
Jun-21	1.00	1.25	1.50	2.90	2.10	2.50	3.20	2.50	2.90	3.80	3.00	3.40	3.70	2.90	3.20
Sep-21	1.00	1.50	1.75	3.00	2.20	2.60	3.30	2.60	3.00	3.90	3.10	3.50	3.80	3.00	3.30
Dec-21	1.00	1.50	1.75	3.00	2.30	2.60	3.30	2.60	3.00	4.00	3.20	3.50	3.80	3.10	3.30
Mar-22	1.25	1.50	2.00	3.10	2.40	2.70	3.40	2.70	3.00	4.00	3.30	3.50	3.90	3.20	3.40

The February 2019 forecasts were included in the Treasury Management Strategy 2019/20 to 2021/22

Link Asset Services provided updated forecasts in July and November 2019

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Agenda Item 7

REPORT TO	ON
Governance Committee	26 November 2019



TITLE	REPORT OF
Constitution - Contract Procedure Rules	Interim Monitoring Officer

PURPOSE OF THE REPORT

1. This report provides Committee the opportunity to consider the proposals to amend the Council's Contract Procedure Rules. The Contract Procedure Rules are part of the council's Constitution – ultimately if will be for Full Council to authorise any changes.

RECOMMENDATIONS

2. The Committee consider and amend (if they deem it appropriate) those provisions of the Council's Contract Procedure Rules prior to submission to full Council for final authorisation.

CORPORATE OUTCOMES

3. The report relates to the following corporate priorities:

Excellence, Investment and Financial Sustainability	X
Health, Wellbeing and Safety	
Place, Homes and Environment	

Projects relating to People in the Corporate Plan:

Our People and Communities	
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BACKGROUND TO THE REPORT

4. All Councils are required to have a written Constitution which sets out the Council's internal governance arrangements, approved procedures and protocols. Work on keeping the Constitution up to date is very much on going.
5. The Council's Contract Procedure Rules are a key part of the Council's Constitution and deal with the rules, processes and procedures for the procurement of contracts on behalf of the Council with a diverse range of suppliers and contractors. The rules are designed to protect the public purse by demonstrating value for money together with appropriate safeguards to ensure objectivity in the award of contracts and compliance with any EU procurement requirements. A copy of the proposed amended rules is to be found in Appendix 1 and the existing rules are to be found in Appendix 2.
6. Generally, this has been a light touch review. The Rules were reviewed and updated both in 2015 and 2017 – hence in the main they were robust and fit for purpose. Some of the changes are minor and ancillary and in part are designed to pick up on some recent changes made to Chorley's CPRs – as we have a shared procurement team it is helpful to keep the two documents as similar as possible.
7. The main changes are set out in the table below but members are asked to note in particular the proposed change to the procurement thresholds. The current thresholds are as follows: ***less than £20,000 – low value procurement; between £20,000 to £100,000 – intermediate value; Over £100,000 – high value.*** The principal change recommended is that the low value threshold should be increased to £25,000.
8. Where a proposed procurement/contract fits in on the above scale has implications for what sort of procurement exercise is required and also who would be authorised to make the contract award decision. For example, under the current CPRs all contract awards for high value procurement must be made by Cabinet.
9. These threshold figures were updated in 2017. More recently Chorley have increased their low value threshold to £25,000. The reason for this change is that where a procurement above £25,000 in value is openly advertised the 2015 Public Contracts Regulations require that the opportunity is also advertised on the Government one stop shop "Contracts Finder." It was considered that to avoid any confusion – and to make it as simple as possible for officers – it would be beneficial that the low value threshold was the same as this figure.
10. Members should note that CPR's will need to be updated again on the 1st of January 2020 when the EU thresholds are updated and/ or when Brexit is implemented. In the event of Brexit being implemented we will be required to use a new UK e-notification service as opposed to OJEU. These will be minor amendments that officers will attend to at the time. In the context of Shared Services for Legal there may subsequently be a need to amend references to certain job titles – again this is a minor issue that officers will attend to at the relevant time.

DETAILS OF PROPOSED AMENDMENTS

11. The amended **Contract Procedure Rules at Appendix 1** now provide as set out in the table below.

New Rule	Content	Former Rule & Justification
2.1 Compliance (para b)	Some ancillary changes to wording to bring things up to date	Updates current wording
4.1 Procurement Plan	Increases figure from £20,000 to £25,000 to reflect new proposed threshold figure	Change to be consistent with changes suggested elsewhere
7.2 Pre – procurement procedure	Removal of sentence	Wording considered unnecessary
8 Calculating the Contract figure – para 8.3.1 b	Increases figure from £20,000 to £25,000 to reflect new proposed threshold figure	Change to be consistent with changes suggested elsewhere
8 Calculating the Contract Value -para 8.6	Updated wording to reflect the new proposed threshold of £25,000 and the use of the new electronic waiver system	New wording by way of an update
8 Calculating the Contract Value -para 8.7	Some additional wording added for greater clarity	Clarification
9.1 Low Value Procurement	Change to threshold of £25,000	Simple numerical change
10 Intermediate Value Procurement	Updated wording to reflect the new proposed start value of £25,000 and the removal of some unnecessary wording	Update and greater clarity
15 Submission	Some new wording to deal with situation of where there is a technical failure to submit a bid on time	New words added to introduce greater fairness

New Rule	Content	Former Rule & Justification
17 Evaluation	Very minor change of wording	The changes are for the purposes of greater clarity .
26 Contract Terms and Conditions	A new para (26.2) designed to emphasise to officers that they must have in place proper authorisation and that they fully understand the contract they are entering into	New Wording to advise officers of their duties in this regard - This is intended to strengthen our current arrangements
28 Records of Tenders and Contracts/Contracts Register	A new para (28.5) designed to emphasise the need to include all relevant contracts on the Transparency Register	This is intended to strengthen our current arrangements by emphasising this requirement
34 Contract Extension	A very minor change of wording	The change is for the purposes of greater clarity
39 Waivers	New wording to refer to the electronic waiver system and the requirements to advertise on Contracts Finder	This is new wording to reflect the updated situation and to get the message across to officers what our duties are in this regard
41 Change of Authorised Officer	A minor change of wording	For the purposes of greater clarity
Definitions	A couple of new definitions and some amended wording	For the purposes of greater clarity

CONSULTATION CARRIED OUT AND OUTCOME OF CONSULTATION

- 12.** Members will recall that the proposed changes were considered in a meeting of the Governance Committee Working Group on the 14th of October.

AIR QUALITY IMPLICATIONS

- 13.** There are no air quality implications.

COMMENTS OF THE STATUTORY FINANCE OFFICER

- 14.** There are no direct financial implications arising from this report as such. The Principal Procurement Officer is one of the team of officers involved in the review of the CPRs.

COMMENTS OF THE MONITORING OFFICER

- 15.** All local authorities are required to have a written Constitution which must be kept under regular review and publicised. Any amendments to the constitution require the approval of full Council.

OTHER IMPLICATIONS:

<ul style="list-style-type: none">▶ Risk▶ Equality & Diversity	<p>The CPRs are designed to protect the public purse and ensure value for money</p> <p>It is not considered that there will be any adverse effects on equality issues</p>
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There are no background papers to this report

APPENDICES

Appendix 1 - Proposed new Contract Procedure Rules

Appendix 2 – Existing Contract Procedure Rules

LT Member's Name: David Whelan
Job Title: Interim Monitoring Officer

Report Author:	Telephone:	Date:
Dave Whelan, Legal Services Manager/Interim Monitoring Officer	01772 625247	7/11/19

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SOUTH RIBBLE BOROUGH COUNCIL CONTRACT PROCEDURE RULES

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40. Non-Compliance
41. Change of Authorised Officer
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Contract Procedure Rules

1. Introduction

- 1.1 These Rules form part of the Council's Constitution and are the Council's Contract Procedure Rules for purchasing goods, works and services for the Council. They do not apply to internal purchases or internal service provision, only where you need to buy something from outside the council.
- 1.2 The Rules apply to any contract that results in a payment being made by the Council as well as to some types of contracts where a service is being provided for the Council which results in some income being generated for the Council.
- 1.3 The Rules also apply to the disposal of surplus goods (see paragraph 37) and to Concession Contracts (Paragraph 38).
- 1.4 The Rules also apply when an external body, authority, company, consultant or other person has been engaged to carry out procurement or disposal on behalf of the Council.
- 1.5 Quotations for grant funded contracts for goods, services or works, where they are procured by the Council, should be invited, in accordance with these rules, except to the extent that any specific requirements for the receipt of the grant specify different requirements, in which case the specific grant procedures must be followed, and the procurement completed in accordance with the relevant grant procedural requirements.
- 1.6 The Rules have four main purposes:
 - to comply with the obligations that govern the spending of public money derived from the European Union (EU) procurement regime and applied in the UK through the Public Contracts Regulations (2015);
 - to obtain Best Value in the way we spend money, so that we may in turn offer better and more cost effective services to the public;
 - to avoid corruption and ensure high ethical standards;
 - to protect people who follow the Rules.

- 1.7 The Rules must be read in conjunction with the Council's Financial Procedure Rules, Procurement Guidance and any other internal controls laid down by the Council for example the Council's Anti-Fraud and Corruption Policy and Whistle Blowing policy.

2 Compliance

- 2.1 Every contract entered into by the Council shall be entered into in connection with the Council's functions and must comply with:
 - (a) all relevant statutory provisions;
 - (b) the relevant European procurement rules (i.e. the EU Treaty, the general principles of EU law and the UC public procurement directives implemented by the UK Regulations);
 - (c) the Council's Constitution including these Contract Procedure Rules, the Authority's Financial Regulations and Financial Procedure Rules and the Council's Scheme of Delegation
 - (d) the Council's vision, priorities, enabling strategies and policies (e.g. Corporate Plan, Procurement Strategy and Sustainable Procurement Policy)

- 2.2 At all times during the contract award procedure, the Council, through its members and officers, shall consider and implement the principles of non-discrimination, equal treatment and transparency.
- 2.3 The highest standards of probity are required of all officers and members involved in the procurement, award and management of Council contracts. Members shall comply with the Code of Conduct for Councillors, and officers shall comply with the Code of Conduct for Officers.
- 2.4 Effective audit trails must be maintained at all stages throughout the procurement procedure, particularly when approval or agreement is required and at evaluation/decision making stages.

3. Conflicts of Interest, Gifts & Hospitality

- 3.1 Every officer entitled to buy supplies, services or works shall comply with the requirements of the Officer Code of Conduct in respect of conflicts of interest, gifts and hospitality.

4. Procurement Plan

- 4.1 Prior to the start of each financial year, each Director must prepare a procurement plan setting out their department's contracts to be procured (over £25,000) during that financial year, and where possible for forthcoming years. A copy of the plan must be supplied to the Principal Procurement Officer who shall use this information to formulate an Annual Procurement Plan for the Council.
- 4.2 Any procurements planned with a contract value of £100,000 or above should be communicated to Democratic Services for inclusion on the Forward Plan.

5. Who has authority to carry out procurement on behalf of the Council?

- 5.1 Any procurement carried out on behalf of the Council may only be undertaken by officers with the appropriate delegated authority to carry out such tasks as set out in the Council's Constitution (Scheme of Delegation). Officers with delegated authority may only authorise other officers who have the appropriate skills and knowledge appropriate to the task. Officers shall be informed by his/her Director/Service Head, in writing, of the extent of any delegated authority and any applicable financial thresholds for each procurement. These officers shall be known as Authorised Officers.

5.2 Revenue Expenditure

Subject to the provisions of Paragraph 5.6, Directors and their Authorised Officers may seek Tenders and Quotations in accordance with these Contracts Procedure Rules for any item of revenue expenditure for which budget provision has been made, and may accept such Tenders/ Quotations in accordance with these Contracts Procedure Rules, up to a total contract value of £100,000. Contract awards above £100,000 constitute a Key Decision and must appear on the Forward Plan.

5.3 Capital Expenditure.

Subject to the provisions of Paragraph 5.6, Directors and their Authorised Officers may seek Tenders and Quotations in accordance with these Contracts Procedure Rules, the particulars of which are shown as approved in the Council's capital programme for the

current financial year and which have also been approved/comply with any additional requirements of the Council's Financial Regulations. Directors and their Authorised Officers may accept Tenders /Quotations in accordance with these Contracts Procedure Rules and the Council's Financial Regulations up to a total contract value of £100,000. Contract awards above £100,000 constitute a Key Decision and Cabinet authority must be obtained. Such proposed decisions must appear on the Forward Plan.

- 5.4 For the sake of clarity the decision to commence a procurement exercise (as opposed to a decision to award a contract in the circumstances described in paragraphs 5.2 and 5.3 above) is not deemed to be a Key Decision unless the decision forms part of and is taken at the same time as a decision that will result in a change to service provision which will have a significant effect on two or more wards of the Council
- 5.5 Any procurement which involves the transfer of Council Staff shall be treated as a High Value (above £100,000) Procurement and, as such, Cabinet authority must be sought for such acceptance.
- 5.6 For all High Value Procurements above the EU threshold, prior approval of the proposed contract award procedure including the evaluation criteria and weightings to be applied, shall be sought from the relevant Executive Cabinet Portfolio Member as a delegated decision.

6. Exempt Contracts

- 6.1 The Rules do not apply to the following types of Contract:

- (a) individual contracts for the provision of temporary staff. (The arrangements with staffing agencies, however, should be subject to a competitive procurement process in accordance with these Contracts Procedure Rules)
- (b) contracts of employment which make an individual a direct employee of the Council
- (c) contracts relating solely to disposal or acquisition of an interest in land (including buildings)
- (d) contracts for advice by and representation by a lawyer with regard to legal proceedings (or contemplated legal proceedings)

If you are in any doubt about whether the Rules apply, you **must** always check with the Principal Procurement Officer.

7. Pre-Procurement Procedure

- 7.1 Before commencing a procurement it is essential that the Authorised Officer leading the procurement has identified the business need and fully assessed any options for meeting those needs. Consideration shall be given to the Council's Procurement Strategy, Sustainable Procurement Policy and procurement guidance, as appropriate.
- 7.2 Before undertaking a procurement the Authorised Officer shall:
 - (a) consider all other means of satisfying the need (including recycling and reuse where appropriate);
 - (b) prepare an estimate of expenditure in accordance with Rule 8;

- (c) satisfy themselves that they have the necessary authority to deal with the procurement and that there is budget provision for the procurement in accordance with the provisions of Rule 5
- (d) undertake a risk assessment
- (e) complete an Equality Impact Assessment where any change in service provision is proposed that will have Equality Impacts
- (f) establish a business case for the procurement and consider whether the procurement should follow the Council's Project Management Framework/Toolkit. Procurements which may benefit from use of the toolkit are usually higher value and are:
 - unique, new or complex leading to significant system, process or service changes,
 - impact on numerous services
 - have a significant reputational impact on the Council

The level of resource and detail deployed in carrying out the requirements of 7.1 and 7.2 shall be appropriate to the nature and the value of the Procurement.

8. Calculating the Contract Value

- 8.1 Prior to commencing any procurement you must estimate the total monetary value of the contract (exclusive of VAT) over its full duration, including any extension options (not the annual value). The estimated total value of the contract will determine which procedure you must then adopt.
- 8.2 Where it is proposed to procure a Contract on terms which will provide for renewal on a "rolling" basis, the Authorised Officer must make a reasonable estimate of the term of the contract in order to estimate the Contract Value. If during the term of the Contract it appears that the estimated Contract Value may be exceeded by anticipated further renewals of the contract, the provisions for contract extension at paragraphs 34.2 to 34.5 shall apply. This rule shall not apply to rolling contracts where the annual value is below £10,000. Such contracts shall be subject to an annual review.
- 8.3 Circumstances may arise where a number of low value contracts of the same type, for regular, routine, similar goods or services for similar goods or services are given to one Contractor within a 12 month period. In this case, 12 months expenditure should be aggregated to determine which procedure should be followed. When the value of those contracts is aggregated the effect may be to move the total purchase from one value band to another. This may mean that a different procurement method has to be followed to comply with these rules, or it may be necessary to seek a waiver of these rules in such circumstances.
 - 8.3.1 The requirement to aggregate under the circumstances described at 8.3 will not apply where The Authorised Officer identifies that the spend activity is:
 - (a) unknown or unplanned and therefore cannot be specified at the commencement of the 12 months period or
 - (b) of a similar general category but is so varied that it would be impractical or difficult to specify, the aggregate annual value is less than £25,000, and a blanket discount arrangement, schedule of rates or other such general framework agreement would be impractical and lead to additional cost.

- 8.3.2 In any event, the Authorised Officer shall ensure that best value is achieved, make best use of the Council's purchasing power by aggregating where appropriate, undertake periodic review of the procurement decision, and keep appropriate records including the reason for any decision not to aggregate, throughout.
- 8.4 Authorised Officers should make the best use of the Council's purchasing power by aggregating purchases wherever possible
- 8.5 Contracts must comply with the Public Contracts Regulations and must not be artificially split to avoid these Rules or the Regulations
- 8.6 If, following calculation of the estimated value, the low value route (below) £25,000 is used, and, after evaluating in accordance with the evaluation criteria, the preferred offer is valued at over £25,000, the matter shall be submitted for approval via the electronic request for waiver form located on Connect which will seek approval from the relevant Director, Legal and Financial services and the relevant Portfolio holder. Provided that the aforementioned are of the opinion that a robust exercise with an appropriate level of competition has been carried out, with a genuine pre-tender estimate, they may collectively approve the contract award.
- 8.7 If, following calculation of the estimated value, the intermediate route (below £100,000) is selected, and, after evaluating in accordance with the evaluation criteria, the preferred offer is valued at over £100,000, then the matter shall be referred initially to the Director/ Head of Service for approval who shall consult the Legal Services Manager. The Director/Head of Service and the Legal Services Manager shall be given full details including how the estimated value was calculated, the amount of the estimated value, the value of all quotations received and the evaluation model applied leading to selection of the preferred offer. Provided that the preferred offer is within 10% of the pre tender estimate and the Director/Head of Service and the Legal Services Manager are of the opinion that a robust exercise has been carried out with a genuine pre-tender estimate, they may collectively recommend that the process be continued under the High Value route and that full details of the process followed be included in the subsequent report requesting approval for the award decision to be submitted to Cabinet. In such circumstances Cabinet would be requested to grant a waiver.

9. Low Value Procurement: Below £25,000

- 9.1 Where the estimated value or amount of the proposed contract is less than £25,000, The Authorised Officer shall ensure that best value is achieved and that the arrangements made secure the best available terms for the Council. Good practice would be to obtain written or electronic quotations (including at least one local supplier where possible); however, evidenced verbal quotations are acceptable. The Authorised Officer should ensure that the number and type of quotations received are appropriate and proportionate to the contract risk and value. Where the estimated value or amount of the proposed contract is more than £10,000 the expectation is that at least 3 Request for Quotations shall be invited via email or through the Council's e-procurement portal "The Chest" – if this does not happen then the reasons for not so doing should be recorded.
- 9.2 The purchase order must be made on an official purchase order and shall specify the services, supplies or works to be provided and set out the price and terms of payments.
- 9.3 Two authorised officers must be involved in the ordering and receiving process.
- 9.4 Every purchase order (whether issued as a result of higher, intermediate or lower value procurements) **must** contain the current approved standard form of terms and conditions of contract between the Council and the supplier. A quotation and a purchase order will create a legally binding contract.

10. Intermediate Value Procurement: £25,000 to £100,000 (Quotations)

- 10.1 For procurements valued over £25,000 but at or below £100,000 at least 3 Request for Quotations shall be invited through the Council's e-procurement portal "The Chest", before a formal purchase order is issued specifying the supplies, services or works to be provided.
- 10.2 Where a procurement is above £25,000 in value, and is openly advertised, the 2015 Public Contracts Regulations require that the opportunity is also advertised on the Government one stop shop "Contracts Finder". Additionally, for all contract awards above £25,000, whether the opportunity was openly advertised or not, a Contract Award Notice must be published on Contracts Finder. In both instances, the notices must include the specific details listed in the Regulations, and in both instances, these notices may be accommodated through the Chest.
- 10.3 At least one local supplier should be included in the suppliers to be invited to quote where possible.
- 10.4 Invitations to quote shall:
 - (a) specify or refer to a specification of the goods, materials, services or work required and
 - (b) state the date and time by which the quotation must be received and
 - (c) include the instructions for submission and state that no quotation will be considered unless it is received in accordance with those instructions.
 - (d) have the evaluation criteria set out in the invitation to Quote. All quotations shall be evaluated in accordance with the evaluation criteria set out in the quotation documents. All contracts, except where lowest price was predetermined to be the appropriate contract award criterion, shall be awarded on the basis of the offer which represents the Most Economically Advantageous offer to the Council.
- 10.5 Where the risk in a specific procurement is perceived to be high, then that procurement shall be treated as a High Value Procurement.
- 10.6 Any procurement that may involve a transfer of Council staff shall be treated as a High Value Procurement.

11. High Value Procurements: Above £100,000 (Tenders)

- 11.1 All Procurements with a cumulative value of over £100,000 shall be classed as High Value Procurements.
- 11.2 Additionally any contract where Council employees may be transferred to other bodies or where risk in the procurement is perceived to be high shall be treated as a High Value Procurement.
- 11.3 All high value procurements must be advertised on the Council's e-procurement portal "The Chest".
- 11.4 In addition to advertising on the Chest, all High Value procurements shall be advertised on the Government one stop shop "Contracts Finder" in accordance with the 2015 Public Contracts Regulations. Additionally, for these procurements, a Contract Award Notice must also be

published on Contracts Finder. In both instances, the notices must include the specific details listed in the Regulations, and in both instances, these notices can be accommodated through the Chest.

- 11.5 Nothing in these Rules prevents you from adopting any aspect of the High Value Procurement procedures in the procurement of intermediate or lower value supplies, works or services.

12. Contracts Subject to the Regulations: Above the EU Threshold

- 12.1 Where the estimated value of a contract exceeds the current EU threshold the contract shall be tendered in accordance with the Regulations. Under the Regulations, the contract may be tendered under the Open, Restricted, or, in exceptional circumstances exhaustively set out in the Regulations, the Competitive Procedure with Negotiation, Competitive Dialogue or Innovation Partnership procedure. For each contract tendered in accordance with the Regulations, a contract notice shall be published in the prescribed form in the Supplement to the Official Journal to the European Union (OJEU) to invite tenders or expressions of interest

Advertisements published in addition to the OJEU notice must not appear in any form before a contract notice is published by the EU Publications Office and must not contain any information additional to that contained in the contract notice.

- 12.2 With effect from 1 January 2018 the EU thresholds are as follows:

- (a) Services contracts £181,302;
- (b) Supplies contracts £181,302;
- (c) Schedule 3 (Social & Other Specific) services contracts £615,278
- (d) Works contracts £4,551,413 and
- (e) Concessions £4,551,413

The EU thresholds set out above are revised by the European Commission every two years.

- 12.3 The EU Directives and UK Regulations are long and complex, and set out minimum timescales for receipt of expressions of interest and tenders. Officers **must** consult the Shared Procurement Team and Legal Services department prior to commencing any procurement which is subject to the Regulations.

- 13. Suitability Assessment & Pre-Qualification** (Not to be used when procuring from a Framework agreement as suppliers on framework agreements are already pre-qualified)

- 13.1 In all procurements the Council shall only enter into a contract with a Contractor if it is satisfied as to the Contractor's –

- (a) eligibility
- (b) economic and/or financial standing
- (c) technical and/or professional ability

The level and detail of assessment shall be proportionate to the risk and value of the contract. Shared Financial Services shall be consulted for all procurements above £100,000 for the completion of an appropriate financial assessment, prior to contract award.

- 13.2 A pre-qualification stage is not permitted in any procurement below the EU threshold for Goods and Services. (currently £181,302 for calendar years 2018/19. -This threshold is updated every two years.) However, suitability assessment questions relating to a potential provider may be asked provided that the questions are relevant and proportionate to the subject matter of the procurement.
- 13.3 A pre-qualification stage may be used in above EU threshold contracts. However, in all instances, statutory guidance published by Crown Commercial Service (CCS) must be followed. This includes use of a core set of standardised questions. For further information and advice, Authorised Officers should contact the Shared Procurement Team.
- 13.4 Where appropriate, bidders may self-certify during the tender/ quotation process, with relevant and proportionate checks only being carried out on the shortlisted bidder.
- 13.5 Any procurement subject to the Regulations shall be in full compliance with those Regulations and the statutory Crown Commercial Service guidance. The Regulations stipulate what must and/or may be taken account of, in assessing eligibility, economic and financial standing and technical and/or professional ability

14 The Invitation to Tender

- 14.1 The ITT shall include details of the Authority's requirements for the particular contract including:
- (a) a description of the services, supplies or works being procured;
 - (b) the procurement timetable including the tender return date and time, which shall allow a reasonable period for the applicants to prepare their tenders;
 - (c) instructions for completing and returning the tender documentation
 - (d) notification that tenders received after the closing date and time will not be considered
 - (e) a specification and instructions on whether any variants are permissible;
 - (f) the Council's terms and conditions of contract
 - (g) the evaluation criteria including any weightings;
 - (h) pricing mechanism and instructions for completion;
 - (i) whether the Council is of the view that TUPE may apply;
 - (j) form and content of method statements to be provided
 - (k) rules for tender submission;
 - (l) any further information which will inform or assist tenderers in preparing tenders.

15. Submission, Receiving and Opening of E-Tenders/Quotations through the Chest

- 15.1 Every response to an invitation to tender/quote for a transaction valued over £25,000 must be submitted through the Chest by no later than the time and date specified for submission of tenders/quotations in the invitation to tender/quotation document.
- 15.2 The Principal Procurement Officer or Authorised deputy shall verify (remove the e-seal) and release all tenders and quotes to the Authorised Officer once the deadline for their receipt has passed. This verification role may be given to a suitably trained Authorised Officer for intermediate value quotes.
- 15.3 The Chest will automatically record the date and time of receipt of each submission and will list late submissions separately. No quotations or tenders which have been received on to the Chest after the deadline for receipt has passed may be considered. However, where a system fault/technical issue has occurred which is beyond the Tenderer's control and which has prevented on-time submission, this may be investigated to verify the circumstances, and the

matter referred to the Legal Services Manager and the relevant Director/Assistant Director for a decision as to the way to proceed.

- 15.4 The Principal Procurement Officer or other Authorised Officer shall complete a Record of Tenders/Quotations Received form summarising the quotations received.
- 15.5 The Authorised Officer must notify the Principal Procurement Officer of the eventual outcome of the procurement exercise for entry into the Contracts Register by completing and submitting the final sections of the Record of Tenders/Quotations Received Form.
- 15.6 The closing date for the receipt of tenders/quotations may be extended, in appropriate circumstances, at the written discretion of the Legal Services Manager.
- 15.7 Tenders and Quotations shall not be opened until the deadline has passed for their receipt.

16. Traditional Hard Copy Tenders and Quotes (Exceptional Circumstances Only)

- 16.1 The Council's preferred method of tendering is by electronic means through the Chest. However, in very exceptional circumstances (e.g. contracts where there are items required, which cannot be submitted electronically), tenders and quotes may be submitted in hard copy format with the prior approval of the Legal Services Manager and the Principal Procurement Officer.
- 16.2 Tenders and Quotations received in accordance with Paragraph 16.1 shall be addressed to the Principal Procurement Officer, Shared Financial Services, Town Hall Market Street, Chorley, PR7 1DP in a sealed envelope endorsed with the word "Tender" or "Quotation" as appropriate, followed by the subject matter to which it relates. No marks shall be included upon the envelope that identifies the bidder prior to the opening of the envelope. The Principal Procurement Officer shall record the date and time of receipt of such Tenders and Quotations and shall keep them in a secure place where they shall remain unopened until the time and date specified for their opening.
- 16.3 Tenders and Quotations received in accordance with this paragraph 16 shall be opened by the Principal Procurement Officer or authorised Deputy and at least one other Authorised Officer. An immediate record shall be made of the Tenders/Quotations received including tenderer name, value, and the date and time of opening on the Record of Tenders/Quotes Received Form.

17. Evaluation

- 17.1 Tenders subject to the Public Contracts Regulations shall be evaluated in accordance with the Regulations and the evaluation criteria set out in the OJEU notice and invitation to tender. All other tenders and quotations shall be evaluated in accordance with the evaluation criteria notified to tenderers in the contract notice and/or invitation to tender or Quote.
- 17.2 All contracts, except where lowest price was predetermined to be the appropriate contract award criterion, shall be awarded on the basis of the offer which represents the Most Economically Advantageous Tender to the Council (MEAT).
- 17.3 MEAT evaluation involves scoring tenders objectively by a panel of officers and/or independent experts using criteria which should:
 - be pre-determined and listed in the invitation to tender/quotation documentation in descending order of importance;

- be weighted according to their respective importance. This is mandatory for High Value Tenders and recommended for intermediate value procurements. Authorised officers must consult the Principal Procurement Officer where it is intended not to follow this recommendation for intermediate value procurements above £50,000 and provide a valid justification for this.;
- be strictly observed at all times throughout the tender process;
- reflect the principles of Best Value;
- include price;
- adopt whole-life costing where appropriate, particularly in the case of capital equipment where the full cost of maintenance, decommissioning and disposal should be taken into account. Additionally, the use of energy efficient products or the use of sustainable materials with a longer life span may impact on the whole life cost;
- be capable of objective assessment;
- include, where applicable, the quality of the tenderers' proposals to accept a transfer of staff under the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE); and
- avoid discrimination or perceived discrimination on the basis of nationality, or other cause contrary to any of the Council's policies.

Where this evaluation methodology is used, any resulting contract must be awarded to the tenderer which submits the most economically advantageous tender, i.e. the tender that achieves the highest score in the objective assessment.

- 17.4 The evaluation criteria must be consistently and strictly observed at all times through the contract award procedure by any officer involved in the quotation/tender evaluation process. The Authorised Officer must keep comprehensive records of the evaluation exercise including the scores and comments and justification for those scores and shall sign the final selection record.
- 17.5 For each contract above £100,000, the Authorised Officer shall form an Evaluation Team with responsibility for evaluating tenders. The Authorised Officer shall keep comprehensive written records of the evaluation exercise including the scores and comments and justification for those scores, and the lead officers of the evaluation team shall sign the final selection record.

18. Tender/Quotation Clarification

- 18.1 Bidders may request clarification on aspects of the Tender/Quotation documentation prior to submission by submitting a clarification question through the Chest. The Authorised Officer must ensure equal treatment of all bidders, and where relevant should anonymise the question and publish that together with the response to all potential bidders through the Chest. Care should be taken not to reveal the identity of the Tenderer or any information which may be deemed to be commercially confidential to them during the clarification process.
- 18.2 During the evaluation process, Authorised Officers may clarify aspects of a submitted Tender or a Quotation which are unclear, lacking in detail, ambiguous or appear to show a misunderstanding of the requirements. The areas requiring clarification should be set out in writing by the procurer and a written response requested from the bidder. All such

communications should be issued or recorded through the Chest to ensure a full e-audit trail of the procurement.

- 18.3 For more complex service procurements where officers want to obtain a fuller understanding of bidders' proposals and method statements it may be appropriate to hold a clarification meeting. In such circumstances a formal written record of the meeting shall be completed and agreed by all parties. Minor points of clarification and obvious errors (e.g. mathematical error) should be dealt with in accordance with Clause 18.2 above and should not require a meeting.

When conducting clarification, as throughout the procurement process, the Authorised Officer must bear in mind the rules and principles of the EU Regulations i.e. transparency, equal treatment and non-discrimination.

19. Errors in Tenders/Quotations

- 19.1 Errors in Tenders/Quotations must be dealt with by asking the Tenderer to confirm the Tender as submitted or withdraw their bid. However, where a Tenderer has made a visible and genuine arithmetical error they may be given an opportunity to correct that error. Other than where specifically provided for in the Regulations (e.g. when using the Competitive Dialogue procedure) no other adjustment, revision or qualification is permitted.
- 19.2 Tenders/Quotations must state how errors in Tenders/Quotations must be dealt with.
- 19.3 Careful consideration must be given to the effect of any procedure adopted when dealing with errors in Tenders and the reflection which any such procedure may have on the integrity on the officers and members of the Council. It is essential that the procedure adopted is transparent, fair and equitable with equal treatment to all bidders.

20 Post Tender Negotiation

- 20.1 Where procurement is conducted pursuant to the Regulations through either the Open or Restricted procedures no post tender negotiations are permitted. However, the Council may seek clarification from Suppliers where appropriate.
- 20.2 At all times during the procurement (whether subject to the Regulations or not), the Council shall consider and implement the principles of non-discrimination, equal treatment and transparency.

21. Bonds, Guarantees and Insurance

- 21.1 For high value procurements, the Authorised Officer shall consider and include in the procurement documentation, whether a performance bond and/or a parent company guarantee (if applicable) shall be required from the preferred Supplier.
- 21.2 The Authorised Officer shall consider and include, where relevant, in the Tender documentation the appropriate type (employee liability, public liability, professional indemnity, etc.) and level of insurance requirements for each contract.

22 Awarding Contracts

- 22.1 The Council shall only award a contract where at the time of contract award this represents the Most Economically Advantageous offer or is the lowest price depending on contract award criterion included in the OJEU notice or Invitation to Tender/Quote.

- 22.2 A contract must only be awarded and signed by a person authorised to do so, who must ensure that the appropriate budget holder has the funds in place to sustain the contract prior to award.
- 22.3 Directors/Heads of Service should ensure that proper records of all procurement activity are retained in electronic or hard copy format as appropriate.
- 22.4 All High Value contract award decisions and any which involve any potential transfer of the Council's employees shall be referred to Executive Cabinet.
- 22.5 Any procurement of £100,000 or more in value constitutes a key decision and must therefore be included in the relevant Forward Plan as described in the Council's Constitution, before the contract award decision is taken.
- 22.6 The highest standards of probity are required of all officers and members involved in the procurement, award and management of Council contracts. It is essential to maintain effective audit trails at all stages throughout the procurement procedure particularly where approval or agreement is required.

23 Standstill Period

- 23.1 TC "0

24. Contract Award Notice

- 24.1 All contracts awarded under the Regulations must be announced by means of a Contract Award Notice in OJEU transmitted no later than 30 calendar days after the date of the award.
- 24.2 All contracts awarded above £25,000 in value whether openly advertised or not must be published on Contracts Finder in accordance with the Regulations and published Crown Commercial Service (CCS) guidance.

25. Letters of Intent

- 25.1 Letters of intent shall only be used in exceptional circumstances and, by prior written agreement with the Legal Services Manager, as follows:
 - (a) Where a Supplier is required to provide services, supplies or works prior to formal written acceptance by the Council; or
 - (b)Where the Council's form of tender does not include a statement that until such time as a formal contract is executed, the Council's written acceptance of a tender shall bind the parties into a contractual relationship.

26. Contract Terms and Conditions

- 26.1 Contracts shall be entered into on the Council's terms and conditions, or an appropriate industry standard form of contract or other form of contract approved by Legal Services. This may be a supplier's contract suitably amended to protect the Council's interests. However where the contract has been tendered the contract shall be in accordance with the tender

Conditions. The Contract Conditions shall be included with each purchase order and invitation to tender or quote.

- 26.2 In all cases, before a contract is entered into, Authorised Officers must ensure that they have authority to enter into the proposed contract for the full contract value including any extension option and fully understand the contractual obligations. In particular where Conditions other than the Council's terms and conditions are to be used, Authorised Officers must ensure they fully understand the contractual obligations including any notice periods which must be observed to prevent any non-authorised automatic roll-on.
- 26.3 Where contracts are subject to the Regulations, the rules relating to technical specifications shall be followed and any reference to a technical standard, make or type shall be prefaced with the words "or equivalent".

27. Execution of Contracts

- 27.1 Any contracts valued at above £100,000 shall be passed to Legal Services for sealing execution and secure storage, unless otherwise agreed with the Legal Services Manager.
- 27.2 All contracts valued at above £20,000 but below £100,000 should be signed by at least two appropriately Authorised Officers.
- 27.3 All other contracts may be signed by an officer with the appropriate authority.
- 27.4 Electronic signatures may be used in accordance with the Electronic Signature Regulations 2002 provided the sufficiency of security arrangements has been approved by the Legal Services Manager.

28. Records of Tenders and Contracts/Contracts Register

- 28.1 Each Director/Head of Service shall maintain his/her own register of all contracts entered into by his/her department.
- 28.2 The Principal Procurement Officer shall maintain a register of all Higher Value and Intermediate value contracts entered into by the Council.
- 28.3 Authorised Officers shall notify the Principal Procurement Officer of all intermediate and high value contract awards for entry into the Contracts/ Transparency Register by completing and submitting the final sections of the Record of Tenders and Quotations Received Form.
- 28.4 Additionally the Authorised Officer must notify the Principal Procurement Officer of all contracts awarded, above £5000, as soon as possible after the Contract Award, for inclusion in the Contract/Transparency Register.
- 28.5 Quarterly publication of the Council's Contracts/Transparency Register is a mandatory requirement of the Local Government Transparency Code. Each Director/Assistant Director and/or Authorised Officer shall ensure the accuracy of the Council's Contracts/Transparency Register by responding to the quarterly return issued by the procurement team.

29. Approved / Standing List of Contractors

- 29.1 The Council may maintain Approved Standing lists of Suppliers that meet its suitability requirements. Quotations and tenders for contracts that are not subject to the Regulations may be invited from Suppliers included on an approved list. Where the Authority intends to use an approved list for services, supplies or works contracts, the Approved List should be reviewed

- and advertised on a regular basis.
- 29.2 Each Approved Standing List shall:
- (a) be compiled and maintained by the relevant Authorised Officer;
 - (b) contain the names of all persons who wish to be included in it and who after appropriate enquiries have been made by the Authorised Officer concerned, are approved by the Council or Cabinet as provided for in the scheme of delegation; and
 - (c) indicate whether a person whose name is included in it is approved for contracts for all, or only some, of the specified values or amounts or categories.
- 29.3 At least four weeks before each Standing List is first compiled, a notice inviting applications for inclusion in it shall be published on the Chest, and where relevant Contracts Finder
- 29.4 Each Standing List shall be amended as required from time to time to include new applications for inclusion and to delete any person no longer thought fit to be included. Each Standing List shall be formally reviewed in the manner set out below by the appropriate Director/ Head of Service at intervals not exceeding three years. At least four weeks before each review, each person whose name appears in the Standing List shall be asked whether s/he wishes his/her name to remain there. Notices inviting applications for inclusion in the list shall be published in the manner provided by Contract Procedure Rule 29.3 above.
- 29.5 Where an invitation to tender for a contract is limited to those named on the Standing List maintained under this Contract Procedure Rule, an invitation to tender for that contract shall be sent to at least four of the persons on the list. These people will be approved for a contract for that value or amount or of that category, or, if there are fewer than four such persons, to all such persons. If there are more than four people, the Authorised Officer, will select the people who will receive invitations, and the manner in which they are sent. This will be either generally or in relation to a particular contract or to a category of contracts provided that the manner of selection shall include a system of rotation from persons appearing on the Standing List.

30. Nominated and Named Sub-contractors

If a sub-contractor, supplier or sub-consultant is to be nominated or named to a main contractor, quotations or tenders must be invited in accordance with these Contracts Procedure Rules and the terms of the invitation shall be compatible with the main contract.

31 Framework Agreements

- 31.1 Framework agreements are agreements with suppliers for the provision of supplies, works or services on agreed terms for a specific period. Unlike normal contracts which require certainty (on price, quantity and other details), Framework Agreements usually state only non-binding estimated quantities against which orders are placed as and when required during the contract period (sometimes this procedure is known as "call-off"). As soon as the quantity/price etc. are fixed and an order placed, a contract is formed. Frameworks offer benefits of bulk-buying, improved service and reduced administration costs over the period of the arrangement.
- 31.2 A framework agreement may have the option or requirement for you to hold a "further - competition" with all of the suppliers included on the framework who are capable of meeting your requirement. Quotations invited under a further competition shall be received and opened in accordance with these Contract Procedure Rules, unless received and opened by the public sector framework provider (e.g. Yorkshire Purchasing Organisation) on the Council's behalf, who may receive and open such bids in accordance with their contract procedural rules.

- 31.3 All Framework agreements procured by the Council must be tendered in accordance with these Contract Procedure Rules.
- 31.4 Where the Council has entered into a Framework Agreement through procurement or is able to place orders from existing Framework Agreements procured by central government agencies, public sector consortia, other local authorities or other third parties, then the Council may benefit from using those contracts without entering into a full, separate procurement.
- 31.5 Where a public sector framework is used in accordance with the above provisions, without entering into a full, separate procurement process, all other relevant aspects of these procurement rules will still apply, including any approval which may be required for the procurement award procedure (in this case to use the identified framework), approval for the evaluation criteria and weightings (in the event of a further competition under the framework), and approval for the contact award prior to contract acceptance.
- 31.6 Authorised Officers shall investigate whether call-off contracts or frameworks are relevant to their procurement activity as better value for the Council may be obtained by using an existing Council or other framework.
- 31.7 Legal/Procurement Advice should be sought in advance before awarding a contract to a supplier using a framework agreement not procured directly by the Council.
- 31.8 Any appropriate Council Framework Agreements in place shall be used regardless of value, provided the standing order requirements in relation to delegated authority are met. An effective audit trail shall be maintained.

32. Joint / Collaborative Procurement

- 32.1 Authority to engage in joint/ collaborative procurement activity shall be in accordance with the requirements of paragraph 5. However, in the event that the joint/ collaborative procurement activity requires a commitment at the outset, prior to bids being invited, Cabinet approval must be obtained prior to committing to the joint/ collaborative procurement where the estimated value of the Council's proportion of the procurement exceeds £100,000.
- 32.2 The Authorised Officer shall ensure that the joint/collaborative procurement activity complies fully with the EU Procurement Regulations
- 32.3 In any joint or collaborative procurement process the parties involved in the procurement should appoint a "lead body" to carry out the procurement. The procurement should then be conducted in accordance with the lead body's Rules. If this approach requires any waivers of the lead body's Rules, it shall be that body's responsibility to seek approval for, and obtain, such waiver(s).

33. Procurement by Consultants

Any consultants used by the Council shall be appointed in accordance with these Contracts Procedure Rules. Where the Council uses consultants to act on its behalf in relation to any procurement, then the Authorised Officer shall ensure that the consultants carry out any procurement in accordance with these Contracts Procedure Rules. No consultant shall make any decision on whether to award a contract or who a contract should be awarded to. The Authorised Officer shall ensure that the consultant's performance is monitored.

34. Contract Extension

- 34.1 Any contract which has been procured in accordance with these Rules may be extended in accordance with its terms (subject to financial resources) by the Director/Head of Service or Authorised Officer provided an extension clause was included for within the contract terms and conditions.
- 34.2 Other existing Contracts which have been procured in accordance with these Rules may be extended by the Director/Head of Service or Authorised Officer, provided that the total period of this and any previous extension will not together exceed 1 year. The authorised officer must keep a record of the reason for the decision to so extend. A formal Waiver of the Rules must be obtained if the proposed extension will add more than £25,000, or more than 20% (whichever is the higher) to the original total Contract value.
- 34.3 Any extension exceeding £100,000 in value shall require the approval of the Executive Cabinet or relevant Executive Cabinet Portfolio Member.
- 34.4 If the original contract was subject to the Public Contract Regulations, the contract can only be extended within the parameters identified in the original EU contract notice and/or as provided for within the Regulations. If the contract was not subject to the Regulations, any extension must not take the total value of the contract above the relevant EU thresholds.
- 34.5 If the contract was awarded as a framework agreement, the total framework period, including any extensions, cannot exceed four years, except in exceptional circumstances relating to the subject of the framework agreement. For example, a longer duration could be justified in order to ensure effective competition if four years would not be sufficient to provide return on investment.
- 34.6 When negotiating a contract extension the authorised officer must make every effort to negotiate improved contract terms with regard to the cost and quality and shall always be satisfied that the extension will achieve Best Value for Money and is reasonable in all the relevant circumstances.
- 34.7 All extensions to any Council contracts must be in writing and reported to the Principal Procurement Officer in order that the Contracts Register can be updated accordingly.
- 34.8 Once a Contract has expired it cannot then be extended.

35 Variations

- 35.1 Variations to Contract shall be dealt with in accordance with these Contracts Procedure Rules and the Council's Financial Regulations.
- 35.2 All Contract variations must be carried out within the scope of the original Contract. Contract variations that materially affect or change the scope of the original Contract are not allowed.
- 35.3 All Contract variations must be in writing and signed by both the Council and the Contractor except where different provisions are made within the Contract documentation. The value of each variation must be assessed by the Authorised Officer and all necessary approvals sought prior to the variation taking place including registration on the Council's forward plan if applicable.
- 35.4 Contracts procured under the EU Regulations **must not** be extended or varied without first consulting Legal Services and the Principal Procurement Officer.

35.5 The Authorised Officer shall always be satisfied that the variation will achieve Best Value for Money and is reasonable in all the relevant circumstances.

36. Termination of Contract

36.1 For any contract exceeding £100,000 in value, termination shall be approved by the Executive Cabinet or Executive Cabinet Portfolio Member. In emergency situations, the relevant Director may authorise termination of Higher Value Contracts. In this case, full details including the reason for the contract termination shall be reported back to Council at a later date.

36.2 Contracts of a lesser value than £100,000 may be terminated early by agreement prior to the expiry date or in accordance with the termination provisions set out in the contract. Legal advice should be sought as appropriate.

37. Disposing of surplus goods

37.1 Heads of Service are responsible for the disposal of their own surplus goods and shall make adequate and safe arrangements to do so.

37.2 An appropriate competitive process shall be applied to the disposal of surplus goods, unless it has been agreed by the Head of Service that the goods in question are to be disposed of to a charitable/not-for-profit organisation, or disposal arrangements have been agreed within the original contract for purchase.

38 Concession Contracts

The rules apply to Concession Contracts (please refer to the Definitions at the back of this document). A simple example would be a concession to pitch an ice cream van and sell ice cream on council land.

39 Waivers of Contract Procedure Rules

39.1 Waivers of any of these contract Procedure Rules shall only be given in exceptional circumstances and in all cases must make clear which rules are being waived and be justified because:

- the nature of the market for the works to be carried out or the goods or services to be provided has been investigated and is demonstrated to be such that a departure from the requirements of the Rules is justifiable; or
- the contract is for works, supplies or services that are required in circumstances of extreme urgency that could not reasonably have been foreseen; or
- there are other circumstances which are genuinely exceptional and not of the Council's own making.

39.2 For Higher Value Procurements, approval for waivers to the Rules must be obtained from Cabinet.

39.3 For intermediate value procurements, Authorised Officers shall submit waiver requests which meet the requirements of this paragraph 39 via the electronic waiver request procedure located on Connect. On submission of the request, approval will be automatically sought from the relevant Director, Legal and Financial services and the relevant Portfolio Holder, all of whom must approve the request for it to be fully approved.

- 39.4 Waivers may not be made retrospectively.
- 39.5 A contract award notice must be published on Contracts Finder for any contract awarded above £25,000 in value.

40. Non-Compliance

If it comes to the notice of an Authorised Officer that there has been non-compliance with these Contract Procedure Rules in respect of any contract for which s/he is responsible as the Authorised Officer of the procuring department, s/he shall without delay notify the Monitoring Officer who shall take such action as s/he deems necessary. Further if there is any discrepancy between the amount of the Contract Award and the amount actually paid then the matter should also be brought to the attention of the Monitoring Officer without further delay.

41. Change of Authorised Officer

If during the life of a contract there is a change in the Authorised officer who is leading on that particular contract then the outgoing officer should (wherever possible) ensure that the new Authorised Officer is fully briefed on all relevant issues relating to that contract.

42. Review and Amendment of Contract Procedure Rules

The Monitoring Officer is responsible for keeping the Rules under review (with a formal review and if necessary revision every three years) and monitoring compliance.

43. Emergency Procedures

Where a need for urgent action arises between meetings of the Cabinet, but is not considered sufficient justification for calling a special meeting, such decision may be taken by the Chief Executive (or other designated officer) in accordance with the requirements of Standing Order Number 38 of the Council's Procedure Rules (standing Orders). Officers should refer to the Constitution or contact Legal Services for further advice and information.

DEFINITIONS

“Annual Procurement Plan”

A plan identifying major projects so that appropriate resources can be identified. It also provides a basis for PINs and other information provided to suppliers to give advance notice of bidding opportunities.

“Authorised Officer”

An Authorised Officer of the Council with appropriate delegated authority to act on the Council's behalf in accordance with the Constitution.

“Best Value for Money”

The optimum combination of whole life costs and benefits to meet the customer's requirement. Such term equates to the EU procurement requirement “most economically advantageous offer”.

“Council”

“Council” means South Ribble Borough Council.

“Concession Contract”

A concession contract is used where the Council wishes to engage a party to provide a service, consideration for which is in the form of the party (“the concessionaire”) being given a right to charge the public for the services being provided. A simple example would be a concession to pitch an ice cream van and sell ice cream on council land. If unsure as to whether a proposed contract would come within the scope of this definition please consult with the Legal Services Manager.

“Contracts Finder”

Contracts Finder is the Government's one stop shop for suppliers to find new procurement opportunities totally free of charge, specifically referred to in the 2015 Public Procurement Regulations

“Contracts/Transparency Register”

A register held and maintained by the Principal Procurement Officer containing details of contracts entered into by the Authority.

“Framework Agreement”

An agreement which allows the Council to call off from a supplier to provide supplies, services or works in accordance with the terms of the agreement. The Framework Agreement itself usually constitutes a non-binding offer with no obligations on the Authority to call off from the Supplier. If the Council calls off from the Supplier a binding contract comes into being. A Framework Agreement can be a binding agreement where it is executed as a deed.

“Grant Funded Contract”

shall mean a contract which is procured by the Council and is funded or part funded by grant monies.

“ITN”

Invitation to negotiate.

“ITT”

Invitation to tender.

“Key Decision”

A key decision is defined as any decision in relation to a Cabinet function which is likely:

(a) to result in the Council incurring expenditure which is, or the making of savings which are, significant. The financial threshold above which expenditure/savings become significant is set at £100,000. This financial threshold is applicable to both the revenue and capital budgets.

(b) to be significant in terms of its effect on the communities living in an area comprising two or more Council wards.

“Legal Services Manager”

Legal Services Manager or authorised deputy.

“Local Supplier”

Any Supplier within the South Ribble borough or any neighbouring borough.

“Most Economically Advantageous Offer”

From the Council’s perspective the most economically advantageous offer from a Supplier assessed by reference to relevant evaluation criteria linked to the subject matter of the contract in question for example, quality, price, technical merit, aesthetic and functional characteristics, running costs, cost effectiveness, after sales service and technical assistance, delivery date and delivery period or period of completion.

“OJEU”

Official Journal of the European Union.

“PIN”

Prior information Notice for publication in OJEU

“Principal Procurement Officer”

Principal Procurement Officer or Authorised Deputy

PURCHASING CONSORTIUM

A group of public sector bodies which aggregate their requirements and by doing so exact greater leverage from the market. With the agreement of suppliers, if permissible, the consortium may offer its contracts to other local authorities or public bodies.

“Regulations”

The Public Contracts Regulations implementing the EU public procurement directives in to UK legislation;

“RFQ”

Request for quotations.

“STANDING OR APPROVED LISTS OF CONTRACTORS”

A method of procurement where a list of suppliers is drawn up in response to an advertisement in the relevant trade/local press/ website(s). The potential contractors are vetted using the responses to the Pre-Qualification Questionnaire (PQQ) and the list is then used to select specific suppliers for individual contracts. Care needs to be taken to ensure that the list is carefully managed so that it does not become out dated and that it fully represents the range of innovative solutions that may be available in the market.

“Supplier”

Any person or body of persons providing, or seeking to provide, supplies, services or works to the Council.

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SOUTH RIBBLE BOROUGH COUNCIL CONTRACT PROCEDURE RULES

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Contract Procedure Rules

1. Introduction

- 1.1 These Rules form part of the Council's Constitution and are the Council's Contract Procedure Rules for purchasing goods, works and services for the Council. They do not apply to internal purchases or internal service provision, only where you need to buy something from outside the council.
- 1.2 The Rules apply to any contract that results in a payment being made by the Council as well as to some types of contracts where a service is being provided for the Council which results in some income being generated for the Council.
- 1.3 The Rules also apply to the disposal of surplus goods (see paragraph 37) and to Concession Contracts (Paragraph 38).
- 1.4 The Rules also apply when an external body, authority, company, consultant or other person has been engaged to carry out procurement or disposal on behalf of the Council.
- 1.5 Quotations for grant funded contracts for goods, services or works, where they are procured by the Council, should be invited, in accordance with these rules, except to the extent that any specific requirements for the receipt of the grant specify different requirements, in which case the specific grant procedures must be followed, and the procurement completed in accordance with the relevant grant procedural requirements.
- 1.6 The Rules have four main purposes:
 - to comply with the obligations that govern the spending of public money derived from the European Union (EU) procurement regime and applied in the UK through the Public Contracts Regulations (2015);
 - to obtain Best Value in the way we spend money, so that we may in turn offer better and more cost effective services to the public;
 - to avoid corruption and ensure high ethical standards;
 - to protect people who follow the Rules.

- 1.7 The Rules must be read in conjunction with the Council's Financial Procedure Rules, Procurement Guidance and any other internal controls laid down by the Council for example the Council's Anti-Fraud and Corruption Policy and Whistle Blowing policy.

2 Compliance

- 2.1 Every contract entered into by the Council shall be entered into in connection with the Council's functions and must comply with:
 - (a) all relevant statutory provisions;
 - (b) the relevant European procurement rules (i.e. the EC Treaty, the general principles of EC law and the EC public procurement directives implemented by the UK Regulations);
 - (c) the Council's Constitution including these Contract Procedure Rules, the Authority's Financial Regulations and Financial Procedure Rules and the Council's Scheme of Delegation
 - (d) the Council's vision, priorities, enabling strategies and policies (e.g. Corporate Plan, Procurement Strategy and Sustainable Procurement Policy)

- 2.2 At all times during the contract award procedure, the Council, through its members and officers, shall consider and implement the principles of non-discrimination, equal treatment and transparency.
- 2.3 The highest standards of probity are required of all officers and members involved in the procurement, award and management of Council contracts. Members shall comply with the Code of Conduct for Councillors, and officers shall comply with the Code of Conduct for Officers.
- 2.4 Effective audit trails must be maintained at all stages throughout the procurement procedure, particularly when approval or agreement is required and at evaluation/decision making stages.

3. Conflicts of Interest, Gifts & Hospitality

- 3.1 Every officer entitled to buy supplies, services or works shall comply with the requirements of the Officer Code of Conduct in respect of conflicts of interest, gifts and hospitality.

4. Procurement Plan

- 4.1 Prior to the start of each financial year, each Director must prepare a procurement plan setting out their department's contracts to be procured (over £20,000) during that financial year, and where possible for forthcoming years. A copy of the plan must be supplied to the Principal Procurement Officer who shall use this information to formulate an Annual Procurement Plan for the Council.
- 4.2 Any procurements planned with a contract value of £100,000 or above should be communicated to Democratic Services for inclusion on the Forward Plan.

5. Who has authority to carry out procurement on behalf of the Council?

- 5.1 Any procurement carried out on behalf of the Council may only be undertaken by officers with the appropriate delegated authority to carry out such tasks as set out in the Council's Constitution (Scheme of Delegation). Officers with delegated authority may only authorise other officers who have the appropriate skills and knowledge appropriate to the task. Officers shall be informed by his/her Director/Service Head, in writing, of the extent of any delegated authority and any applicable financial thresholds for each procurement. These officers shall be known as Authorised Officers.

5.2 Revenue Expenditure

Subject to the provisions of Paragraph 5.6, Directors and their Authorised Officers may seek Tenders and Quotations in accordance with these Contracts Procedure Rules for any item of revenue expenditure for which budget provision has been made, and may accept such Tenders/ Quotations in accordance with these Contracts Procedure Rules, up to a total contract value of £100,000. Contract awards above £100,000 constitute a Key Decision and must appear on the Forward Plan.

5.3 Capital Expenditure.

Subject to the provisions of Paragraph 5.6, Directors and their Authorised Officers may seek Tenders and Quotations in accordance with these Contracts Procedure Rules, the particulars of which are shown as approved in the Council's capital programme for the

current financial year and which have also been approved/comply with any additional requirements of the Council's Financial Regulations. Directors and their Authorised Officers may accept Tenders /Quotations in accordance with these Contracts Procedure Rules and the Council's Financial Regulations up to a total contract value of £100,000. Contract awards above 100,000 constitute a Key Decision and Cabinet authority must be obtained. Such proposed decisions must appear on the Forward Plan.

- 5.4 For the sake of clarity the decision to commence a procurement exercise (as opposed to a decision to award a contract in the circumstances described in paragraphs 5.2 and 5.3 above) is not deemed to be a Key Decision unless the decision forms part of and is taken at the same time as a decision that will result in a change to service provision which will have a significant effect on two or more wards of the Council
- 5.5 Any procurement which involves the transfer of Council Staff shall be treated as a High Value (above £100,000) Procurement and, as such, Cabinet authority must be sought for such acceptance.
- 5.6 For all High Value Procurements above the EU threshold, prior approval of the proposed contract award procedure including the evaluation criteria and weightings to be applied, shall be sought from the relevant Executive Cabinet Portfolio Member as a delegated decision.

6. Exempt Contracts

- 6.1 The Rules do not apply to the following types of Contract:
 - (a) individual contracts for the provision of temporary staff. (The arrangements with staffing agencies, however, should be subject to a competitive procurement process in accordance with these Contracts Procedure Rules)
 - (b) contracts of employment which make an individual a direct employee of the Council
 - (c) contracts relating solely to disposal or acquisition of an interest in land (including buildings)
 - (d) contracts for advice by and representation by a lawyer with regard to legal proceedings (or contemplated legal proceedings)

If you are in any doubt about whether the Rules apply, you **must** always check with the Principal Procurement Officer.

7. Pre-Procurement Procedure

- 7.1 Before commencing a procurement it is essential that the Authorised Officer leading the procurement has identified the business need and fully assessed any options for meeting those needs. Consideration shall be given to the Council's Procurement Strategy, Sustainable Procurement Policy and procurement guidance, as appropriate.
- 7.2 Before undertaking a procurement the Authorised Officer shall:
 - (a) consider all other means of satisfying the need (including recycling and reuse where appropriate);
 - (b) prepare an estimate of expenditure in accordance with Rule 8;

- (c) satisfy themselves that they have the necessary authority to deal with the procurement and that there is budget provision for the procurement in accordance with the provisions of Rule 5
- (d) undertake a risk assessment
- (e) complete an Equality Impact Assessment where any change in service provision is proposed that will have Equality Impacts
- (f) establish a business case for the procurement and consider whether the procurement should follow the Council's Project Management Framework/Toolkit. Procurements which may benefit from use of the toolkit are usually higher value and are:
 - unique, new or complex leading to significant system, process or service changes,
 - impact on numerous services
 - have a significant reputational impact on the Council

If you are unsure as to whether the Project Management Framework should apply, you should consult your SMT member for a decision.

The level of resource and detail deployed in carrying out the requirements of 7.1 and 7.2 shall be appropriate to the nature and the value of the Procurement.

8. Calculating the Contract Value

- 8.1 Prior to commencing any procurement you must estimate the total monetary value of the contract (exclusive of VAT) over its full duration, including any extension options (not the annual value). The estimated total value of the contract will determine which procedure you must then adopt.
- 8.2 Where it is proposed to procure a Contract on terms which will provide for renewal on a "rolling" basis, the Authorised Officer must make a reasonable estimate of the term of the contract in order to estimate the Contract Value. If during the term of the Contract it appears that the estimated Contract Value may be exceeded by anticipated further renewals of the contract, the provisions for contract extension at paragraphs 34.2 to 34.5 shall apply. This rule shall not apply to rolling contracts where the annual value is below £10,000. Such contracts shall be subject to an annual review.
- 8.3 Circumstances may arise where a number of low value contracts of the same type, for regular, routine, similar goods or services for similar goods or services are given to one Contractor within a 12 month period. In this case, 12 months expenditure should be aggregated to determine which procedure should be followed. When the value of those contracts is aggregated the effect may be to move the total purchase from one value band to another. This may mean that a different procurement method has to be followed to comply with these rules, or it may be necessary to seek a waiver of these rules in such circumstances.
 - 8.3.1 The requirement to aggregate under the circumstances described at 8.3 will not apply where The Authorised Officer identifies that the spend activity is:
 - (a) unknown or unplanned and therefore cannot be specified at the commencement of the 12 months period or
 - (b) of a similar general category but is so varied that it would be impractical or difficult to specify, the aggregate annual value is less than £20,000, and a blanket

discount arrangement, schedule of rates or other such general framework agreement would be impractical and lead to additional cost.

- 8.3.2 In any event, the Authorised Officer shall ensure that best value is achieved, make best use of the Council's purchasing power by aggregating where appropriate, undertake periodic review of the procurement decision, and keep appropriate records including the reason for any decision not to aggregate, throughout.
- 8.4 Authorised Officers should make the best use of the Council's purchasing power by aggregating purchases wherever possible
- 8.5 Contracts must comply with the Public Contracts Regulations and must not be artificially split to avoid these Rules or the Regulations
- 8.6 If, following calculation of the estimated value, the low value route (below) £20,000 is used, and, after evaluating in accordance with the evaluation criteria, the preferred offer is valued at over £20,000, the matter shall be referred initially to the Director/ Head of Service for approval who shall consult the Legal Services Manager. Provided that the preferred offer is within 10% of the pre-quote estimate, and the Director/Head of Service and the Legal Services Manager are of the opinion that a robust exercise with an appropriate level of competition has been carried out, with a genuine pre-tender estimate, they may collectively approve the contract award.
- 8.7 If, following calculation of the estimated value, the intermediate route (below £100,000) is selected, and, after evaluating in accordance with the evaluation criteria, the preferred offer is valued at over £100,000, then the matter shall be referred initially to the Director/ Head of Service for approval who shall consult the Legal Services Manager. The Director/Head of Service and the Legal Services Manager shall be given full details including how the estimated value was calculated, the amount of the estimated value, the value of all quotations received and the evaluation model applied leading to selection of the preferred offer. Provided that the preferred offer is within 10% of the pre tender estimate and the Director/Head of Service and the Legal Services Manager are of the opinion that a robust exercise has been carried out with a genuine pre-tender estimate, they may collectively recommend that the process be continued under the High Value route and that full details of the process followed be included in the subsequent report requesting approval for the award decision to be submitted to Cabinet.

9. Low Value Procurement: Below £20,000

- 9.1 Where the estimated value or amount of the proposed contract is less than £20,000, The Authorised Officer shall ensure that best value is achieved and that the arrangements made secure the best available terms for the Council. Good practice would be to obtain written or electronic quotations (including at least one local supplier where possible); however, evidenced verbal quotations are acceptable. The Authorised Officer should ensure that the number and type of quotations received are appropriate and proportionate to the contract risk and value. Where the estimated value or amount of the proposed contract is more than £10,000 the expectation is that at least 3 Request for Quotations shall be invited via email or through the Council's e-procurement portal "The Chest" – if this does not happen then the reasons for not so doing should be recorded.
- 9.2 The purchase order must be made on an official purchase order and shall specify the services, supplies or works to be provided and set out the price and terms of payments.
- 9.3 Two authorised officers must be involved in the ordering and receiving process.

9.4 Every purchase order (whether issued as a result of higher, intermediate or lower value procurements) **must** contain the current approved standard form of terms and conditions of contract between the Council and the supplier. A quotation and a purchase order will create a legally binding contract.

10. Intermediate Value Procurement: £20,000 to £100,000 (Quotations)

10.1 For procurements valued over £20,000 but at or below £100,000 at least 3 Request for Quotations shall be invited through the Council's e-procurement portal "The Chest", before a formal purchase order is issued specifying the supplies, services or works to be provided.

10.2 Where an Intermediate Value procurement is above £25,000 in value, and is openly advertised, the 2015 Public Contracts Regulations require that the opportunity is also advertised on the Government one stop shop "Contracts Finder". Additionally, for all contract awards above £25,000, whether the opportunity was openly advertised or not, a Contract Award Notice must be published on Contracts Finder. In both instances, the notices must include the specific details listed in the Regulations, and in both instances, these notices may be accommodated through the Chest.

10.3 At least one local supplier should be included in the suppliers to be invited to quote where possible.

10.4 Invitations to quote shall:

- (a) specify or refer to a specification of the goods, materials, services or work required and
- (b) state the date and time by which the quotation must be received and
- (c) include the instructions for submission and state that no quotation will be considered unless it is received in accordance with those instructions.
- (d) have the evaluation criteria set out in the invitation to Quote. All quotations shall be evaluated in accordance with the evaluation criteria set out in the quotation documents. All contracts, except where lowest price was predetermined to be the appropriate contract award criterion, shall be awarded on the basis of the offer which represents the Most Economically Advantageous offer to the Council.

10.5 Where the risk in a specific procurement is perceived to be high, then that procurement shall be treated as a High Value Procurement.

10.6 Any procurement that may involve a transfer of Council staff shall be treated as a High Value Procurement.

11. High Value Procurements: Above £100,000 (Tenders)

11.1 All Procurements with a cumulative value of over £100,000 shall be classed as High Value Procurements.

11.2 Additionally any contract where Council employees may be transferred to other bodies or where risk in the procurement is perceived to be high shall be treated as a High Value Procurement.

- 11.3 All high value procurements must be advertised on the Council's e-procurement portal "The Chest".
- 11.4 In addition to advertising on the Chest, all High Value procurements shall be advertised on the Government one stop shop "Contracts Finder" in accordance with the 2015 Public Contracts Regulations. Additionally, for these procurements, a Contract Award Notice must also be published on Contracts Finder. In both instances, the notices must include the specific details listed in the Regulations, and in both instances, these notices can be accommodated through the Chest.
- 11.5 Nothing in these Rules prevents you from adopting any aspect of the High Value Procurement procedures in the procurement of intermediate or lower value supplies, works or services.

12. Contracts Subject to the Regulations: Above the EU Threshold

- 12.1 Where the estimated value of a contract exceeds the current EU threshold the contract shall be tendered in accordance with the Regulations. Under the Regulations, the contract may be tendered under the Open, Restricted, or, in exceptional circumstances exhaustively set out in the Regulations, the Competitive Procedure with Negotiation, Competitive Dialogue or Innovation Partnership procedure. For each contract tendered in accordance with the Regulations, a contract notice shall be published in the prescribed form in the Supplement to the Official Journal to the European Union (OJEU) to invite tenders or expressions of interest

Advertisements published in addition to the OJEU notice must not appear in any form before a contract notice is published by the EU Publications Office and must not contain any information additional to that contained in the contract notice.

- 12.2 With effect from 1 January 2018 the EU thresholds are as follows:

- (a) Services contracts £181,302;
- (b) Supplies contracts £181,302;
- (c) Schedule 3 (Social & Other Specific) services contracts £615,278
- (d) Works contracts £4,551,413 and
- (e) Concessions £4,551,413

The EU thresholds set out above are revised by the European Commission every two years.

- 12.3 The EU Directives and UK Regulations are long and complex, and set out minimum timescales for receipt of expressions of interest and tenders. Officers **must** consult the Shared Procurement Team and Legal Services department prior to commencing any procurement which is subject to the Regulations.

13. Suitability Assessment & Pre-Qualification (Not to be used when procuring from a Framework agreement as suppliers on framework agreements are already pre-qualified)

- 13.1 In all procurements the Council shall only enter into a contract with a Contractor if it is satisfied as to the Contractor's –
 - (a) eligibility
 - (b) economic and/or financial standing
 - (c) technical and/or professional ability

The level and detail of assessment shall be proportionate to the risk and value of the contract. Shared Financial Services shall be consulted for all procurements above £100,000 for the completion of an appropriate financial assessment, prior to contract award.

- 13.2 A pre-qualification stage is not permitted in any procurement below the EU threshold for Goods and Services. (currently £181,302 for calendar years 2018/19. -This threshold is updated every two years.) However, suitability assessment questions relating to a potential provider may be asked provided that the questions are relevant and proportionate to the subject matter of the procurement.
- 13.3 A pre-qualification stage may be used in above EU threshold contracts. However, in all instances, statutory guidance published by Crown Commercial Service (CCS) must be followed. This includes use of a core set of standardised questions. For further information and advice, Authorised Officers should contact the Shared Procurement Team.
- 13.4 Where appropriate, bidders may self-certify during the tender/ quotation process, with relevant and proportionate checks only being carried out on the shortlisted bidder.
- 13.5 Any procurement subject to the Regulations shall be in full compliance with those Regulations and the statutory Crown Commercial Service guidance. The Regulations stipulate what must and/or may be taken account of, in assessing eligibility, economic and financial standing and technical and/or professional ability

14 The Invitation to Tender

- 14.1 The ITT shall include details of the Authority's requirements for the particular contract including:
 - (a) a description of the services, supplies or works being procured;
 - (b) the procurement timetable including the tender return date and time, which shall allow a reasonable period for the applicants to prepare their tenders;
 - (c) instructions for completing and returning the tender documentation
 - (d) notification that tenders received after the closing date and time will not be considered
 - (e) a specification and instructions on whether any variants are permissible;
 - (f) the Council's terms and conditions of contract
 - (g) the evaluation criteria including any weightings;
 - (h) pricing mechanism and instructions for completion;
 - (i) whether the Council is of the view that TUPE may apply;
 - (j) form and content of method statements to be provided
 - (k) rules for tender submission;
 - (l) any further information which will inform or assist tenderers in preparing tenders.

15. Submission, Receiving and Opening of E-Tenders/Quotations through the Chest

- 15.1 Every response to an invitation to tender/quote for a transaction valued over £20,000 must be submitted through the Chest by no later than the time and date specified for submission of tenders/quotations in the invitation to tender/quotation document.
- 15.2 The Principal Procurement Officer or Authorised deputy shall verify (remove the e-seal) and release all tenders and quotes to the Authorised Officer once the deadline for their receipt has passed. This verification role may be given to a suitably trained Authorised Officer for intermediate value quotes.

- 15.3 The Chest will automatically record the date and time of receipt of each submission and will list late submissions separately. No quotations or tenders which have been received on to the Chest after the deadline for receipt has passed may be considered.
- 15.4 The Principal Procurement Officer or other Authorised Officer shall complete a Record of Tenders/Quotations Received form summarising the quotations received.
- 15.5 The Authorised Officer must notify the Principal Procurement Officer of the eventual outcome of the procurement exercise for entry into the Contracts Register by completing and submitting the final sections of the Record of Tenders/Quotations Received Form.
- 15.6 The closing date for the receipt of tenders/quotations may be extended, in appropriate circumstances, at the written discretion of the Legal Services Manager.
- 15.7 Tenders and Quotations shall not be opened until the deadline has passed for their receipt.

16. Traditional Hard Copy Tenders and Quotes (Exceptional Circumstances Only)

- 16.1 The Council's preferred method of tendering is by electronic means through the Chest. However, in very exceptional circumstances (e.g. contracts where there are items required, which cannot be submitted electronically), tenders and quotes may be submitted in hard copy format with the prior approval of the Legal Services Manager and the Principal Procurement Officer.
- 16.2 Tenders and Quotations received in accordance with Paragraph 16.1 shall be addressed to the Principal Procurement Officer, Shared Financial Services, Town Hall Market Street, Chorley, PR7 1DP in a sealed envelope endorsed with the word "Tender" or "Quotation" as appropriate, followed by the subject matter to which it relates. No marks shall be included upon the envelope that identifies the bidder prior to the opening of the envelope. The Principal Procurement Officer shall record the date and time of receipt of such Tenders and Quotations and shall keep them in a secure place where they shall remain unopened until the time and date specified for their opening.
- 16.3 Tenders and Quotations received in accordance with this paragraph 16 shall be opened by the Principal Procurement Officer or authorised Deputy and at least one other Authorised Officer. An immediate record shall be made of the Tenders/Quotations received including tenderer name, value, and the date and time of opening on the Record of Tenders/Quotes Received Form.

17. Evaluation

- 17.1 Tenders subject to the EU Regulations shall be evaluated in accordance with the Regulations and the evaluation criteria set out in the OJEU notice and invitation to tender. All other tenders and quotations shall be evaluated in accordance with the evaluation criteria notified to tenderers in the contract notice and/or invitation to tender or Quote.
- 17.2 All contracts, except where lowest price was predetermined to be the appropriate contract award criterion, shall be awarded on the basis of the offer which represents the Most Economically Advantageous Tender to the Council (MEAT).
- 17.3 MEAT evaluation involves scoring tenders objectively by a panel of officers and/or independent experts using criteria which should:
 - be pre-determined and listed in the invitation to tender/quotation documentation in descending order of importance;

- be weighted according to their respective importance. This is mandatory for High Value Tenders and recommended for intermediate value procurements. Authorised officers must consult the Principal Procurement Officer where it is intended not to follow this recommendation for intermediate value procurements above £50,000 and provide a valid justification for this.;
- be strictly observed at all times throughout the tender process;
- reflect the principles of Best Value;
- include price;
- adopt whole-life costing where appropriate, particularly in the case of capital equipment where the full cost of maintenance, decommissioning and disposal should be taken into account. Additionally the use of energy efficient products or the use of sustainable materials with a longer life span may impact on the whole life cost;
- be capable of objective assessment;
- include, where applicable, the quality of the tenderers' proposals to accept a transfer of staff under the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE); and
- avoid discrimination or perceived discrimination on the basis of nationality, or other cause contrary to any of the Council's policies.

Where this evaluation methodology is used, any resulting contract must be awarded to the tenderer which submits the most economically advantageous tender, i.e. the tender that achieves the highest score in the objective assessment.

- 17.4 The evaluation criteria must be consistently and strictly observed at all times through the contract award procedure by any officer involved in the tender evaluation process. The Authorised Officer must keep comprehensive records of the evaluation exercise including the scores and comments and justification for those scores and shall sign the final selection record.
- 17.5 For each contract above £100,000, the Authorised Officer shall form an Evaluation Team with responsibility for evaluating tenders. The Authorised Officer shall keep comprehensive written records of the evaluation exercise including the scores and comments and justification for those scores, and the lead officers of the evaluation team shall sign the final selection record.

18. Tender/Quotation Clarification

- 18.1 Bidders may request clarification on aspects of the Tender/Quotation documentation prior to submission by submitting a clarification question through the Chest. The Authorised Officer must ensure equal treatment of all bidders, and where relevant should anonymise the question and publish that together with the response to all potential bidders through the Chest. Care should be taken not to reveal the identity of the Tenderer or any information which may be deemed to be commercially confidential to them during the clarification process.
- 18.2 During the evaluation process, Authorised Officers may clarify aspects of a submitted Tender or a Quotation which are unclear, lacking in detail, ambiguous or appear to show a misunderstanding of the requirements. The areas requiring clarification should be set out in writing by the procurer and a written response requested from the bidder. All such

communications should be issued or recorded through the Chest to ensure a full e-audit trail of the procurement.

- 18.3 For more complex service procurements where officers want to obtain a fuller understanding of bidders' proposals and method statements it may be appropriate to hold a clarification meeting. In such circumstances a formal written record of the meeting shall be completed and agreed by all parties. Minor points of clarification and obvious errors (e.g. mathematical error) should be dealt with in accordance with Clause 18.2 above and should not require a meeting.

When conducting clarification, as throughout the procurement process, the Authorised Officer must bear in mind the rules and principles of the EU Regulations i.e. transparency, equal treatment and non-discrimination.

19. Errors in Tenders/Quotations

- 19.1 Errors in Tenders/Quotations must be dealt with by asking the Tenderer to confirm the Tender as submitted or withdraw their bid. However, where a Tenderer has made a visible and genuine arithmetical error they may be given an opportunity to correct that error. Other than where specifically provided for in the Regulations (e.g when using the Competitive Dialogue procedure) no other adjustment, revision or qualification is permitted.
- 19.2 Tenders/Quotations must state how errors in Tenders/Quotations must be dealt with.
- 19.3 Careful consideration must be given to the effect of any procedure adopted when dealing with errors in Tenders and the reflection which any such procedure may have on the integrity on the officers and members of the Council. It is essential that the procedure adopted is transparent, fair and equitable with equal treatment to all bidders.

20 Post Tender Negotiation

- 20.1 Where procurement is conducted pursuant to the Regulations through either the Open or Restricted procedures no post tender negotiations are permitted. However, the Council may seek clarification from Suppliers where appropriate.
- 20.2 At all times during the procurement (whether subject to the Regulations or not), the Council shall consider and implement the principles of non-discrimination, equal treatment and transparency.

21. Bonds, Guarantees and Insurance

- 21.1 For high value procurements, the Authorised Officer shall consider and include in the procurement documentation, whether a performance bond and/or a parent company guarantee (if applicable) shall be required from the preferred Supplier.
- 21.2 The Authorised Officer shall consider and include, where relevant, in the Tender documentation the appropriate type (employee liability, public liability, professional indemnity, etc.) and level of insurance requirements for each contract.

22 Awarding Contracts

- 22.1 The Council shall only award a contract where at the time of contract award this represents the Most Economically Advantageous offer or is the lowest price depending on contract award criterion included in the OJEU notice or Invitation to Tender/Quote.

- 22.2 A contract must only be awarded and signed by a person authorised to do so, who must ensure that the appropriate budget holder has the funds in place to sustain the contract prior to award.
- 22.3 Directors/Heads of Service should ensure that proper records of all procurement activity are retained in electronic or hard copy format as appropriate.
- 22.4 All High Value contract award decisions and any which involve any potential transfer of the Council's employees shall be referred to Executive Cabinet.
- 22.5 Any procurement of £100,000 or more in value constitutes a key decision and must therefore be included in the relevant Forward Plan as described in the Council's Constitution, before the contract award decision is taken.
- 22.6 The highest standards of probity are required of all officers and members involved in the procurement, award and management of Council contracts. It is essential to maintain effective audit trails at all stages throughout the procurement procedure particularly where approval or agreement is required.

23 Standstill Period

- 23.1 TC "0

24. Contract Award Notice

- 24.1 All contracts awarded under the Regulations must be announced by means of a Contract Award Notice in OJEU transmitted no later than 30 calendar days after the date of the award.
- 24.2 All contracts awarded above £25,000 in value whether openly advertised or not must be published on Contracts Finder in accordance with the Regulations and published Crown Commercial Service (CCS) guidance.

25. Letters of Intent

- 25.1 Letters of intent shall only be used in exceptional circumstances and, by prior written agreement with the Legal Services Manager, as follows:
 - (a) Where a Supplier is required to provide services, supplies or works prior to formal written acceptance by the Council; or
 - (b) Where the Council's form of tender does not include a statement that until such time as a formal contract is executed, the Council's written acceptance of a tender shall bind the parties into a contractual relationship.

26. Contract Terms and Conditions

- 26.1 Contracts shall be entered into on the Council's terms and conditions, or an appropriate industry standard form of contract or other form of contract approved by Legal Services. This may be a supplier's contract suitably amended to protect the Council's interests. However where the contract has been tendered the contract shall be in accordance with the tender Conditions. The Contract Conditions shall be included with each purchase order and invitation

to tender or negotiate.

- 26.2 Where contracts are subject to the Regulations, the rules relating to technical specifications shall be followed and any reference to a technical standard, make or type shall be prefaced with the words "or equivalent".

27. Execution of Contracts

- 27.1 Any contracts valued at above £100,000 shall be passed to Legal Services for sealing execution and secure storage, unless otherwise agreed with the Legal Services Manager.
- 27.2 All contracts valued at above £20,000 but below £100,000 should be signed by at least two appropriately Authorised Officers.
- 27.3 All other contracts may be signed by an officer with the appropriate authority.
- 27.4 Electronic signatures may be used in accordance with the Electronic Signature Regulations 2002 provided the sufficiency of security arrangements has been approved by the Legal Services Manager.

28. Records of Tenders and Contracts/Contracts Register

- 28.1 Each Director/Head of Service shall maintain his/her own register of all contracts entered into by his/her department.
- 28.2 The Principal Procurement Officer shall maintain a register of all Higher Value and Intermediate value contracts entered into by the Council.
- 28.3 Authorised Officers shall notify the Principal Procurement Officer of all intermediate and high value contract awards for entry into the Contracts/ Transparency Register by completing and submitting the final sections of the Record of Tenders and Quotations Received Form.
- 28.4 Additionally the Authorised Officer must notify the Principal Procurement Officer of all contracts awarded, above £5000, as soon as possible after the Contract Award, for inclusion in the Contract/Transparency Register.

29. Approved / Standing List of Contractors

- 29.1 The Council may maintain Approved Standing lists of Suppliers that meet its suitability requirements. Quotations and tenders for contracts that are not subject to the Regulations may be invited from Suppliers included on an approved list. Where the Authority intends to use an approved list for services, supplies or works contracts, the Approved List should be reviewed and advertised on a regular basis.
- 29.2 Each Approved Standing List shall:
- (a) be compiled and maintained by the relevant Authorised Officer;
 - (b) contain the names of all persons who wish to be included in it and who after appropriate enquiries have been made by the Authorised Officer concerned, are approved by the Council or Cabinet as provided for in the scheme of delegation; and
 - (c) indicate whether a person whose name is included in it is approved for contracts for all, or only some, of the specified values or amounts or categories.
- 29.3 At least four weeks before each Standing List is first compiled, a notice inviting applications for

inclusion in it shall be published on the Chest, and where relevant Contracts Finder

- 29.4 Each Standing List shall be amended as required from time to time to include new applications for inclusion and to delete any person no longer thought fit to be included. Each Standing List shall be formally reviewed in the manner set out below by the appropriate Director/ Head of Service at intervals not exceeding three years. At least four weeks before each review, each person whose name appears in the Standing List shall be asked whether s/he wishes his/her name to remain there. Notices inviting applications for inclusion in the list shall be published in the manner provided by Contract Procedure Rule 29.3 above.
- 29.5 Where an invitation to tender for a contract is limited to those named on the Standing List maintained under this Contract Procedure Rule, an invitation to tender for that contract shall be sent to at least four of the persons on the list. These people will be approved for a contract for that value or amount or of that category, or, if there are fewer than four such persons, to all such persons. If there are more than four people, the Authorised Officer, will select the people who will receive invitations, and the manner in which they are sent. This will be either generally or in relation to a particular contract or to a category of contracts provided that the manner of selection shall include a system of rotation from persons appearing on the Standing List.

30. Nominated and Named Sub-contractors

If a sub-contractor, supplier or sub-consultant is to be nominated or named to a main contractor, quotations or tenders must be invited in accordance with these Contracts Procedure Rules and the terms of the invitation shall be compatible with the main contract.

31 Framework Agreements

- 31.1 Framework agreements are agreements with suppliers for the provision of supplies, works or services on agreed terms for a specific period. Unlike normal contracts which require certainty (on price, quantity and other details), Framework Agreements usually state only non-binding estimated quantities against which orders are placed as and when required during the contract period (sometimes this procedure is known as "call-off"). As soon as the quantity/price etc are fixed and an order placed, a contract is formed. Frameworks offer benefits of bulk-buying, improved service and reduced administration costs over the period of the arrangement.
- 31.2 A framework agreement may have the option or requirement for you to hold a "further - competition" with all of the suppliers included on the framework who are capable of meeting your requirement. Quotations invited under a further competition shall be received and opened in accordance with these Contract Procedure Rules, unless received and opened by the public sector framework provider (e.g. Yorkshire Purchasing Organisation) on the Council's behalf, who may receive and open such bids in accordance with their contract procedural rules.
- 31.3 All Framework agreements procured by the Council must be tendered in accordance with these Contract Procedure Rules.
- 31.4 Where the Council has entered into a Framework Agreement through procurement or is able to place orders from existing Framework Agreements procured by central government agencies, public sector consortia, other local authorities or other third parties, then the Council may benefit from using those contracts without entering into a full, separate procurement.
- 31.5 Where a public sector framework is used in accordance with the above provisions, without entering into a full, separate procurement process, all other relevant aspects of these procurement rules will still apply, including any approval which may be required for the procurement award procedure (in this case to use the identified framework), approval for the

evaluation criteria and weightings (in the event of a further competition under the framework), and approval for the contact award prior to contract acceptance.

- 31.6 Authorised Officers shall investigate whether call-off contracts or frameworks are relevant to their procurement activity as better value for the Council may be obtained by using an existing Council or other framework.
- 31.7 Legal/Procurement Advice should be sought in advance before awarding a contract to a supplier using a framework agreement not procured directly by the Council.
- 31.8 Any appropriate Council Framework Agreements in place shall be used regardless of value, provided the standing order requirements in relation to delegated authority are met. An effective audit trail shall be maintained.

32. Joint / Collaborative Procurement

- 32.1 Authority to engage in joint/ collaborative procurement activity shall be in accordance with the requirements of paragraph 5. However, in the event that the joint/ collaborative procurement activity requires a commitment at the outset, prior to bids being invited, Cabinet approval must be obtained prior to committing to the joint/ collaborative procurement where the estimated value of the Council's proportion of the procurement exceeds £100,000.
- 32.2 The Authorised Officer shall ensure that the joint/collaborative procurement activity complies fully with the EU Procurement Regulations
- 32.3 In any joint or collaborative procurement process the parties involved in the procurement should appoint a "lead body" to carry out the procurement. The procurement should then be conducted in accordance with the lead body's Rules. If this approach requires any waivers of the lead body's Rules, it shall be that body's responsibility to seek approval for, and obtain, such waiver(s).

33. Procurement by Consultants

Any consultants used by the Council shall be appointed in accordance with these Contracts Procedure Rules. Where the Council uses consultants to act on its behalf in relation to any procurement, then the Authorised Officer shall ensure that the consultants carry out any procurement in accordance with these Contracts Procedure Rules. No consultant shall make any decision on whether to award a contract or who a contract should be awarded to. The Authorised Officer shall ensure that the consultant's performance is monitored.

34. Contract Extension

- 34.1 Any contract which has been procured in accordance with these Rules may be extended in accordance with its terms (subject to financial resources) by the Director/Head of Service or Authorised Officer provided an extension clause was included for within the contract terms and conditions.
- 34.2 Other existing Contracts which have been procured in accordance with these Rules may be extended by the Director/Head of Service or Authorised Officer, provided that the total period of this and any previous extension will not together exceed 1 year. The authorised officer must keep a record of the reason for the decision to so extend. A formal Waiver of the Rules must

be obtained if the proposed extension will add more than £20,000, or more than 20% (whichever is the higher) to the original total Contract value.

- 34.3 Any extension exceeding £100,000 in value shall require the approval of the Executive Cabinet or relevant Executive Cabinet Portfolio Member.
- 34.4 If the original contract was subject to the EU procurement regulations, the contract can only be extended within the parameters identified in the original EU contract notice. If the contract was not subject to the EU procurement regulations, any extension must not take the total value of the contract above the relevant EU thresholds.
- 34.5 If the contract was awarded as a framework agreement, the total framework period, including any extensions, cannot exceed four years, except in exceptional circumstances relating to the subject of the framework agreement. For example, a longer duration could be justified in order to ensure effective competition if four years would not be sufficient to provide return on investment.
- 34.6 When negotiating a contract extension the authorised officer must make every effort to negotiate improved contract terms with regard to the cost and quality and shall always be satisfied that the extension will achieve Best Value for Money and is reasonable in all the relevant circumstances.
- 34.7 All extensions to any Council contracts must be in writing and reported to the Principal Procurement Officer in order that the Contracts Register can be updated accordingly.
- 34.8 Once a Contract has expired it cannot then be extended.

35. Variations

- 35.1 Variations to Contract shall be dealt with in accordance with these Contracts Procedure Rules and the Council's Financial Regulations.
- 35.2 All Contract variations must be carried out within the scope of the original Contract. Contract variations that materially effect or change the scope of the original Contract are not allowed.
- 35.3 All Contract variations must be in writing and signed by both the Council and the Contractor except where different provisions are made within the Contract documentation. The value of each variation must be assessed by the Authorised Officer and all necessary approvals sought prior to the variation taking place including registration on the Council's forward plan if applicable.
- 35.4 Contracts procured under the EU Regulations **must not** be extended or varied without first consulting Legal Services and the Principal Procurement Officer.
- 35.5 The Authorised Officer shall always be satisfied that the variation will achieve Best Value for Money and is reasonable in all the relevant circumstances.

36. Termination of Contract

- 36.1 For any contract exceeding £100,000 in value, termination shall be approved by the Executive Cabinet or Executive Cabinet Portfolio Member. In emergency situations, the relevant Director may authorise termination of Higher Value Contracts. In this case, full details including the reason for the contract termination shall be reported back to Council at a later date.
- 36.2 Contracts of a lesser value than £100,000 may be terminated early by agreement prior to the January 2018

expiry date or in accordance with the termination provisions set out in the contract. Legal advice should be sought as appropriate.

37. Disposing of surplus goods

- 37.1 Heads of Service are responsible for the disposal of their own surplus goods and shall make adequate and safe arrangements to do so.
- 37.2 An appropriate competitive process shall be applied to the disposal of surplus goods, unless it has been agreed by the Head of Service that the goods in question are to be disposed of to a charitable/not-for-profit organisation, or disposal arrangements have been agreed within the original contract for purchase.

38 Concession Contracts

The rules apply to Concession Contracts (please refer to the Definitions at the back of this document). A simple example would be a concession to pitch an ice cream van and sell ice cream on council land.

39 Waivers of Contract Procedure Rules

- 39.1 Waivers of any of these contract Procedure Rules shall only be given in exceptional circumstances and in all cases must make clear which rules are being waived and be justified because:
 - the nature of the market for the works to be carried out or the goods or services to be provided has been investigated and is demonstrated to be such that a departure from the requirements of the Rules is justifiable; or
 - the contract is for works, supplies or services that are required in circumstances of extreme urgency that could not reasonably have been foreseen; or
 - there are other circumstances which are genuinely exceptional and not of the Council's own making.
- 39.2 For Higher Value Procurements, approval for waivers to the Rules must be obtained from Cabinet.
- 39.3 For intermediate value procurements, waivers may be granted by the appropriate Director/Head of Service, in consultation with the relevant Cabinet Member and the Legal Services Manager, prior to contract award.
- 39.4 An e-form will be developed for the purpose of requesting, securing and recording approval for Intermediate Value Waivers. This must be used on all occasions when it is available. In the meantime, a paper report should be produced and retained for this purpose.
- 39.5 Waivers may not be made retrospectively.

40. Non-Compliance

If it comes to the notice of an Authorised Officer that there has been non-compliance with these Contract Procedure Rules in respect of any contract for which s/he is responsible as the Authorised Officer of the procuring department, s/he shall without delay notify the Monitoring Officer who shall take such action as s/he deems necessary. Further if there is any

discrepancy between the amount of the Contract Award and the amount actually paid then the matter should also be brought to the attention of the Monitoring Officer without further delay.

41. Change of Authorised Officer

If during the life of a contract there is a change in the Authorised officer who is leading on that particular contract then the outgoing officer should ensure that the new Authorised Officer is fully briefed on all relevant issues relating to that contract.

42. Review and Amendment of Contract Procedure Rules

The Monitoring Officer is responsible for keeping the Rules under review (with a formal review and if necessary revision every three years) and monitoring compliance.

43. Emergency Procedures

Where a need for urgent action arises between meetings of the Cabinet, but is not considered sufficient justification for calling a special meeting, such decision may be taken by the Chief Executive (or other designated officer) in accordance with the requirements of Standing Order Number 38 of the Council's Procedure Rules (standing Orders). Officers should refer to the Constitution or contact Legal Services for further advice and information.

DEFINITIONS

“Annual Procurement Plan”

A plan identifying major projects so that appropriate resources can be identified. It also provides a basis for PINs and other information provided to suppliers to give advance notice of bidding opportunities.

“Authorised Officer”

An Authorised Officer of the Council with appropriate delegated authority to act on the Council's behalf in accordance with the Constitution.

“Best Value for Money”

The optimum combination of whole life costs and benefits to meet the customer's requirement. Such term equates to the EU procurement requirement “most economically advantageous offer”.

“Council”

“Council” means South Ribble Borough Council.

“Concession Contract”

A concession contract is used where the Council wishes to engage a party to provide a service, consideration for which is in the form of the party (“the concessionnaire”) being given a right to charge the public for the services being provided. A simple example would be a concession to pitch an ice cream van and sell ice cream on council land. If unsure as to whether a proposed contract would come within the scope of this definition please consult with the Legal Services Manager.

“Contract Award Procedure”

One of four procedures as set out in Contract Procedure Rules 13 (Open Procedure), 14 (Restricted Procedure), 15 (Negotiated Procedure or 16 (Competitive Dialogue Procedure).

“Contracts Finder”

Contracts Finder is the Government's one stop shop for suppliers to find new procurement opportunities totally free of charge, specifically referred to in the 2015 Public Procurement Regulations

“Contracts Register”

A register held and maintained by the Principal Procurement Officer containing details of contracts entered into by the Authority.

“Framework Agreement”

An agreement which allows the Council to call off from a supplier to provide supplies, services or works in accordance with the terms of the agreement. The Framework Agreement itself usually constitutes a non-binding offer with no obligations on the Authority to call off from the Supplier. If the Council calls off from the Supplier a binding contract comes into being. A Framework Agreement can be a binding agreement where it is executed as a deed.

“Grant Funded Contract”

shall mean a contract which is procured by the Council and is funded or part funded by grant monies.

“ITN”

Invitation to negotiate.

“ITT”

Invitation to tender.

“Key Decision”

A key decision is defined as any decision in relation to a Cabinet function which is likely:
January 2018

- (a) to result in the Council incurring expenditure which is, or the making of savings which are, significant. The financial threshold above which expenditure/savings become significant is set at £100,000. This financial threshold is applicable to both the revenue and capital budgets.
- (b) to be significant in terms of its effect on the communities living in an area comprising two or more Council wards.

“Legal Services Manager”

Legal Services Manager or authorised deputy.

“Local Supplier”

Any Supplier within the South Ribble borough or any neighbouring borough.

“Most Economically Advantageous Offer”

From the Council’s perspective the most economically advantageous offer from a Supplier assessed by reference to relevant evaluation criteria linked to the subject matter of the contract in question for example, quality, price, technical merit, aesthetic and functional characteristics, running costs, cost effectiveness, after sales service and technical assistance, delivery date and delivery period or period of completion.

“OJEU”

Official Journal of the European Union.

PURCHASING CONSORTIUM

A group of public sector bodies which aggregate their requirements and by doing so exact greater leverage from the market. With the agreement of suppliers, if permissible, the consortium may offer its contracts to other local authorities or public bodies.

“Regulations”

The UK regulations implementing the EC public procurement directives.

“RFQ”

Request for quotations.

“STANDING OR APPROVED LISTS OF CONTRACTORS”

A method of procurement where a list of suppliers is drawn up in response to an advertisement in the relevant trade/local press/ website(s). The potential contractors are vetted using the responses to the Pre-Qualification Questionnaire (PQQ) and the list is then used to select specific suppliers for individual contracts. Care needs to be taken to ensure that the list is carefully managed so that it does not become out dated and that it fully represents the range of innovative solutions that may be available in the market.

“Supplier”

Any person or body of persons providing, or seeking to provide, supplies, services or works to the Council.

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