

GOVERNANCE COMMITTEE

WEDNESDAY, 13TH SEPTEMBER, 2017, 6.00 PM

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

AGENDA

1 Apologies for absence

2 Minutes of the Last Meeting

To confirm the minutes of the Governance Committee meeting held on 28 June 2017 (enclosed)

(Pages 3 - 10)

3 Declarations of Interests

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.

4 Annual Governance Statement

Report and appendix enclosed.

(Pages 11 - 40)

5 Audited Statement of Accounts

Report (to follow)

6 Budget Management Report as at 30 June 2017

Report (to follow)

7 External Audit - 2016/17 Audit Findings and Progress Report

Report (to follow)

8 Internal Audit Progress Report

(Pages 41 - 46)

Report enclosed.	
9 Approach to Property and Asset Investment	(Pages 47 - 50)
Report enclosed.	
10 Treasury Management Activity - Mid Year Review 2017/18	
Report (to follow)	
11 Review of Constitution - Contract Procedure Rules	(Pages 51 - 104)
Report and appendices enclosed.	
12 Review of Constitution - Council Terms of Reference and Members	(Pages 105 - 118)
Report and appendices enclosed.	
13 General Licensing Committee and Licensing Act 2003 - Review of Constitution and Introduction of Member Panels for Hearings of the General Licensing Committee	(Pages 119 - 138)
Reports and appendices enclosed.	

Heather McManus
CHIEF EXECUTIVE

Electronic agendas sent to Members of the Governance Committee Councillors Alan Ogilvie (Chair), James Patten (Vice-Chair), David Bird, Paul Foster, Margaret Smith and Karen Walton

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

Forthcoming Meetings

6.00 pm Wednesday, 29 November 2017 - Wheel Room, Civic Centre, West Paddock, West Paddock, Leyland PR25 1DH

Agenda Item 2

Governance Committee

Meeting held at 6.00pm on Wednesday, 28th June, 2017 in Wheel Room, Civic Centre, West Paddock, Leyland, PR25 1DH

Present:-

Cllr A F Ogilvie (in the chair), Cllr D Bird, Cllr P A Foster, Cllr J Patten, Cllr Mrs M R Smith, Cllr Mrs K Walton

In Attendance:-

Garry Barclay (Head of Shared Assurance Services), Caroline Elwood (Interim Governance Manager), Susan Guinness (Head of Shared Financial Services), Dawn Highton (Principal Auditor), Lee Hurst (Principal Systems & Financial Accountant), David Whelan (Legal Services Manager) and Dave Lee (Democratic Services Officer)

Also in Attendance: Councillor Mrs Snape (Cabinet Member for Finance) and Mark Heap from the Council's external auditors Grant Thornton

Public Attendance:-

2

Officers:-

3

Other Members: Councillors Clark, Hughes, Mrs Mort, P J Smith and Walton

Minute No.	Description/Resolution	Action By/Deadline
1	Apologies for Absence There were no apologies reported.	
2	Declarations of Interest There were no declarations of interest.	
3	Minutes of the Last Meeting RESOLVED (unanimously): that the minutes of the meeting of the committee held on 12 April 2017 be approved as a correct record and signed by the chairman.	
4	External Audit - 2017/18 Fees letter The chairman welcomed Mark Heap from the Council's External Auditors, Grant Thornton. The external auditor provided a brief outline of the 2017/18 fees letter and indicated that there were no changes to the overall work programme for local government audited bodies for 2017/18. Public Sector Audit Appointments Limited (PSAA) had therefore set the 2017/18 scale audit fees at the same level as the scale fees applicable for 2016/17 (£43,923).	

	<p>The audit planning process for 2017/18, including the risk assessment, would continue during the course of the year and the fees would be reviewed and updated as necessary as the work progresses.</p> <p>The committee was pleased to note that the scale audit fees for 2017/18 had been set at the same level as last year.</p> <p>RESOLVED (unanimously): that the Council's scale fee for 2017/18 set by PSAA at £43,923 be noted.</p>	
5	<p>External Audit - Audit Progress Report</p> <p>The external auditor presented the progress report and provided a brief summary of emerging issues and developments in the report.</p> <p>The external auditor drew the committee's attention to the technical matters some of these being CIPFA's Code of practice and accounting arrangements; current publications from National Audit Office and Grant Thornton; and the reports relating to local government.</p> <p>In respect of various challenge questions for the Financial Services Team, the committee noted that this would go through a rigorous process and that the changes to guidance notes from external auditors and CIPFA would be considered and taken into account.</p> <p>The committee further noted that it was envisaged that the audit would be completed by 31 July as part of the transition to the earlier closedown and audit cycle that was required from 2018.</p> <p>With regard to the Chief Financial Officer (CFO) Insights, the external auditor indicated that he was happy to arrange a demonstration of the tool/work package.</p> <p>RESOLVED (unanimously): that the progress report be noted.</p>	
6	<p>Budget Management Out-turn Report 2016/17</p> <p>The Head of Shared Financial Services presented the report, explaining that this had been prepared to notify members of the 2016/17 Budget Out-turn position in relation to both Revenue and Capital expenditure. The core financial statements relating to this year-end position including information on the balance sheet were also reported for completeness and in line with best practice.</p> <p>A discussion ensued on the Income Budgets as set out in the report and the Head of Shared Financial Services indicated she would look into the comments/queries raised at the meeting. A detailed response would then be provided at the forthcoming members' briefing session.</p> <p>RESOLVED (unanimously): that –</p> <ol style="list-style-type: none"> 1. the contents of the report and appendices be noted; 2. the budget variances for 2016/17 as listed at Appendix A be noted; 	

	<p>3. that the budget items listed at Appendix B to be carried forward to 2017/18 be approved;</p> <p>4. the financing of the capital programme for 2016/17 and the carry forward of capital re-phasing into 2017/18 as outlined in this report be approved; and</p> <p>5. the retention of reserves at Appendix D together with the proposed contributions to and withdrawals from these reserves as detailed within the Core Financial Statements and within this report be noted.</p>	
7	<p>Treasury Management Annual Report 2016/17</p> <p>The Head of Shared Financial Services presented the report, explaining that the current regulatory environment concerning treasury management places a greater onus on members to scrutinise treasury policy and activity. To enable that, each year the Council was required to consider, as a minimum, three treasury reports. These consist of an annual strategy statement in advance of the year (Council 2 March 2016), a mid-year review of that strategy (Governance Committee 21 September 2016), and finally this out-turn report.</p> <p>The committee was pleased to note that the key messages within this report were that Prudential and Treasury Indicators were complied with and that the return on investments totalled 0.57% which exceeded the 7-day LIBID benchmark of 0.21%.</p> <p>RESOLVED (unanimously): that the report be noted.</p>	
8	<p>Draft Annual Governance Statement</p> <p>The Legal Services Manager presented the Draft Annual Governance Statement (AGS) for 2017 which provided assurance on the standards of corporate governance spanning all the Council's priorities and covering all activities.</p> <p>A great deal of work had been done in the last 12 months to strengthen and improve the Council's governance arrangements. Much had already been achieved but this was an ongoing process and the Council would continue to be as robust as possible.</p> <p>The Legal Services Manager added that this year's AGS (Appendix A to the report) was a more detailed document than in previous years and external audit would have the opportunity to comment on this. The intention was then to bring the document back in final form for approval at the Governance Committee on 13 September 2017.</p> <p>The Legal Services Manager provided an overview of the seven new principles of the new Local Code of Governance, the key developments of the last 12 months and the actions carried out from the 2016 AGS/remaining actions carried forward.</p> <p>The committee was pleased to note that further information on the Governance, Risk Assessment & Control Evaluation software (GRACE) would be</p>	

	<p>brought back to the committee for consideration. The system would enable continuous risk and control self-assessment by services.</p> <p>RESOLVED (unanimously): that the Draft Annual Governance Statement be noted.</p>	
9	<p>Core Financial Statements for Year Ended 31 March 2017</p> <p>The Principal Systems & Financial Accountant presented the draft Core Financial Statements. These statements would form part of the Council's year end statutory Statement of Accounts (SOA) for 2016/17 which must be signed and authorised for issue by the Acting Chief Finance Officer by the 30 June 2017. Members were asked to provide the Principal Systems & Financial Accountant with any detailed questions prior to the Members' Statement of Account training on 13 July 2017.</p> <p>The committee was pleased to note the progress towards meeting the earlier statutory deadline for approval and publication of the SOA in time for its 2017/18 introduction.</p> <p>The committee and the Head of Shared Financial Services congratulated the Principal Systems & Financial Accountant and the Accountancy Team for the excellent work they have undertaken for producing the Statement of Accounts earlier to meet the statutory deadline.</p> <p>RESOLVED (unanimously): that the report be noted.</p>	
10	<p>Corporate Risk Register 2017/2018</p> <p>The Head of Shared Assurance Services presented the Council's Corporate Risk Register for 2017/18 which was approved by the Cabinet on 20 February and by Council on 1 March 2017.</p> <p>The committee welcomed the more detailed contents of the risk register. This was complementary to the Corporate Plan.</p> <p>The Head of Shared Assurance Services responded to questions on key risks and the various levels/control of these risks. Further details would be incorporated in the GRACE software to address the matter. The committee felt that City Deal should be identified as a separate strategic risk.</p> <p>RESOLVED (unanimously): that the contents of the Corporate Risk Register for 2017-18 approved by the Cabinet on 20 February and Council on 1 March 2017 be noted.</p>	
11	<p>Review of Constitution - Introduction and Short Guide & Decision Making</p> <p>Following the request of the Governance Committee on 1 February 2017 and consideration by the committee's Constitution Review Task Group at its</p>	

	<p>recent meeting to review the Council's Constitution, the committee received the proposed amendments to both the Introduction and Short Guide to the Constitution and the Guide to Decision Making. This would then be submitted to the Council meeting to be held on 19 July 2017 for approval.</p> <p>The Interim Governance Manager responded to questions and comments from the committee.</p> <p>RESOLVED (unanimously): that –</p> <ol style="list-style-type: none"> 1. the draft Introduction and Short Guide to the Constitution and the Guide to Decision Making at the Appendices A & C respectively to the report be agreed; and 2. this now be recommended for approval to the Council meeting to be held on 19 July 2017. 	
12	<p>Review of Constitution – Council Procedure Rules</p> <p>Following the request of the Governance Committee on 1 February 2017 and consideration by the committee's Constitution Review Task Group at its recent meeting to review the Council's Constitution, the committee received the proposed amendments to the Council's Procedure Rules. This would then be submitted to the Council meeting to be held on 19 July 2017 for approval.</p> <p>The Interim Governance Manager responded to questions and comments from the committee.</p> <p>The committee thanked the Interim Governance Manager for the excellent work undertaken.</p> <p>RESOLVED (unanimously): that –</p> <ol style="list-style-type: none"> 1. the draft Council Procedure Rules at Appendix B to the report be agreed; and 2. this now be recommended for approval to the Council meeting to be held on 19 July 2017. 	
13	<p>Review of Constitution – Planning Committee Terms of Reference & Public Participation</p> <p>Following the request of the Governance Committee on 1 February 2017 and consideration by the committee's Constitution Review Task Group at its recent meeting to review the Council's Constitution, the committee received the proposed amendments to the Terms of Reference and Public Participation for the Planning Committee. This would then be submitted to the Council meeting to be held on 19 July 2017 for approval subject to any comments/views by the Planning Committee at its next meeting on 5 July 2017.</p> <p>The committee noted that consideration of the matter was deferred by the Planning Committee on 20 June 2017 to enable members to submit comments in writing.</p> <p>The Interim Governance Manager responded to questions and comments from the committee.</p> <p>In respect of public participation, the Committee</p>	

	<p>suggested that borough/ward councillors should be invited to make representations after the applicant/agent had stated their case. The committee further commented that the term used for the length of time allowed for each party should be consistent.</p> <p>RESOLVED (unanimously): that –</p> <ol style="list-style-type: none"> 1. the comments made at the meeting be noted and that the draft Terms of Reference for the Planning Committee at Appendix B together with the Guidance on Participation by the Public & Members of the Council at Planning Committee at Appendix C be agreed in principle. 2. the final decision be delegated to the chairman/vice chairman to recommend this for approval to the Council meeting to be held on 19 July 2017 subject to any comments/views by the Planning Committee at its meeting on 5 July 2017. 	
14	<p>Social Media Protocol – Update</p> <p>The committee considered an update on the draft Protocol for the use of Social Media by Elected Members.</p> <p>This was approved by both the Standards and Governance Committees in February/April respectively however shortly after the committees had met, the Online Safeguarding Adviser to Lancashire Safeguarding Children’s Board had sight of the draft Protocol and, although complimentary about the draft as a whole, the Adviser suggested that it could be strengthened in a number of areas with safeguarding specifically in mind. This report incorporated the suggested changes. The committee noted that this matter was to be considered by the Council’s Standards Committee the following day (29 June 2017).</p> <p>The Interim Governance Manager responded to questions and comments from the committee.</p> <p>A discussion ensued on the Members’ Code of Conduct and whether the possibility of the introduction of a political groups’ charter for members to sign up to could be explored to strengthen the protocol further.</p> <p>RESOLVED (unanimously): that -</p> <ol style="list-style-type: none"> 1. the draft Social Media Protocol for all Members and the comments made at the meeting be agreed in principle. 2. the final decision be delegated to the chairman/vice chairman to recommend this for approval to the Council meeting to be held on 19 July 2017 subject to any comments/views by the Standards Committee at its meeting on 29 June 2017. 3. it be recommended to Council that all Members attend training on the effective and responsible use of social media. 	
15	<p>Internal Audit - Annual Report</p>	

	<p>The Head of Shared Assurance Services presented the report which summarised the work undertaken by the Internal Audit Service from April 2016 to March 2017; gave an Audit opinion on the adequacy and effectiveness of the Council's framework of control, risk management and governance; and provided an appraisal of the Internal Audit Service's performance including a review of the Council's internal control system.</p> <p>RESOLVED (unanimously): that the Internal Audit Annual Report for 2016/17 be noted.</p>	
16	<p>Compliance with International Audit Standards</p> <p>The Principal Auditor presented the report which aimed to enable the Governance Committee and the Chief Executive to provide a range of assurances being sought by the external auditors (Grant Thornton) as part of their audit of the Council's 2016/17 accounts. The specific assurances were set out in the letters appended to the report.</p> <p>RESOLVED (unanimously): that the chairman of the Governance Committee and the Interim Chief Executive be enabled to sign the assurance letters as requested by Grant Thornton.</p>	
17	<p>Weightmans Report on Leaking of Confidential Information</p> <p>(At the commencement of the meeting, the Legal Services Manager indicated that the purpose of this report was not to examine or comment on the behaviour of any of the members concerned. If there were issues with that then there were alternative procedures for dealing with such issues.)</p> <p>The Legal Services Manager presented the report on an investigation by external lawyers Weightmans into the circumstances relating to the leaking of confidential information. This primarily related to the leaking of the interim report into taxi licensing in April 2016.</p> <p>The report most importantly addressed how the Council could improve and strengthen its systems and processes for managing confidential information. In respect of arrangements for handling confidential data/reports, the Legal Services Manager suggest an additional action in the Action Plan to reflect this –</p> <p>“To review our arrangements for handling and distributing confidential data/reports and to make all necessary amendments to existing policies.”</p> <p>RESOLVED (unanimously): that –</p> <ol style="list-style-type: none"> 1. the report and appendices be noted; and 2. the Action Plan moving forward be agreed subject to the inclusion of the following addition action – <p>“To review our arrangements for handling and distributing confidential data/reports and to make all necessary amendments to existing policies.”</p>	

8.20pm

..... Chairman

Published on Friday, 14th July, 2017

REPORT TO	ON
Governance Committee	13 September 2017

Jan 2017



TITLE	AUTHOR
Annual Governance Statement	Interim Monitoring Officer

1. PURPOSE OF THE REPORT

1.1 The report presents the council’s Annual Governance Statement (AGS) for 2017 to provide assurance on the standards of corporate governance spanning all the Council’s priorities and covering all activities.

1.2 The report follows on from the report to Governance Committee on the 28th of June 2017 when Committee considered the draft AGS. At that stage Committee was happy with the contents of the AGS.

1.3 Since then (following discussions with External Auditors) some amendments have been made to the draft AGS with the purpose of strengthening the document.

1.4 Governance Committee is now asked to approve the amended AGS with a view to it being published with the Statement of Accounts. A great deal of work has been done in the last 12 months to strengthen and improve our governance arrangements. Much has already been achieved but this is an ongoing process of course.

2. RECOMMENDATIONS

That the Committee considers and approves the council’s Annual Governance Statement

3. CORPORATE PRIORITIES

The report relates to the following corporate priorities:-

Clean, green and safe		Strong and healthy communities	
Strong South Ribble in the heart of prosperous Lancashire		Efficient, effective and exceptional council	X

4. BACKGROUND TO THE REPORT

4.1 The earlier report of the 28th of June 2017 set out the full background to this and the processes we have gone through to produce the AGS. The AGS is attached at Appendix A.

4.2 As members are aware the council is required (the Accounts and Audit Regulations 2015) to conduct an annual review of the effectiveness of its system of corporate governance and to publish a statement on the adequacy of the system with its annual accounts.

4.3 The council's AGS is intended to provide assurance on the standards of corporate governance spanning all the council's priorities and covering all activities.

4.4 The AGS explains our governance arrangements, the review of the governance framework against the Local Code of Governance and sets out future plans to improve and strengthen the governance environment. Statutory regulations state that the document should be published with the financial statements; however, it should be emphasised that the AGS is a broader reflection of the whole governance of the council, relating to not just financial controls, but covering all activities of the council.

5. DETAILS AND REASONING

5.1 Subsequent to the publication of the draft AGS (and its consideration by Governance Committee on the 28th of June 2017) External Auditors have met with officers and suggested that we consider making some changes to the document. It is not considered that any of the discussed changes are fundamental - the suggested changes are designed to improve the clarity and strengthen the contents of the AGS. The council's officers therefore were happy to consider the comments of External Audit and amend the wording accordingly. For your ease of reference the proposed amendments to the document are highlighted in red. It is not considered that these changes cause any issues for the council.

5.2 The principal changes (which are primarily in the latter part of the document – section 4 onwards) include:

- A section explaining the interim management arrangements which have been in place in the council during the relevant period
- More information about Mary Ney's review of Licensing
- A section on the staff survey
- Expanded comments by the Head of Shared Assurance and the Section 151 officer
- A clear commitment to implement the Action Plan moving forward.

5.3 In addition the actions taken against the 2016 Action Plan have been updated to reflect further developments since the Committee report of the 28th of June.

5.4 Moving forward it is a requirement that the AGS statement is signed by the Leader of the Council and the Chief Executive – subject to the approval of Governance Committee this will now be attended to.

5.5 Further the Statement of Accounts will need to incorporate the AGS. Members will see elsewhere on the agenda a report seeking authority to sign off the Statement of Accounts. The letter of representation will also need to be signed – this again is covered by a report elsewhere on the agenda.

5.6 Accordingly it is good practice that the statement is approved separate to the accounts and also signed by the Leader of the Council and the Chief Executive to emphasise its importance and corporate nature

6. WIDER IMPLICATIONS AND BACKGROUND DOCUMENTATION

6.1 Comments of the Statutory Finance Officer

There are no financial implications arising from this report.

The AGS will be published with the financial statements/statement of accounts.

6.2 Comments of the Monitoring Officer

The production of the AGS demonstrates compliance with the Accounts and Audit Regulations 2015. More generally it is clearly crucial that the council does everything practicable to demonstrate that its governance regime is as robust as possible – the AGS is a vital part of that process.

<p>Other implications:</p> <ul style="list-style-type: none"> • Risk • Equality • HR 	<ul style="list-style-type: none"> • The statement and more importantly the underlying process of assessment will enhance our internal control and corporate governance status thus minimising risk. • There are no adverse implications for equality issues with this report • There are no HR implications arising from this report
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7. BACKGROUND DOCUMENTS

A Chartered Institute of Public Finance and Accountancy and the Society of Local Authority Chief Executives and Senior Managers (CIPFA/SOLACE) 2016 document, entitled "Delivering Good Governance in Local Government Framework"

Regulation 6(b) of the Accounts and Audit (England) Regulations 2015.

The Chartered Institute of Public Finance and Accountancy (CIPFA) "Statement on the Role of the Chief Financial Officer" 2010

CIPFA "Statement on the Role of the Head of Internal Audit" 2010

A 2004 publication produced by the Independent Commission on Good Governance in Public Services chaired by Sir Alan Langlands entitled "Good Governance Standard for Public Services".

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APPENDIX A

SOUTH RIBBLE BOROUGH COUNCIL

ANNUAL GOVERNANCE STATEMENT 2017

1. What we are responsible for

South Ribble Borough Council is responsible for ensuring that its business is conducted in accordance with the law and to high standards **and that there is a sound system of governance (incorporating the system of internal control)**. Public money must be protected and properly accounted for. We also have a duty under the Local Government Act 1999 to continually review and improve the way we work, while at the same time offering value for money and delivering an efficient and effective service.

To meet this responsibility we have put in place proper arrangements for overseeing what we do (this is what we mean by governance). These arrangements are intended to make sure we do the right things, in the right way, for the right people, in a fair, open, honest and accountable way.

We have approved and adopted a code of corporate governance (referred to as the local code) that is consistent with best practice governance principles for both public services and in particular for local government.¹

This governance statement explains how we have followed our local code² and also met our statutory requirements.³

2. Purpose of the Governance Framework

The governance framework comprises the systems, processes, culture and values by which we direct and control our activities including those by which we account to, engage with and lead the community. It enables us to monitor how we are achieving our long-term aims and to demonstrate where this has led to improved services that are delivering value for money. **The council has responsibility for ensuring that there is a sound system of governance.**

The system of internal control is a significant part of the framework and is designed to manage risk to a reasonable level. It cannot remove all risk of failing to achieve our priorities and aims, so it can only offer reasonable protection. It is based on an ongoing process that is designed to:

- Identify and prioritise the risks that could prevent us achieving our aims and objectives
- Assess the likelihood and impact of the risk occurring
- Manage the risks efficiently, effectively and economically.

1. The CIPFA / SOLACE (Chartered Institute of Public Finance and Accountancy / Society of Local Authority Chief Executives and Senior Managers) framework "Delivering Good Governance in Local Government".

2. South Ribble Borough Council has approved and adopted a code of governance that is consistent with the principles of the CIPFA/SOLACE Framework. A copy of the local code is available on line at www.southribble.gov.uk or can be obtained by contacting D Whelan, Interim Monitoring Officer - Civic Centre, West Paddock, Leyland, Lancs, PR25 1DH

3. Regulation 6(b) of the Accounts and Audit (England) Regulations 2015

3. Our Governance Framework

Our Governance Framework which was adopted by full Council at its meeting on the 24th of May 2017 promotes and demonstrates our commitment to the principles of good governance and incorporates the council's values that emphasise how we do things at South Ribble Borough Council.

The principal elements of our governance arrangements in 2016/17 and our commitment to our local code are described below:

3.1 Good governance means behaving with integrity, demonstrating strong commitment to ethical values, and respecting the law

- a) The council has a set of Core Values in place which **guide** everything we do.
- b) Our values of Integrity, Positive Attitude, Learning Organisation, Teamwork and Excellence are at the core of our business and they influence everything we do. They demonstrate that we are serious not just about what is achieved but also how business is done.
- c) Our Core Values are incorporated into job descriptions for senior managers and embedded into our performance appraisal process.
- d) We have a robust Members' Code of Conduct in place which has recently been reviewed by our Standards Committee.
- e) We have a robust Employee Code of Conduct in place.
- f) We are committed to raising the profile of our Standards Committee – more regular meetings are now scheduled in and a work programme has been developed. **Designated officer support is in place.**
- g) We have strengthened our standards arrangements by appointing a second Independent Person.
- h) The Protocol for the Independent Person has been formalised and is included in the Constitution.
- i) We have an Investigation and Hearing policy which sets out how we deal with complaints against Members.
- j) We have regular Member learning hours as well as tailored training for members on particular committees.
- k) We have a suite of relevant policies in place – i.e. Whistleblowing policy, Antifraud and Corruption Strategy, Fraud Response Plan, Anti Bribery Policy, Anti Money Laundering Policy and Guidance, RIPA.
- l) We have an induction programme for new Officers **and members.**

- m) Members regularly receive advice relating to declaration of interests – whether at committee meetings or (where possible) before any such meetings.
- n) Officers and members periodically receive training regarding the declaration of interests.
- o) We have a register of interests in place for officers and members to declare interests.
- p) Members are advised on an annual basis to review their declaration of interest's forms.
- q) Members' interests are published online.
- r) We have Financial Regulations and Contract Procedure Rules in place.
- s) We have commenced the process of reviewing and updating our Constitution.
- t) Contracts and service specifications for the main partnerships are informed by our values.
- u) Formal agreements are embedded for all key partnerships – contracts held by Legal services.

3.2 Good governance means ensuring openness and comprehensive stakeholder engagement

- a) The council's vision and priorities are developed through joint working and consultation with our partners.
- b) Our Corporate Plan provides a focus, sets out the priority objectives, key targets and supporting improvement actions.
- c) Our Corporate Plan is reviewed and updated on an annual basis.
- d) Our Corporate Plan is communicated via Website, Connect, Team Brief and performance appraisal.
- e) Our service area plans are designed to be in harmony with our Corporate Plan.
- f) Significant consultation takes place with voluntary, community and faith sector groups via the South Ribble VCFS Network.
- g) South Ribble Partnership's Sustainable Community Strategy was refreshed in April 2017 and a new action plan developed for 2017-18.
- h) The Sustainable Community Strategy is closely aligned with My Neighbourhood plans and with the South Ribble VCFS Network.

- i) Council representation on South Ribble Partnership includes the Leader (vice chair) and the Chief Executive.
- j) The South Ribble Partnership Manager chairs the VCFS project group which is made up of the Partnership and the VCSF network.
- k) Chorley and South Ribble Disability Forum for disabled residents meets quarterly.
- l) We have in place a 'Safer Chorley and South Ribble' Community Safety Partnership.
- m) My Neighbourhood forums involve local communities shaping and delivering improvements to enrich the lives of local people.
- n) We liaise with Parish and Town councils over the distribution of monies received via the Community Infrastructure Levy
- o) We collaborate closely with Lancashire County Council and Preston City Council over the governance and delivery of City Deal
- p) We have a Staff **Involvement** Panel in place.
- q) Council and Committee agendas and decisions are available to the public except where confidential matters are being disclosed.
- r) Wherever possible exempt reports are made public following a six month period upon request.
- s) Public participation is encouraged at our council and committee meetings – for example at Planning committee the public have greater rights to speak than is found at many councils.
- t) Requirements of the Code of Transparency are being met and in some areas exceeded – the Monitoring Officer is carrying out a further review of this.
- u) The culture in the council is that wherever possible all reports should be open to the public; we minimise the number of exempt reports.
- v) We have a Communication Strategy in place.
- w) The Corporate Plan, financial strategy and governance arrangements are reviewed annually and incorporate the key improvement areas. They ensure that resources are directed towards our priority areas and that our aims are realistic in the context of the funding constraints placed upon us.
- x) The council uses a range of mechanisms to understand the views and needs of its residents and partners. These include **a residents' survey**, public meetings, partnerships, multi-agency working, community and voluntary groups.

- y) The council is constantly examining its service delivery arrangements based on feedback in order to achieve best value, improve customer service and take corrective action as necessary.
- z) Scrutiny Committee report to every Council meeting – it meets 6 times a year – Scrutiny Committee have clear terms of reference
- aa) All council/committee agendas, reports and minutes are openly available and can be viewed.
- bb) Every two years we have an Employee survey (the last in November 2016).
- cc) Staff are consulted on matters through a Staff Involvement Panel, CONNECT and the Core Managers' group. **Staff briefings are led by the Leader and the Chief Executive.**
- dd) Our People Action Plan **was** reviewed and progress on performance against the plan reported to Scrutiny **within the new Transformation Strategy that has replaced the Our People Plan from July 2017.**
- ee) There is monthly **formal** Chief Executive/Unison Consultation **and informal consultation as required**

3.3 Good governance means defining outcomes in terms of sustainable economic, social and environmental benefits

- a) The Corporate Plan 2017/2018 was agreed by Council in March 2017 – it reflects the council's priorities.
- b) The South Ribble Partnership's Sustainable Community Strategy is aligned with countrywide priorities. **The council's Corporate Plan and priorities of partners are aligned to this.**
- c) The council's Local Code of Governance has recently been updated to reflect the latest CIPFA guidance.
- d) There is an annual review process resulting in a Governance improvement action plan.
- e) The South Ribble Partnership is made up of a number of organisations which represent each sector from South Ribble – they lead and influence the strategic vision of the Partnership.
- f) My Neighbourhood Forum areas have scheduled meetings three times a year.
- g) Neighbourhood plans are in place and are available to view via the council website.

- h) Contracts are in place for our major partnerships covering in particular Waste, Leisure, City Deal, Payroll and Shared Services (with Chorley BC).
- i) We have a system of Annual Service Assurance Statements in place.
- j) Half yearly performance reports are produced and presented to Cabinet and Scrutiny. **In 2017-18, more frequent performance reporting has been introduced.**
- k) We have a Complaints procedure in place for public – available on website. This has recently been reviewed and updated.
- l) Our Customer Charter informs Customers of their right to complain.
- m) All identified Internal Audit Management Actions have been implemented.
- n) We **have a new Transformation Strategy in place for 2017-18 and** are developing a transformation programme that will demonstrate our continued commitment to service improvement and financial savings.
- o) We continue to explore collaborative and partnership working arrangements to increase efficiency and provide value for money.
- p) We have in place a Disaster Recovery Plan, an Emergency Plan and a Business Continuity Plan

3.4 Good governance means determining the interventions necessary to optimise the achievement of the intended outcomes

- a) The Council's constitution governs the way we conduct our business and is based on the principles of *accountability, transparency, efficiency and openness*.
- b) The Constitution and Scheme of Delegation provide the framework in which interventions can take place.
- c) Scrutiny Committee has a vital role to play in scrutinising and challenging the decisions of cabinet and individual officers.
- d) The Scrutiny Committee supports citizens in highlighting community matters by holding public inquiries into matters of local concern.
- e) Codes of Conduct and protocols help to ensure effective communication between members and Officers.
- f) The Monitoring Officer regularly advises on the correct interpretation of the Scheme of Delegation.
- g) Our delegated decisions are published and are subject to call in.
- h) Wherever possible the Monitoring Officer discourages exempt committee reports.

- i) Records of all delegated decisions and supporting documentation are maintained.
- j) Minutes of Council and Committee minutes are published.
- k) Reports set out alternative courses of action (to what is proposed) in all appropriate circumstances.
- l) We have a Financial Strategy in place backed up with robust budget monitoring.
- m) My Neighbourhood Forums and Neighbourhood plans are aligned to the Corporate Plan.
- n) Working with Penwortham Town Council the Penwortham Neighbourhood Plan has now been introduced
- o) We have a corporate risk register in place.
- p) Contract Procedure Rules and the guidance accompanying them contains advice on the social value dimension of procurement – this is backed up by advice from the council's legal and procurement officers
- q) Our Key Targets link to the Corporate Plan – Corporate Plan success measures are reported to Scrutiny and Cabinet on a half yearly basis and will be reported more frequently in 2017-18
- r) Protocols ensure that communication between elected members and officers is both effective and appropriate.

3.5 Good governance means developing the council's capacity, including the capacity of its leadership and the individuals in it

- a) The council has a strong record of investing in its workforce to develop the culture of the organisation and ensure that current and future strategic priorities are met. The Council has liP Gold and will seek renewal of this later in 2017
- b) Members and officers work in partnership to deliver the priorities, promote our values and work collaboratively across Lancashire.
- c) Our People plan aligned workforce and organisational objectives with the council's values and Corporate Plan. This has recently been replaced with a new Transformation Strategy approved by the Cabinet in July 2017.
- d) Budget alignment with key priority areas provides capacity and investment.

- e) We had a Member Induction and Development Plan which identified the priority objectives and actions for member development – **our new Transformation Strategy has recently replaced this.**
- f) Our People plan identified the priority areas for officer development and monitoring was undertaken by the Senior Management Team and the Scrutiny Committee. **This has recently been replaced by a new Transformation Strategy.**
- g) All employees have an annual performance appraisal to ensure that the organisation has a skilled and trained workforce. The appraisal process evaluates skills, performance and application of the council's values.
- h) Coaching is now offered to all officers as part of the appraisal process.
- i) The performance appraisal scheme is informed by our values – this is an aid to succession planning.
- j) Good practice standards are annually assessed against the CIPFA statements for the roles of the Chief Finance Officer and the Head of Internal Audit.
- k) The Council is committed to increasing its capacity by working in partnership with a wide range of organisations including public, private **and** voluntary **sector** and community groups to build and share resources and deliver locally joined up services.
- l) Private sector partnerships provide investment and enhanced customer service for Leisure and Waste services.
- m) A long term partnership with Chorley BC to deliver Financial and Assurance services both increases capacity and skills whilst delivering efficiency savings.
- n) The role of the three statutory officers are explained in the council's Constitution.
- o) Incorporated in all council reports are comments from both the section 151 officer and the Monitoring Officer.
- p) The section 151 officer is supported in her role by the shared financial services team – this is a service that we share with Chorley Borough Council.
- q) The Monitoring Officer is supported by the council's legal services team.
- r) The Chief Executive is the Head of Paid Service – she is supported by the Senior Management Team.
- s) Each year the Leader looks at the members making up the committees and **decides upon the numbers of members from each group for each committee based on political proportionality. Following consultation with each political group leader, proposals for the membership and chairmanship of each committee is submitted for approval by Council to the first business meeting of full Council each** Municipal year

- t) Council business is conducted in accordance with the Constitution which governs and controls its business responsibilities and activities. We have commenced a fundamental review of our Constitution.
- u) The role and responsibilities of all members, senior officers and the Council's committee structure are clearly defined.
- v) The constitution also clearly explains how decisions are made; the extent of delegated powers and includes standing orders, contract procedure rules and financial regulations.
- w) Each Cabinet Member has portfolio responsibilities for leading strategic matters and for championing specific services and initiatives.
- x) There are appropriate protocols within the Constitution.
- y) Governance arrangements have been established to oversee the City Deal in which we play a key part.
- z) Scrutiny **Committee** identifies areas to review as part of **its annual** work programme.
- aa) Pay and conditions policies and practices for employees are reviewed regularly – the Pay Policy is reviewed and approved annually by Council.
- bb) Members Allowances Remuneration Panel in place as per the Constitution to provide advice on Scheme of Payment of Members' Allowances.
- cc) Our values and integrated approach to financial and risk management are key to sustained progress against priorities.
- dd) Cabinet, Scrutiny and Senior Management Team monitor overall performance on a half yearly basis to manage delivery of the Corporate Plan. **In 2017-18 reporting will be more frequent.**
- ee) The Corporate Plan is supported by financial, risk and other cross cutting strategies and further deployed through service and individual performance plans to ensure that resources are focused on agreed priorities.
- ff) In terms of partnership working key contracts are held by Legal Services. Assurance as to such working is obtained through Service Assurance Statements. South Ribble Partnership governance arrangements are in place.
- gg) Success in leadership and workforce related governance has been recognised in the achievement of Investors in People.

3.6 Good governance means managing risks and performance through robust internal control and strong financial management

- a) The Council has a comprehensive Risk Management Policy and Strategy that outlines the responsibilities for risk and is endorsed by the Leader of the council and the Chief Executive.
- b) The Chief Executive has overall responsibility for risk management; a cabinet member has portfolio responsibility; operationally a Head of Service leads the risk management function and is recognised as the officer champion. Governance, Risk Assessment & Control Evaluation software (GRACE) has been procured **and implemented** which **has enabled more robust and** continuous risk and control self-assessment by services.
- c) The Senior Management Team (SMT) functions as the corporate risk management group and annually agrees and prioritises the corporate risk register which is aligned with the corporate plan.
- d) The council has a variety of control mechanisms to ensure compliance with legal requirements, public law and Council policy. These include the roles of the Monitoring Officer; the Chief Financial Officer (Section 151); the assurance work undertaken by both External and Internal Audit; and the Council's committee reporting system.
- e) The council maintains a robust Internal Audit service, which annually provides an independent and objective opinion on the internal control environment, verifies compliance with policies, laws and regulations, evaluates and makes recommendations to improve the effectiveness of risk management, value for money and governance processes.
- f) Cabinet is supported and challenged by the Scrutiny Committee which plays an active role in scrutinising decisions, monitoring performance, shaping policies and strategies and reviewing the effectiveness of partnerships and external organisations.
- g) The Governance Committee is responsible for reviewing and challenging the adequacy of the council's governance arrangements. It closely monitors progress on control matters including improvement plans, external and internal audit programmes and reports, risk management, budget and financial investment reports.
- h) The Head of Shared Assurance Services is a member of the Senior Management Team and reports directly to Governance Committee.
- i) The Audit Plan is compiled following consultation with Directors and Heads of Service.
- j) Legal and Finance review all Committee reports and delegated decisions.
- k) The council takes a proactive approach to both prevent and detect fraud and this is supported by the Council's Anti-Fraud & Corruption Strategy, Internal Audit programmes, fraud investigations, participation in National Fraud Initiative exercises, and publication of proven cases.
- l) A Complaints Procedure and a Whistle-Blowing Policy are kept under review, providing the opportunity for the public and employees to raise issues for investigation.
- m) The Monitoring Officer is responsible for keeping abreast of all legal requirements and informing relevant officers.

- n) The council has a suite of policies in place dealing with the issue of data management – safe collection, storage, use and sharing of data
- o) Throughout the period in question there have been no reported breaches of data protection Legislation.

3.7 Good governance means implementing good practices in transparency, reporting and audit to deliver effective accountability

- a) The council maintains a user friendly and up to date Website.
- b) Corporate plan is approved by full Council and communicated via our Website.
- c) The Corporate Plan is communicated to employees via Connect and Team Brief.
- d) The South Ribble Partnership is made up of a number of organisations which represent each sector from South Ribble.
- e) My Neighbourhood forums are a key opportunity to communicate directly with the local community.
- f) The Constitution is currently being updated – wherever possible plain English is being used.
- g) The Council has recently had a Local Government Association Corporate Peer challenge – the findings of this have informed further improvement work in the Council that is now underway.
- h) All recommended corrective action by either External or Internal Audit is carried out.
- i) The Transparency Code has been complied with – the Monitoring Officer is reviewing this to make sure that everything that can be done in this area is done.
- j) Annual financial statements are provided.
- k) An annual Governance statement is provided.

4. Our Commitment to Excellence

The Council has a responsibility to keep the effectiveness of its governance arrangements under review to ensure continuous improvement. This review is informed by the work of the Governance Committee supported by management, internal and external auditors and other review agencies. The governance issues that the council faced last year are well documented and informed the 2016 AGS and accompanying Action Plan. As a consequence of which the council has had a very busy period in doing everything practicable to address all governance issues and ensure that the council is in as strong a position as possible for moving forward.

The following aspects are highlighted for assurance purposes:

INTERIM MANAGEMENT ARRANGEMENTS

In October 2016 (following the departure of the council's previous Chief Executive) an Interim Chief Executive/Head of Paid Service was appointed. Subsequently an Interim Corporate Governance Manager and an Interim Corporate Improvement Manager were also appointed. The Interim Corporate Governance Manager and the Interim Corporate Improvement Manager are members of the Senior Management Team. These interim arrangements were put in place to ensure that the council could move forward effectively and address the failings that had been identified by the Scrutiny review into Licensing and subsequently incorporated into our 2016 AGS. More generally these interim appointments were designed to improve the governance and performance culture of the council. More recently (May 2017) the council appointed an Interim HR and OD Consultant. Part of her brief was to address any issues relating to staff morale. In July 2017 the council appointed its new permanent Chief Executive/Head of Paid Service who has undertaken a review of the senior management structure. The senior Interim officers will remain in post until this restructure has been implemented

IMPROVEMENT PLAN

The Cabinet approved a corporate improvement plan in February 2017 to address the recommendations arising from the Scrutiny Review of Licensing and issues identified during the development of the 2016 Annual Governance Statement. **It should be pointed out that the process for approving the 2016 Annual Governance Statement turned out to be a rather convoluted one (largely because of the governance issues that had emerged from the Scrutiny review of Licensing).** The 2016 Annual Governance Statement was not formally approved by Governance committee until December 2016 – hence the council has had less than the usual 12 months to implement the agreed Action Plan. That said substantial progress has still been made in delivering the improvement activities.

Two actions in the plan that are worthy of specific note are the commissioning of a diagnostic by the Centre for Public Scrutiny to inform a programme of member training and personal development (which took place in February 2017) and the LGA Corporate Peer Challenge (which took place during March 2017). In addition, a review of Licensing was undertaken by Commissioner Mary Ney. **A new social media policy for members has also been approved and adopted.**

Centre for Public Scrutiny (CfPS) Diagnostic – key findings

The CfPS undertook a diagnostic audit in February 2017 interviewing members and officers both individually and in groups. The key findings of the subsequent diagnostic report were:

- **There was a need for** both members and officers to take collective responsibility for driving a change in culture as well as the current improvement agenda. Everyone is responsible for making the council better.
- Members and officers to explore the implications of a member-led authority and the respective roles and responsibilities of members and officers. Trust and mutual respect needs to be rebuilt and basic mechanisms re-established to ensure effective decision making. Poor staff morale needs to be addressed.
- **There was a need for the** Leader and Cabinet to express a clear vision for the authority.
- Cabinet members to explore their individual leadership style and how they will work collectively in the future.

- The controlling political group to exhibit stronger discipline and focus.
- The council's whole membership need to look at their own behaviours as a way of breaking the current cycle of behaviour.
- Cross party working needs strengthening.
- All elected members and political groups to work constructively to improve the council and focus on good outcomes for local residents and businesses. The 'One Team one Council' ethos need to be re-established.

LGA Corporate Peer Challenge (Peer Review)

The Peer review took place in March and the final report was reported to Cabinet and published in June. **Key findings included:**

- There was a need for clear leadership in the council
- There was an urgent need for a robust financial implementation plan for the short to medium term
- Clear priorities needed to be identified and linked to a robust financial plan
- The council needs to fill key senior management roles
- The council needs to strengthen statutory officer arrangements
- There was a need for all political parties to seek to gain consensus on the council's strategic issues to improve the political stability of the council
- There was a need for senior members to ensure strong standards of personal behaviour in order to provide stronger leadership of the council.

Following on from this a new Corporate Improvement Plan was developed, the key themes of which are as follows:

- Strong and effective political and managerial leadership;
- The development of a clear and concise vision for the future of the Borough and the Council;
- Delivery of the MTFs, including business transformation, shared services and the review of leisure
- A review of different models for the operation of the Governance Committee

A cross party Improvement Reference Group (IRG) chaired by the Leader of the Council has been established. The group is a partnership between the Council and the Local Government Association the purpose of which is to provide oversight, support and challenge to the Council's improvement and transformation journey.

COMMISSIONER MARY NEY REVIEW OF LICENSING

This review was undertaken in March 2017 and comprised of:

- A review of the current policy and any guidance/implementation documents;
- A health check of the approach to policy implementation and decision making to include:
 - Reviewing a sample of 5 recent case decisions by officers and members, including review of case files, committee agendas/reports, statements of decision.
 - Meetings with the Chair of Licensing, Licensing Manager and the lawyer advisor to members panel

- Finalising feedback and providing to Director and Chair of Licensing.
- Providing Seminar Session for Members and Officers.

Overall Commissioner Mary Ney was very supportive of the work of the council's licensing team. In particular (amongst other things) she found:

- A commitment from officers and members to improve the service
- There was a new Taxi licensing policy in place
- Following on from the preceding point there were more robust standards on dealing with convictions and other information
- An implementation plan was in place to tackle a variety of areas of improvement

Commissioner Mary Ney made some suggestions on issues we could consider for further improving the licensing service. These included:

- Rollout an enhanced safeguarding training offer
- Develop and embed an approach to case hearings
- Promote the Complaints procedure
- Audit drivers against the new standards

All issues identified by the review have been carefully considered and appropriately actioned.

STAFF SURVEY

In November 2016 a staff survey was carried out to gauge how staff felt about a number of issues. This was on the back of what had been a difficult year for the council. The results of the survey were concerning. A number of staff were clearly not feeling very positive about the organisation from a number of points of view – for example concerns about member/officer relations and the quality of communication were raised. Since then significant steps have been taken to improve staff morale. A new Transformation Strategy has been approved by the Cabinet. Further a Communications Strategy has also been developed, approved and implemented. All of these strategies and the actions that underpin them are designed to address the issues raised by the Staff Survey. Furthermore, Scrutiny Committee has recently carried out a review of this issue. They have found that significant progress has been made towards addressing staff morale issues and that there is now a clear direction of travel for continuous improvement.

INTERNAL AUDIT REVIEWS OF LICENSING, FLEXTIME & OVERTIME

Previously reported control issues in respect of the Licensing Service, flexitime and overtime have also been rectified.

Licensing - as agreed with the Chair of the Governance Committee, the Internal Audit follow up review of Licensing was undertaken in January 2017 once the management arrangements within the service had stabilised. The review confirmed that the key control issues regarding the issuing of taxi licences had been rectified. Some residual control matters relating to the documentation of procedures and enforcement activities are still being addressed and these are contained within the Licensing Service Improvement Plan which is being monitored by the General Licensing Committee.

Internal Audit will undertake a further, comprehensive review of Licensing as a matter of priority in 2018/19 to enable all improvement activities to become established.

Flexi-time and Overtime - the Head of Human Resources presented a report to the Governance Committee in November 2016, which gave assurances that the issues identified in the reviews

carried out by Internal Audit had been addressed. Recent checks undertaken by Internal Audit on both flexitime and overtime confirm that the controls within the systems are now working effectively.

FURTHER ASSURANCE

Internal Audit and Risk Management frameworks are embedded and the services maintain excellent working relationships with the Governance Committee, Senior Management and the Council's External Auditors to provide an integrated approach to the delivery of assurance services. The Internal Audit Service provides an independent opinion on the adequacy of the internal control system. All recommendations for improvement actions are agreed with senior management and overall progress is reported to the Governance Committee.

The Public Sector Internal Audit Standards requires the Head of Shared Assurance to provide an opinion on the overall adequacy and effectiveness of the organisation's framework of control, risk management and governance.

Control – no Internal Audit reports with a limited assurance rating were issued during 2016-17.

Risk Management – the current arrangements are in the process of being strengthened by the introduction of the GRACE risk management software;

Governance – a range of actions have recently been taken to strengthen the Council's governance arrangements (see section 5 below). The Annual Governance Statement Action Plan shown at **Appendix B** includes details of actions to further strengthen the Council's governance arrangements. **The 2017 AGS has been produced following an extremely rigorous assessment process, both internal and external and it is therefore the opinion of the Head of Shared Assurance that once the remaining improvement actions are implemented, the Council's system of corporate governance will incorporate the very highest standards of practice. It is also the opinion of the Head of Shared Assurance that the council's assurance arrangements conform with the governance requirements of the CIPFA Statement on the Role of the Head of Internal Audit (2010) and the Public Sector Internal Audit Standards.**

Section 151 Officer Comments – It is the opinion of the Section 151 Officer that the council's financial management arrangements conform with the governance requirements of the CIPFA Statement on the Role of the Chief Financial Officer in Local Government (2015). Everything possible has been done to make our Medium Term Financial Strategy (MTFS) as robust as possible; it is clearly imperative that the council should monitor performance against the MTFS targets on a regular basis and do everything feasible to ensure full delivery and implementation.

Members play an active role in promoting and strengthening our governance arrangements. This is demonstrated particularly by the Governance, Standards and Scrutiny Committees and the Shared Services Joint Committee.

The Governance Committee has enhanced member oversight and scrutiny of the Council's business controls. The committee is supported by a senior officer group and both contribute to the continuous improvement and strengthening of the governance environment. In 2016/17 the committee received regular reports on governance, finance and risk. Of particular note it has commenced a major review of our Constitution – procedure rules for Cabinet, Scrutiny and Standards committees have already been reviewed. In addition Governance Committee has, amongst other things, considered reports on:

- Budget Management
- Treasury Management Activity
- The work of Internal Audit
- The work of External Audit

- **Statutory** Statement of Accounts
- The Capital programme
- City Deal
- Local Code of Governance

The Joint Committee monitors service performance of the Shared Assurance and Finance Partnership between South Ribble Borough and Chorley Borough Councils, and is a good example of our effective governance of partnerships. In 2016/17 the committee monitored the continuous improvement plans that are aimed at strengthening the financial management and assurance arrangements for both councils.

In 2016/17 the Standards Committee continued to promote high ethical standards. There has been a determination to raise the profile of Standards committee and to ensure that it meets on a more regular basis (at least 4 times a year). With this in mind a work programme has been developed and approved. Work so far carried out has included a review of the Code of Conduct for members and the drafting of a protocol on the use of social media. There were no formal complaints taken to the Standards Committee as such throughout the period; such complaints (if considered valid) are often dealt with by the taking of appropriate informal action such as a member apologising or agreeing to undertake training.

The Scrutiny Committee continues to provide a high degree of challenge and holds a central role in monitoring Council performance through half yearly progress reports of the corporate plan. **More frequent performance reporting against the Corporate Plan is scheduled in 2017-18. The Committee** has held individual Cabinet Members to account for their portfolio and monitored performance of the Council's key partnerships. During the year it carried out a key piece of work in reviewing governance issues emerging from the way in which the external licensing investigation was handled by the council. This recommended a sixteen point action plan which ultimately led to the Cabinet agreeing a Corporate Improvement Plan – please see above. Other reviews carried out included reviews of our housing framework, our preparedness for major incidents, issues relating to strategic assets and property and external use of banqueting suite and catering services.

The Council has been recognised as an Investor in People for some twelve years, achieving Gold status in March 2015. Members' development is rewarded by the achievement of the North West Member Development Charter which was first awarded in 2005.

The Commission for Local Administration in England (the Ombudsman) deals with complaints from members of the public about the Council. They look into a complaint once the complainant has exhausted a council's internal complaints procedure. If the Ombudsman finds that a council has dealt with a particular individual in an inappropriate way then it may make a finding of maladministration against a council. Generally speaking the council does not have a high volume of Ombudsman complaints to deal with. In the year 1 April 2016 to 31st of March 2017 council records show that there were 11 complaints in respect of which decisions were made. In 4 of these cases the Ombudsman chose not to investigate. In 2 of these cases the complaint was referred back to the council as the council's internal complaints process had not been exhausted. In 1 of these cases there was a finding of no fault. In a further case there was a finding of no fault but criticism was expressed over delay in the matter – this resulted in an apology to the complainant. In another case there was a finding of no fault but a criticism of how the complaint had originally been dealt with – this resulted in an apology and the payment of compensation of £150. In 2 cases there were findings of fault but in neither case did the Ombudsman believe that the complainant had suffered "significant injustice."

The Council has an appropriate policy and arrangements in place for governing how it uses its powers under the Regulation of Investigatory Powers Act 2000. During the period 31st of March 2016 to 1st of April 2017 there was no necessity to make use of these powers. During July 2016 the Surveillance Commissioner carried out a review of our RIPA arrangements – overall this was a

positive report but it did recommend some minor changes to wording in our Policy and the provision of further training.

Despite such challenging times the Council is committed to continuous improvement of its governance arrangements and to the delivery of excellent customer service and to this end the Standards Committee and the role of the Monitoring Officer has been enhanced by the appointment of an additional Independent Person who supports the work of the Monitoring Officer and the Committee.

5. Enhancing our Governance Arrangements

The following actions emanating from the 2016 Annual Governance Statement have now been fully implemented:

- **Fraud and Corruption** – a review of the Council’s arrangements has been completed and reported to Governance Committee;
- **Corporate Plan** – A concise Corporate Plan is in place for 2017/18 and published on the Council’s website;
- **Ethical Governance** – The role and operation of the Standards Committee has been reviewed and changes implemented to improve ethical governance standards for members;
- **Safeguarding** – An annual report was presented to Scrutiny Committee and Executive Cabinet;
- **Communication** – A Communications Strategy incorporating both internal and external communications has been developed and implemented;
- **Corporate Peer Challenge** has been undertaken and actions arising incorporated into the new Improvement Plan.

The remaining actions are all in progress and have therefore been carried forward to the 2017 Annual Governance Statement Action Plan (see Appendix B).

An up to date evaluation of the Council’s corporate governance framework has also recently been undertaken and the following enquiries have identified further actions to improve the Council’s corporate governance arrangements (also shown at the Appendix B).

- Assessment against the revised Local Code of Governance;
- Completion of Management Assurance Statements by all senior managers;
- Review of compliance with the CIPFA standards for the Chief Financial Officer and the Head of Internal Audit;
- Emerging national issues identified in the Grant Thornton update reports;
- LGA Corporate Peer Challenge;
- Centre for Public Scrutiny (CfPS) Diagnostic review;
- The Internal Audit of the costs associated with the external Licensing review.

6. Conclusion

The council is fully committed to ensuring that its governance arrangements are and continue to be as robust as possible. As part of that process the council will monitor implementation of all actions set out in our Action Plan.

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Leader of the Council

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Chief Executive

Date:

On behalf of the Members and Senior Officers of South Ribble Borough Council.

GLOSSARY

Annual Audit Letter	An External Audit report presented to Council and containing the findings of the Audit Commission's work. It is a requirement of the Code of Practice for Auditors.
Assurance	An evaluated opinion based on evidence and gained from review.
CIPFA	Chartered Institute of Public Finance and Accountancy
Control Environment System of Internal Control	Comprises the organisation's policies, procedures and operations in place to : Establish and monitor the achievement of the organisation's priorities; Identify, assess and manage the risks to achieving the organisation's objectives; Facilitate policy and decision making; Ensure the economical, effective and efficient use of resources; Ensure compliance with policies, legislation and regulations; Safeguard the organisation's assets; Ensure the integrity and reliability of information, accounts and data.
Corporate Governance	Corporate governance is the system by which local authorities direct and control their functions and relate to their communities.
Corporate Governance Group	In 2017 this involved the following officers: Chief Executive; Section 151 Officer; Monitoring Officer; Head of Shared Assurance; Corporate Governance Manager; Corporate Improvement Manager.
SOLACE	Society of Local Authority Chief Executives
SMT	Senior Management Team includes the corporate directors and Heads of Service.

APPENDIX B

ANNUAL GOVERNANCE STATEMENT ACTION PLAN 2017

(A) ACTIONS CONTINUING FROM THE AGS ACTION PLAN 2016

Themes	Recommended Improvements	Actions Taken & In Progress As At August 2017	Status	Target Date
1. Member & Officer Development	To develop the current level / programme of financial training packages for Budget Holders (& Members) to include use of systems, process improvement and financial management techniques.	Training has been provided as follows: <ul style="list-style-type: none"> - 1-2-1 budget holder sessions - New Cabinet Portfolio Holder for Finance. - Cross Party Budget Working Group established to raise awareness of the budget process and the budget challenges going forward 	Complete	
		Budget member learning hours are being set up for all members to attend	On target	March 18
2. Customer Care	To update the Customer Charter to incorporate all channels of communication and to review target response timescales.	Review of existing access channels & external review of CRM solution including market analysis of current CRM market.	Complete	
		Promotion of channel shift and impact evaluation on target for completion.	On target	Nov 17
3. Customer Complaints	To implement an electronic complaint reporting system.	New Customer Feedback Strategy has been developed for Cabinet approval in October 2017.	On target	October 17

Themes	Recommended Improvements	Actions Taken & In Progress As At August 2017	Status	Target Date
4. Transparency	To ensure full compliance with the revised requirements of the Transparency Code.	A review of compliance has been carried out.	Complete	
		A couple of areas of improvement have been identified and are being actioned.	On target	Oct 17
5. Constitution	To ensure that the Constitution is as clear as possible, completely up to date and fit for purpose	Both Member and Officer Working Groups have been established to review the Constitution.	Complete	
		Work to review the Constitution including the Financial Regulations is on-going.	On target	March 18
6. Member & Officer Development	Member and officer training and development be re-prioritised and extended to include training on roles and responsibilities, council structure, governance arrangements and constitution. The clear distinction between the Cabinet, quasi-judicial and other committees such as licensing is to be emphasised.	The diagnostic undertaken by the Centre for Public Scrutiny and the recent LGA Corporate Peer Challenge has informed the development of a programme of support for members. Details of this are shown in the Council's new Improvement Plan (see (B) below). The new Transformation Strategy approved by Cabinet on 27 th July includes a number of actions to address more general member training and development. A programme of training has been provided for members of the Licensing Committee.	Complete	
7. Ethical Governance	Greater priority, liaison and support be provided to the Scrutiny, Governance and Standards Committees in promoting high ethical, performance and governance standards.	Terms of Reference have been reviewed and work programmes are in place. Lead officers have been identified for each of these committees.	Complete	
		Further training for members and officers is to be identified and undertaken.	On target	March 18

Themes	Recommended Improvements	Actions Taken & In Progress As At August 2017	Status	Target Date
8. Ethical Governance	A Member / Officer relations protocol is developed and political awareness training is provided to Members and Officers.	Political awareness workshops for officers were held in July. A consultant has been appointed by the LGA to develop a draft member / officer protocol.	Complete	
		A number of focus groups with members and officers to inform this are being held in early October. The protocol will then be finalised with members and officers in a series of joint workshops being held in mid-October, before the protocol is taken through the formal governance route for approval / formal adoption.	On target	Nov 17
9. Group Leaders	The political group leaders' work together to stabilise and strengthen the Council's political leadership.	The actions in the new Improvement Plan developed to address the recommendations of the recent LGA Corporate Peer Challenge will address this (see (B) below	Complete	
10. Ethical Governance	That the conduct of the five Members of Cabinet involved in taking unconstitutional decisions be referred to the Monitoring Officer for formal consideration as to whether any breach of the members Code of Conduct has taken place.	Referral to Standards Committee complete – and process has now been completed	Complete	
11. Management Structure	The senior management structure is reviewed as a matter of urgency to ensure it is fit for purpose and that senior managers have the necessary skills, qualifications and experience to undertake those roles.	Appointment of new Chief Executive has been approved by Council. .	Complete	
		A proposed new senior management structure will be submitted to Cabinet for consideration on 6 th September and to Council for approval on 27 th September	On target	Sept 17

Themes	Recommended Improvements	Actions Taken & In Progress As At August 2017	Status	Target Date
12. Review of Services	The role, capability and capacity of the in-house legal and democratic services team and that of Shared Financial Services be reviewed to ensure they provide proactive advice to Members and Officers to ensure compliance with the constitution and governance frameworks.	Review of Democratic Services has been completed and recommendations considered.	Complete	
		<p>This will be implemented alongside the review of the Council's structure and review of shared services (being considered by Cabinet and Council in September).</p> <p>A new Committee management system has been procured and will go live in September.</p> <p>Review of Legal Services will be addressed as part of the review of the council's organisational structure (see 11 above).</p> <p>A review of Shared Financial Services is currently being planned by Chorley Borough Council.</p>	On target	Sept 17
13. Review of Disciplinary Matters	A review of the way in which the Council has dealt with the disciplinary arrangements be carried out once they are completed.	All HR policies to be reviewed as a key action in the new Transformation Strategy approved by the Cabinet on 27 th July.	On target	Jan 18
14. Our People	The Council's Our People Plan be completely refreshed to support our employees and improve employee morale	An employee survey has been undertaken and the results have been used to inform the development of a new Transformation Strategy which was approved by Cabinet on 27 th July and which has superseded the Our People Plan. .	Complete	

(B) NEW ACTIONS ARISING FROM THE ANNUAL GOVERNANCE ASSESSMENT 2017

Themes	Recommended Improvements	Proposed Actions	Status	Target Date
PEER REVIEW AND CFPS DIAGNOSTIC REVIEW				
15. Strong and effective political leadership	Undertake Staff and member survey and delivery of the MTFS work programme (i.e. all decisions made on target), outcomes of member 360 degree appraisal.	Establish cross party improvement Reference Group with external membership. Externally facilitated workshop for all members to share the Cabinet's vision. Chief Exec. to work with LGA Labour Peer and Leader of the opposition to agree how to develop more effective working relationships. Cabinet to explore opportunities for cross party working on key strategic issues.	Complete	
		Externally facilitated workshops with the leading political group, the opposition group, Cabinet and Cabinet/SMT (scheduled for 26/09/17). Scrutiny Committee to explore opportunities in its work programme for more involvement on key strategic issues. Review alternative models for Governance Committee Member survey (to be carried out in September in accordance with the timescale in the Transformation Strategy).	On target	Sept 17

16. Strong and effective managerial leadership	Undertake Staff and member survey: outcomes of managers' 360 degree appraisals	Working in a challenging political environment for officers	Complete	
		SMT/Core Managers' Away days (on-going). Develop a Leadership Development Programme for senior and middle managers (to be delivered as part of the Council's new Transformation Strategy). SMT Away Days, SMT Work Programme, review arrangements for joint working between SMT and Core Managers (on-going).	On target	March 18 / ongoing activity
17. New Borough and Council Vision and priorities and new Corporate Plan for 2018-21	Members and Staff to understand and own the vision and priorities and to understand how they contribute to success.	Cabinet to propose new council Vision for consultation with other members and other stakeholders (completed).	Complete	
		Key words of the Peer Review Team to be built into the Council's values and culture (to be developed as part of the Transformation Strategy action plan approved by the Cabinet in July).	On target	March 18
18. MTFS to be delivered	MTFS targets to be achieved	18-19 budget and 17-18 implementation plan is being monitored by the Council's Programme Board and the Improvement Reference Group)	Complete	
		Monitoring and reporting arrangements operational	On target	On-going activity
19. Business transformation targets in MTFS achieved	Savings and income generation targets to be achieved	Transformation Strategy approved by Cabinet in July.	Complete	
		Transformation Programme developed and resources to deliver identified (on-going). All projects started.	On target	Nov 17

INTERNAL AUDIT OF THE COSTS OF THE EXTERNAL REVIEW OF LICENSING				
Themes	Recommended Improvements	Proposed Actions		
20. Compliance with Contract Procedure Rules (CPRs)	To further embed procurement policies and procedures, and to strengthen the current CPRs.	<ul style="list-style-type: none"> - Governance Committee Constitutional Task Group to review CPRs - Amend CPRs to contain instructions for whenever there is a change in responsible officer mid-contract - Introduce an electronic CPR waiver process including authorisation by S151 Officer and Principal Procurement Officer - Communicate agreed changes to CPRs to relevant officers and members - Internal Audit to review compliance with CPRs in future AGS reviews 	On target	March 18

REPORT TO	ON
Governance Committee	13 September 2017

Jan 2017



TITLE	AUTHOR
1 st Internal Audit Interim Report as at 28 th July 2017	Garry Barclay Dawn Highton

1. PURPOSE OF THE REPORT

1.1 The purposes of this report are:

- To advise Members of the progress made on the South Ribble and Shared Services Internal Audit Plans for the period April 2017 to July 2017 and to comment on the outcomes;
- To give an appraisal of the Internal Audit Service's performance to date.

1.2 The report links with all of the corporate objectives, especially to be an 'efficient, effective and exceptional council'.

2. RECOMMENDATIONS

2.1 That the report be noted.

3. CORPORATE PRIORITIES

3.1 The report relates to the following corporate priorities

Clean, green and safe		Strong and healthy communities	
Strong South Ribble in the heart of prosperous Lancashire		Efficient, effective and exceptional council	x

4. BACKGROUND TO THE REPORT

4.1 This is the first progress report for the 2017/18 financial year and covers the period 1st April to 28th July 2017.

5. INTERNAL AUDIT PLANS

5.1 **Appendix 1** provides a "snapshot" of the overall progress made in relation to the 2017/18 Internal Audit Plans, indicating which audits have been completed and their control rating, those that are in progress and those that have yet to start. Appendix 1 also shows the time planned and actually spent on individual audits.

5.2 Members will note that at this stage, the Internal Audit Plans are on target to be achieved. The table below highlights the main pieces of work undertaken during the period together with any issues identified, where applicable;

Audit Area	Assurance Rating	Comments
South Ribble Borough Council		
Annual Governance Statement	Not applicable	Proactive input was provided in collating information to inform the Annual Governance Statement.
Performance Management	Not applicable	Project team support is being provided to enhance the Council's performance management arrangements. A sample of the reported performance data will be audited in Quarter 4.
Homelessness	Pending	Audit in progress. Results to be presented to January Governance Committee.
General Data Protection Regulations (GDPR)	Not applicable	We are supporting the ICT Manager in preparation for the introduction of GDPR in 2018.
Property Investment Portfolio	Not applicable	Project team support is being provided to ensure that proportionate governance, risk management and control processes are in place for the delivery of the Property and Asset Acquisition Project.
Development Control	Amber (14)	No key control issues identified.
Shared Services		
Internal Audit of the Financial & Assurance Shared Services Annual Accounts 2016/17	Not applicable	We undertook a "light touch" internal inspection to provide the Joint Committee with assurance in respect of the integrity of the partnership's year-end financial statements

<p>Control Rating</p> <p>Limited - the Authority cannot place sufficient reliance on the controls. Substantive control weaknesses exist. Adequate - the Authority can place only partial reliance on the controls. Some control issues need to be resolved.</p> <p>Substantial - the Authority can place sufficient reliance on the controls. Only minor control weaknesses exist.</p> <p>Full – the Authority can place complete reliance on the controls. No control weaknesses exist.</p>	Control Rating	Limited	4	8	12	16
		Adequate	3	7	11	15
		Substantial	2	6	10	14
		Full	1	5	9	13
		Minor	Standard	Major	Critical	
		Risk Rating				
		<p>Risk Rating</p> <p>Minor, Standard, Major or Critical reflects the relative risk of each system and the impact on the Council if it was to fail.</p> <p>The risk rating for each audit has been agreed following a detailed risk assessment by Internal Audit and approval by Senior Management.</p>				

6. INTERNAL AUDIT PERFORMANCE

6.1 **Appendix 2** provides information on Internal Audit performance as at 28th July 2017. We are pleased to report that all the indicators have either been achieved or exceeded.

7. GOVERNANCE RISK AND CONTROL EVALUATION (GRACE)

7.1 Members will recall that earlier this year, the Council procured a risk management system GRACE, which allows the continuous recording, monitoring and reporting of risks at all levels throughout the Council.

Training

7.2 Since the implementation of GRACE in April 2017, Internal Audit have delivered training to 64 South Ribble and Shared Services Officers. We are currently in the process of delivering training to all members of the Senior Management Team (SMT) and developing the reporting arrangements at both corporate and service level.

On-going Support

7.3 It was agreed with SMT that Internal Audit would provide support with the development / enhancement of key risk registers including:

- Corporate Risk Register
- Corporate Plan Projects and
- Key Partnerships.

7.4 Whilst these risk register are at various stages of development, there are currently over 100 individual risks being continuously reviewed and monitored by the risk owners.

8. BACKGROUND DOCUMENTS

Internal Audit Plan 2017/18

INTERNAL AUDIT PLANS 2017/18

WORK AREA	Risk	Qtr	Est	Total	Bal	Assurance Rating	Comments
SOUTH RIBBLE							
CORPORATE AREAS							
Annual Governance Statement	N/A	1 & 4	20	15.6	4.4	N/A	Complete
Anti-Fraud & Corruption	N/A	ALL	10	0.8	9.2	N/A	On-going
NFI	N/A	ALL	20	7.8	12.2	N/A	On-going
GOVERNANCE							
Scrutiny & Performance							
Performance Management	Critical	1 & 4	20	2	18		In progress
Project Management	Critical	4	15	0	15		To commence Q4
Human Resources							
Recruitment & Selection	Major	3	15	0	15		To commence Q3
DEVELOPMENT, ENTERPRISE & COMMUNITIES							
City Deal	N/A	ALL	10	3.5	6.5	N/A	On-going
Housing							
Housing Capital Programme Group	N/A	ALL	5	1	4	N/A	On-going
Private Sector Housing Grant	Major	3	15	0	15		To commence Q3
Revenues / Homelessness							
Council Tax	Critical	3	10	2.2	7.8		In progress
NNDR	Critical	3	10	1.8	8.2		In progress
Housing Benefits	Critical	3	10	1.7	8.3		In progress
Sundry Debtors	Critical	3	10	1	9		In progress
Homelessness	Major	2	15	3.9	11.1		In progress
ICT							
Data Protection	Critical	2 & 4	15	2.3	12.7		In progress
NEIGHBOURHOODS, ENVIRONMENTAL HEALTH &							
Waste, Transport & Neighbourhoods							
Environmental Enforcement	Major	4	15	1.4	13.6		To commence Q4
Public Health							
Health and Safety	Critical	2	15	0.5	14.5		In progress
Property Services							
Property Investment Portfolio	N/A	ALL	10	0.8	9.2	N/A	On-going
Commercial Properties	Major	4	15	0	15		To commence Q4
Legionella / Asbestos Management	Major	2	15	0	15		To commence Q2
GENERAL AREAS							
Residual Work from 2016/17		ALL	20	27.1	-7.1	AMBER (14)	Complete
Risk & Control Self-Assessment (GRACE)	N/A	ALL	30	15.9	14.1	N/A	On-going
Post Audit Reviews	N/A	ALL	10	0.8	9.2	N/A	On-going
Contingency / Irregularities	N/A	ALL	15	5.4	9.6	N/A	On-going
Governance Committee	N/A	ALL	15	8.8	6.2	N/A	On-going
SOUTH RIBBLE SUB TOTAL				360	104.3	255.7	
SHARED SERVICES							
SHARED FINANCIAL SERVICES							
Treasury Management	Critical	3	20	0	20		To commence Q3
Payroll	Critical	3	20	0	20		To commence Q3
Creditor	Critical	3	20	0	20		To commence Q3
SHARED ASSURANCE SERVICES							
Risk Management	CRITICAL	4	15	0	15		To commence Q4
General Areas							
Residual Work from 2016/17	N/A	ALL	20	28.2	-8.2	N/A	Complete
Risk & Control Self-Assessment (GRACE)	N/A	ALL	5	3.2	1.8	N/A	On-going
Post Audit Reviews	N/A	ALL	10	0.4	9.6	N/A	On-going
Contingency / Irregularities	N/A	ALL	10	2.7	7.3	N/A	On-going
SHARED SERVICES SUB TOTAL				120	34.5	85.5	

INTERNAL AUDIT PERFORMANCE INDICATORS AS AT 28th July 2017

	Indicator	Audit Plan	Target 2017/18	Target to Date	Actual to Date	Comments
1	% of planned time used	SS	90%	25%	28%	Target achieved
		SRBC	90%	30%	30%	Target achieved
2	% audit plan completed	SS	100%	0%	0%	Not applicable
		SRBC	100%	15%	15%	Target achieved
3	% management actions agreed	SS	98%	0%	0%	Not applicable
		SRBC	98%	98%	100%	Target exceeded
4	% overall customer satisfaction rating (assignment level)	SS	90%	90%	0%	Not applicable
		SRBC	90%	90%	91%	Target exceeded

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SS = Shared Services
 SRBC = South Ribble

REPORT TO	ON
Governance Committee	13 September 2017

Jan 2017



TITLE	AUTHOR
Approach to Property and Asset Investment	Mark Gaffney

1. PURPOSE OF THE REPORT

This report is an interim report to Governance Committee to provide details of a revised approach to property and asset investment. A more detailed report will be presented to the Committee at its next meeting on 29 November 2017.

2. RECOMMENDATIONS

That the Committee considers and comments upon the report.

3. CORPORATE PRIORITIES

The report relates to the following corporate priorities:

Clean, green and safe		Strong and healthy communities	X
Strong South Ribble in the heart of prosperous Lancashire	X	Efficient, effective and exceptional council	X

4. BACKGROUND TO THE REPORT

4.1 The Council has identified investment in property and assets as a source of income to support delivery of the MTFS (Medium Term Financial Strategy). There is therefore a need for a Property and Asset Investment Strategy.

4.2 A Borough Investment Fund has been established to support asset investment and is stated in the 2017/18 Budget and MTFS report as £3.824 million. Should any investment be above the amount in the Borough Investment Fund then prudential borrowing will be required for the additional amount.

4.3 The MTFS includes a target from asset investment of £300,000.

4.4 On 21 June 2017, Cabinet approved a Property and Asset Investment Framework and the establishment of a Sub Committee for Property and Asset Investments. This Sub Committee would have the delegated authority to commit expenditure in line with the Investment Framework, where there was a commercial necessity for an urgent decision to be made to avoid the possibility of the investment opportunity being lost.

4.5 At full Council on 19 July 2017, it was resolved that decision 10 (4) of the Report of the Cabinet be referred back for re-consideration by Cabinet. Decision 10 (4) was:

That delegated authority be granted for the Sub Committee to authorise expenditure on acquisitions of up to £10 million, to be committed in line with the guidelines in the Investment Framework

4.6 Since the July meeting of the Council, Cabinet is reconsidering its approach to property and asset investment and is now considering the engagement of a property consultancy with specialist capability in investment management. This consultancy would support the Council in the development of an alternative strategy and future acquisitions.

5. DETAILS

5.1 The proposed scope and timeline for a specialist property consultancy to support the Council in the preparation of a revised investment strategy is detailed below, including the timescales for reporting to Governance Committee and Cabinet.

Stage 1

Governance Committee - 19 November 2017

Officer report to Governance Committee detailing the scope of what would be expected from a specialist property consultancy appointed to provide support to the Council. This is as follows:

To produce a report titled 'A Prudent Approach to Establishing a Commercial Property Investment Portfolio' (or similar) which will be prepared and presented to the Governance Committee on the 29th November 2017.

The framework of the report will include:

- *Approvals to date.*
- *Importance of a defined investment strategy & governance - Council objectives*
- *Overview of the proposed investment Strategy – UK wide, sector weighting, profile etc.*
- *Sources of funding*
- *Target rates of return*
- *Risk management*
- *Acquisition process and property selection criteria – including example reports*
- *Decision making and delegation*
- *Reporting – quarterly and annual*
- *Live example with cash flow model*
- *Performance measurement and KPI's (Key Performance Indicators)*
- *A property company's role working in partnership with the Council*
- *Asset management, property management and treasury management*

The property consultancy will present the report to Governance Committee and include 'walk through' examples of reports produced during a typical acquisition process and also a typical quarterly report on the performance of property assets.

Cabinet - 6 December 2017

Repeat the process for the Governance Committee subject to any feedback from the 29th November Governance Committee meeting.

Council - 17 January 2018

Repeat the process if required from the Governance Committee and Cabinet subject to any feedback from their respective meetings.

Stage 2

Appointment of a specialist property consultancy who will provide an Investment Manager and Property Manager to act on behalf of the Council in acquiring and asset managing the commercial property portfolio.

Role and Responsibilities:

- Confirm and continue to review portfolio objectives
- Objectives set at both a portfolio and property level
- Collaborative approach with the Council
- Agree target rates of return and/or income target
- Set and agree KPI's
- Agree Portfolio Balance
- Source investment opportunities
 - On and off market
 - Source direct, from investor and agent introductions
 - Communicate Council objectives to the investor market to give the widest exposure of the Council's requirement
 - Establish/maintain a good reputation for the Council in the market
 - Discretion as to identification of the Council
 - Prepare 'Recommendation to Bid' and 'Purchase Report'
- Rigorous Evaluation
 - Develop and agree an investment matrix for initial evaluation of potential investments
 - Local market knowledge using network of local offices and other 3rd party contacts of the team for assessing letting and investment comparables, demand and likely voids
 - Review research data including MSCI/IPD and 'RealFor' growth forecasts (MSCI/IPD is the industry standard for measuring performance and RealFor provide independent rental and capital growth forecasts)
 - Prepare cashflow model to establish net income return and yield return
 - Sensitivity analysis on key variables
- Reporting to the Council
 - Preparation of Quarterly Report to include portfolio strategy, financial summary, performance information and individual property reports including property strategy and asset management initiatives
 - Attend 3 meetings a year at the Council to provide a review, report and recommendations on the portfolio and future strategy
- Asset Management

- *Strong tenant relationships are critical to identifying opportunities to increase income and add value*
- *Opportunities may include: Rent review, Lease Regearing, Refurbishment, Change of Use*

6. WIDER IMPLICATIONS AND BACKGROUND DOCUMENTATION

6.1 Financial Implications

The cost of appointing a property consultancy will be determined through the procurement process. This may be a charging mechanism based on a fixed fee or percentage of purchase price, or a combination of both. This cost will be determined later in the process.

6.2 Legal Implications

Specialist legal advice will be taken in this matter which will be included in a future report

6.3 Comments of the Statutory Finance Officer

When the financial implications of engaging a specialist property consultancy are known through market testing and a procurement process, they will need to be included in any resulting Property Acquisition proposal financial model and business case that will be undertaken as part of the Due Diligence process.

6.4 Comments of the Monitoring Officer

The appointment of any specialist property consultancy to act on behalf of the Council will be in accordance with Contract Procedure Rules (CPRs).

When it comes to the acquisition of specific property interests for the Council then Legal services will be fully involved to ensure that the Council's interests are protected; in appropriate cases specialist advice may be sought.

<p>Other implications:</p> <ul style="list-style-type: none"> • Risk • Equality • HR 	<p>Risk issues will be fully considered in the next report to Governance Committee scheduled for 19 November 2017.</p> <p>There are no adverse equality impacts arising from this report.</p> <p>There are no HR issues arising from this report.</p>
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7. BACKGROUND DOCUMENTS

Cabinet report and appendices 21 June 2017

REPORT TO	ON
Governance Committee	13 September 2017

Jan 2017



TITLE	AUTHOR
Review of Constitution - Contract Procedure Rules & Key Decisions	Interim Monitoring Officer

1. PURPOSE OF THE REPORT

1.1 At their meeting on the 1 February 2017 the Governance Committee resolved to review the Council's Constitution.

1.2 This report provides Members the opportunity to comment on the proposals to amend the Council's Contract Procedure Rules, together with the financial threshold for key decisions undertaken by the Cabinet, prior to their submission to the Council for approval at the meeting in September 2017.

2. RECOMMENDATIONS

2.1 That Members:

- (a) Consider and amend as appropriate the draft Contract Procedure Rules at Appendix A
- (b) Consider the proposed increase of the current financial threshold to £100,000 for key decisions undertaken by the Cabinet

2.2 Note that any recommendations will need full Council approval in September 2017

3. CORPORATE PRIORITIES

The report relates to the following corporate priorities

Clean, green and safe		Strong and healthy communities	
Strong South Ribble in the heart of prosperous Lancashire		Efficient, effective and exceptional council	√

4. BACKGROUND TO THE REPORT

4.1 All Councils are required to have a written Constitution which sets out the Council's internal governance arrangements, approved procedures and protocols. As part of the Corporate Governance Action Plan 2016/17 Members of the Governance Committee agreed to carry out a thorough review of the Constitution in order to ensure that the Constitution is as clear as possible, completely up to date and fit for purpose.

4.2 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 A and the existing rules are to be found in Appendix B.

4.3 Generally, this has been a light touch review since the Rules were reviewed and updated only 2 years ago and are essentially 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.

4.4 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 £10,000 – low value procurement
- Between £10,000 to £75,000 – intermediate value
- Over £75,000 – high value

4.5 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.

4.6 The threshold figures have not changed for a number of years and it is considered that they should now be reviewed. It should be pointed out that Chorley have recently increased their high value threshold to £100,000. A number of other nearby local authorities (e.g. Lancaster, Wyre and Fylde) also have a similar high value threshold.

4.7 Accordingly the proposed amendments to the threshold values are:

- Less than £20,000 – low value procurement
- £20,000 to £100,000 – intermediate value
- Over £100,000 – high value

4.8 However, there are some complications with changing these thresholds (particularly with increasing the high value figure). At the moment the Council's key decision financial threshold for cabinet decisions is £75,000. It would make sense if members did increase the high value threshold that the Council also changed the definition of what constitutes a key decision in the light of this. Also it may be desirable/necessary to make some ancillary changes to Financial Regulations (these regulations are also in the process of being amended). There is a need to be consistent throughout or the figures and varying threshold amounts could cause some confusion.

4.9 To reflect this need for consistency the proposed change to the definition of "Key Decision" is set out at paragraph 6 of the report.

5. CONTRACT PROCEDURE RULES

5.1 The amended **Contract Procedure Rules at Appendix A** now provide as set out in the table below. Please note that we have not included in the table below every instance where the changes to the threshold figures are included as that would become very repetitive – all other proposed changes though are referred to in the table below:

New Rule	Content	Former Rule & Justification
5.2 Revenue Expenditure	Some ancillary changes to wording following on from the proposed increase in the high value threshold	Updates current wording
5.3 Capital Expenditure	Some ancillary changes to wording following on from the proposed increase in the high value threshold	Updates current wording
5.4 – new para to be inserted	New wording regarding what constitutes a Key Decision	New wording inserted for clarification purposes
6 Exempt Contracts 6.1 d	A proposed additional exemption for the procurement of specified legal wording	Additional wording proposed. The value of legal services procured can be difficult to estimate at the outset as you never know whether the matter will settle quickly or may drag on. Further legal services as a matter of course procure legal services through the North West Consortium – that is a way of accessing high quality advice at a rate significantly below the market rate. The North West Consortium is a collaboration of 25 approx. councils in the north west of England.

7.2 Pre- Procurement Procedure	A small change in wording to refer to an officer consulting with their SMT member. The current wording at the moment refers to a job title that no longer exists (Policy and Performance Advisor).	Amended wording inserted for clarification purposes
8.2 Calculating the Contract Value	The proposed new wording is primarily designed to bring greater clarity.	New wording inserted for clarification purposes
9.1 Low Value Procurement	Some changes to wording consequential on the proposed increase in the low value threshold to £20,000. This is the last sentence in the paragraph.	Amended wording designed to deal with the consequences of increasing the low value threshold and to strengthen the arrangements
14 (g) Invitation to Tender	A deletion of three words (" <i>as considered appropriate</i> ") which are considered unnecessary – this reflects what Chorley have recently agreed to.	Removal of unnecessary wording
17.3 Evaluation	Additional wording to reflect some changes to Chorley's wording. This wording is added to the second bullet point.	Additional wording designed to strengthen existing arrangements
18.3Tender/Quotation Clarification	A minor change of wording to refer to "Authorised Officer" which is the correct terminology	A minor change to wording which is more accurate
27 Execution of Contracts	A deletion of unnecessary wording – the second sentence of 27(1) of the current rules.	The change is for the purposes of greater clarity .
40 Non-Compliance	A change of wording to reflect a change of job titles and to cover a situation which is not currently catered for in the rules – i.e. the potential situation of where there is a discrepancy between the Contract Award and the amount actually paid out	Amended wording to bring greater clarity and strengthen existing arrangements.

41 Change of Authorised Officer	This is entirely a new clause designed to cover the situation of where there is a change in the leading officer during the lifetime of a contract	This is intended to strengthen our current arrangements

6. KEY DECISIONS

6.1 A key decision is defined as any decision relating to a Cabinet function which is either:

(a) Significant in terms of expenditure or savings. The financial threshold above which a matter becomes “significant” has been set a £75000 and this figure is applicable to both revenue and capital budgets

OR

(b) Significant in terms of its effect on the communities living in an area comprising two or more Council wards. “Significant” in this context means important or far reaching.

6.2 The financial threshold for key decisions has not been reviewed for some time and a review is therefore timely. It is for individual authorities to set the relevant financial thresholds having regard to their budget and to local circumstances. The original statutory guidance also urged local authorities to check that there is consistency between neighbouring authorities at the same tier.

6.3 A comparison of neighbouring authorities within Central Lancashire is as follows:

Authority	Financial Threshold
Preston	£100,000
West Lancashire	£100,000
Chorley	£100,000

6.4 It is therefore suggested that the financial threshold within the definition of a Key Decision is raised to £100,000 to align with neighbouring Councils and to align with the proposed increase of thresholds in the Contract Procedure Rules for high value procurements.

7. WIDER IMPLICATIONS AND BACKGROUND DOCUMENTATION

7.1 Comments of the Statutory Finance Officer

The Section 151 officer has been involved in the discussions relating to the proposed changes to the threshold figures. Further the Principal Procurement Officer was one of the team of officers involved in the review of the CPRs.

7.2 Comments of the Monitoring Officer

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:	
Risk	There are no specific risk implications arising from this report
Equality	There are no specific equality implications arising from this report
HR	There are no specific HR implications arising from this report

8. BACKGROUND DOCUMENTS

South Ribble Constitution

Appendix A – Proposed new Contract Procedure Rules

Appendix B – Existing Contract Procedure Rules

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Interim Monitoring Officer/Legal Services Manager
01772 625247

**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 2016 the EU thresholds are as follows:

- (a) Services contracts £164,176;
- (b) Schedule 3 (Social & Other Specific) services contracts £589,148
- (c) Supplies contracts £164,176; and
- (d) Works contracts £4,104,394

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 £164,176 for calendar years 2016/17. -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 of 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 For all contracts tendered under the Regulations, a ten calendar day (where electronic communication is used or 15 calendar days where non-electronic communication is used) 'standstill period' must be observed between the decision to award and contract conclusion. Although the Standstill period is counted in calendar days, it must end on a working day. Authorised Officers should consult the Shared Procurement Team for advice on the specific detail which must be included in Standstill Letters under the Regulations. The Standstill period is an express requirement in the Regulations and must be followed.

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:

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- (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.

- 31.2A 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 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 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.

"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:

- (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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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 £10,000) 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 £75,000 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 5.5, 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 £75,000. Contract awards above £75,000 constitute a Key Decision and Cabinet Authority must be sought for such acceptance.

5.3 Capital Expenditure.

Subject to the provisions of Paragraph 5.5, 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 £75,000. Contract awards above £75,000 constitute a Key Decision and Cabinet authority must be sought for such acceptance.

- 5.4 Any procurement which involves the transfer of Council Staff shall be treated as a High Value (above £75,000) Procurement and, as such, Cabinet authority must be sought for such acceptance.
- 5.5 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)

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 the Policy and Performance Advisor 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 the duration of a contract is for an indefinite period, or where its term cannot be defined, the contract value should be taken to be the estimated value of the contract over a period of four years. This rule shall not apply to contracts with an indefinite period 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) £10,000 is used, and, after evaluating in accordance with the evaluation criteria, the preferred offer is valued at over £10,000, 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 £75,000) is selected, and, after evaluating in accordance with the evaluation criteria, the preferred offer is valued at over £75,000, 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 £10,000

- 9.1 Where the estimated value or amount of the proposed contract is less than £10,000, 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.
- 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: £10,000 to £75,000 (Quotations)

- 10.1 For procurements valued over £10,000 but at or below £75,000 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 £75,000 (Tenders)

- 11.1 All Procurements with a cumulative value of over £75,000 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 2016 the EU thresholds are as follows:

- (a) Services contracts £164,176;
- (b) Schedule 3 (Social & Other Specific) services contracts £589,148
- (c) Supplies contracts £164,176; and
- (d) Works contracts £4,104,394

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 £164,176 for calendar years 2016/17. -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
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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 as considered appropriate;
 - (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 £10,000 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
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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 (mandatory for High Value Tenders, optional for intermediate and low value procurement);
 - 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 £75,000, 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 Procuring 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 £75,000 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 For all contracts tendered under the Regulations, a ten calendar day (where electronic communication is used or 15 calendar days where non-electronic communication is used) 'standstill period' must be observed between the decision to award and contract conclusion. Although the Standstill period is counted in calendar days, it must end on a working day. Authorised Officers should consult the Shared Procurement Team for advice on the specific detail which must be included in Standstill Letters under the Regulations. The Standstill period is an express requirement in the Regulations and must be followed.

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 £75,000 shall be passed to Legal Services for sealing execution and secure storage, unless otherwise agreed with the Legal Services Manager. All other contracts may be signed by an officer with appropriate delegated authority
- 27.2 All contracts valued at above £20,000 but below £75,000 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

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- 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 £75,000.
- 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 £10,000, or more than 20% (whichever is the higher) to the original total Contract value.
- 34.3 Any extension exceeding £75,000 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 £75,000 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 £75,000 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, 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 Director of Corporate Governance and Business Transformation (Monitoring Officer) who shall take such action as s/he deems necessary.

41. 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.

42. 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.

“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:

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(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 £75,000. 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.

REPORT TO	ON
Governance Committee	13 of September 2017



Jan 2017

TITLE	AUTHOR
Review of Constitution – Council Terms of Reference & Members	Interim Governance Manager

1. PURPOSE OF THE REPORT

1.1 At their meeting on the 1 February 2017 the Governance Committee resolved to review the Council's Constitution.

1.2 This report provides Members the opportunity to comment and amend the proposals to amend the Terms of Reference for full Council, including the role of the Mayor and Elected Members, within the Constitution the prior to submission to the Council for approval at the meeting in September 2017.

2. RECOMMENDATIONS

That Members consider and amend the proposals to amend the Terms of Reference for full Council, including the role of the Mayor and Elected Members as set out in **Appendix A** prior to the submission to the Council for approval in September 2017.

3. CORPORATE PRIORITIES

The report relates to the following corporate priorities

Clean, green and safe		Strong and healthy communities	
Strong South Ribble in the heart of prosperous Lancashire		Efficient, effective and exceptional council	√

4. BACKGROUND TO THE REPORT

4.1 All Councils are required to have a written Constitution which sets out the Council's internal governance arrangements, approved procedures and protocols. As part of the Corporate Governance Action Plan 2016/17 Members of the Governance Committee agreed to carry out a thorough review of the Constitution in order to ensure that the Constitution is as clear as possible, completely up to date and fit for purpose.

4.2 The new draft Terms of Reference for full Council at **Appendix A** have been re written to update and make more comprehensive the existing terms of reference. This includes a review of the Policy Framework documents at section 4. These are the most important plans and strategies which require the approval of full Council and which then guide the work of the Cabinet as part of

the Budget and Policy Framework. Other sections deal with the role of the Mayor and of Elected Members.

4.3 The draft will replace three documents, Articles 2, 4 and 5 (**Appendix B**) which dealt with Members of the Council, Council Meeting and the Mayor respectively.

4.4 The Governance Committee Working Group considered the proposed Terms of Reference at its meeting on the 29th of August 2017. Some minor changes to the document have been made since then – for your ease of reference such changes are highlighted in red.

5. COUNCIL MEETINGS & MEMBERS

5.1 The draft at **Appendix A** deals with the following issues:

Paragraph	Content	Justification
1. Full Council	Short summary of the role of full Council.	New section
2. Membership	<ul style="list-style-type: none"> • Sets out membership of all 50 elected members. • Notes Mayor presides over meeting and links to the procedural requirements • Sets out and links to different types of Council meetings 	New section
3. Terms of Reference	<p>Detailed section setting out full terms of reference of full Council. Including</p> <ul style="list-style-type: none"> • Approving Constitution, Budget & Policy Framework • Appointing Leader & Mayor • Appointing to Committees & Outside Bodies • Approving Member Code of Conduct and Scheme of Allowances • Appointing statutory officers • Conferring Freedom of Borough 	Replaces Article 4 and updates current list of terms of reference to comply with new legislation.

4. Policy Framework & Partnership Plans	Sets out full list of those plans and strategies which form the Policy Framework & the key partnership documents which Council should adopt	Updates wording within current version
5. The Budget	Definition of the Council Budget and links to the development of the Budget through the Budget and Policy Framework Procedure Rules	Updates definition.
6. Role and Function of Mayor	Sets out the various roles of the Mayor including: <ul style="list-style-type: none"> • Ceremonial • Promoting the Borough • Chairing Council Outlines the Mayor may not be a member of Cabinet but may sit on (but not chair) other committees.	Replaces former Article 5 within original version. Updates wording.
7. Election and Terms of Members	Short explanation of 4 yearly election cycle and a summary of the role & responsibilities of elected members.	Replaces former Article 2 Simplifies wording

6. WIDER IMPLICATIONS AND BACKGROUND DOCUMENTATION

6.1 Comments of the Statutory Finance Officer

There are no financial implications arising from this report.

6.2 Comments of the Monitoring Officer

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: Risk Equality HR	There are no specific risk implications arising from this report There are no specific equality implications arising from this report There are no specific HR implications arising from this report
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7. BACKGROUND DOCUMENTS

South Ribble Constitution

Appendix A – New draft Council Terms of Reference for Council & Members

Appendix B- Articles 2, 4 and 5

2A – Council Meetings & Members

1. Full Council

- 1.1 The 50 members of the Council all meet together as full Council to decide the most important policies and to set the budget each year. At the annual meeting the Council elects the Mayor, appoints Committees and agrees their terms of reference. The meeting is presided over by the Mayor and run according to formal rules of debate.

2. Membership

- (a) **Membership.** All 50 members.
- (b) **Chairing the Council.** The Mayor presides over meetings of full Council and provides guidance as necessary in relation to any procedural requirements.
- (c) **Procedural Requirements.** The Council Procedure Rules at section 4A of the Constitution set out the detailed rules which govern Council meetings, including the rules of debate, the order of business and public participation.
- (d) **Types of Council Meetings.** There are three types of Council meetings:
- Annual Meeting (including Mayoral Installation and First Business Meeting of the Municipal Year)
 - Ordinary Council Meetings
 - Special or Extraordinary Meetings

3. Terms of Reference

- (a) To adopt or change the Constitution
- (b) To approve the annual Council Budget and the Medium Term Financial Plan
- (c) To approve the Policy Framework (see para 4.1) and the strategies and policies that sit within it
- (d) To make decisions on executive functions which are contrary to the policy framework, or contrary to, or not wholly in accordance with, the budget. This is subject to the urgency provisions set out in section x of the Constitution

- (e) To appoint or remove the Executive Leader of the Council and to receive his or her scheme of delegation for executive functions
- (f) To appoint the Mayor and Deputy Mayor
- (g) To agree the Councils scheme of delegation including establishing Committees of the Council, agreeing their terms of reference, deciding on their composition and making appointments to them, including any co-opted or Independent Members
- (h) To appoint representatives to outside bodies subject to a report from the Monitoring Officer (unless the appointment is an executive function or has been delegated by the Council)
- (i) To approve the Schedule of Dates of Meetings for Council
- (j) To approve, adopt or revoke a Members' Allowances Scheme
- (k) To agree the Code of Conduct for Elected members and the appointment of an Independent Person under the Localism act 2011
- (l) To approve the Scheme of Delegation to Officers
- (m) To confirm the appointment of the Head of Paid Service
- (n) To designate the roles of Head of Paid Service, Monitoring Officer and Chief Financial Officer under the relevant legislation
- (o) To approve the dismissal of the Head of Paid Service, Monitoring Officer or Chief Financial Officer. Before deciding whether to or not to approve dismissal account must be taken of:
 - Any advice views or recommendations of the Independent Persons
 - The conclusions of any investigation
 - The representations of the Officer
- (p) To confirm the appointment of the Returning Officer
- (q) To determine the location of polling places and polling districts within the Councils electoral wards
- (r) To agree joint arrangements for non - executive functions where the Council is to discharge the functions of another authority
- (s) To make, amend, revoke, re-enact, or adopt bylaws and promote or oppose the making of local legislation or personal Bills

- (t) To approve the adoption of Conservation areas, Conservation Area Character Appraisals and Management Plans
- (u) To approve Interim Planning Guidance and Supplementary Planning Documents (if not Development Plan Documents)
- (v) To approve the Council's Annual Pay Policy Statement
- (w) To make any decision not to issue a Casino Licence
- (x) To determine which local choice functions will be the discharged by full Council.
- (y) To confer the title of Honorary Alderman or Freedom of the Borough
- (z) To change the Councils Governance arrangements
- (aa) To change the Name of the Area
- (bb) To **determine** all other matters which, by law, must be reserved to Council.

4. Policy Framework and Partnership Plans

4.1 The policy framework means the following plans and strategies:-

- Corporate Plan and Annual Performance Report
- Medium Term Financial Strategy
- Treasury Management Strategy
- Development Plan documents, including the Local Plan
- Asset Management Plans
- Licensing Gambling Policy
- Statement of Licensing Policy (Licensing Act 2003)
- Taxi Licensing Policy
- Homelessness Strategy
- South Ribble Strategic Housing Framework
- Any other plan or strategy where the Council determines that any decision on its adoption or approval should be taken by it rather than the Cabinet.

4.2 The Council is responsible for the adoption of the Policy Framework and individual plans and strategies.

4.3 The Policy Framework is developed in line with the Budget and Policy Framework Procedure Rules at Part x.

4.4 Council will also adopt the following strategic partnership documents:

- Partnership Community Safety Strategy
- South Ribble Partnership Sustainable Community Strategy
- Central Lancashire Economic Development Strategy
- Lancashire Waste Strategy

5. The Budget.

5.1 The budget includes the allocation of revenue and capital financial resources to services and projects, and the transfers to/from reserves and contingencies, the level of balances, and the grants available from Government.

5.2 It also includes the processes of approving the Council Tax base, setting the Council Tax for the forthcoming financial year, and decisions relating to the control of the Council's borrowing requirement **and** the control of its capital expenditure. **It may also include decisions as to the setting of virement limits.**

5.3 The Council will normally approve the annual Treasury Management Strategy as part of the Budget.

5.4 The Budget is developed in line with the Budget and Policy Framework Procedure Rules at Part x.

6 Role and function of the Mayor

6.1 The Mayor will be elected by the full Council at the Mayoral Installation ceremony in May each year and has the following roles and functions:

(a) Ceremonial Role. As the first citizen of the Borough to represent the Council at events of a civic or ceremonial nature, whether organised by the Council or some other body.

(b) Promotion of the Borough. To promote public involvement with the Borough and the Council as a whole, in partnership with the Leader, and act as a focal point for the local community.

(c) Chairing of Council. When presiding over meetings of full Council the Mayor will:

- uphold the Constitution, and provide guidance to the meeting as necessary in relation to any procedural requirements
- conduct the meeting in such a way that its business is carried out efficiently having regard to the rights of members and the interests of the community
- ensure that the Council meeting is a forum for the debate of matters of concern to the local community, and the place at which members who are not on the Cabinet are able to hold the Cabinet to account and any other members of

Council who hold positions of responsibility, for example as Chairman of a Committee or a nominee onto an outside body

6.2 Legally the Mayor may not be a member of Cabinet but may sit on (although not chair) other committees. **For the sake of clarity the Deputy Mayor may also not be a member of the Cabinet.**

6.3 When acting in the capacity of Mayor he or she will be expected to support the tradition of neutrality expected of the post holder.

6.4 In the absence of the Mayor the Deputy Mayor will undertake his or her duties and responsibilities.

7. Election and Terms of Members

7.1 The regular election of members will be held on the first Thursday in May every four years (although on rare occasions the date may be altered to coincide with other National or European Elections). The term of office of members will start on the fourth day after being elected and will finish on the fourth day after the next regular election.

7.2 Members are democratically accountable to residents in their Ward. Members' have a duty to their constituents including those who did not vote or indeed did not vote at all but their overriding duty is to the whole community of South Ribble.

7.3 All members will:

- Collectively (through the Council) be the ultimate policy makers and to approve the strategies and plans forming **the Council's budget and policy framework**
- Represent their communities and bring their views into the Council's decision-making process, i.e. become the advocate of and for their communities
- Deal with individual casework and act as an advocate for constituents in resolving particular concerns or grievances
- Balance different interests identified within their ward and represent the ward as a whole;
- Be involved in decision making
- Be available to represent the Council on other bodies
- Maintain the highest standards of conduct and ethics, including upholding the **Council's Member Code of Conduct**

7.4 Rights and Duties of Members

- **Members have rights of access to such documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law;**

- Members should not make public any information which is confidential or exempt without the consent of the Council or divulge information given in confidence to anyone other than a councillor or officer entitled to know it; and
- For these purposes, "confidential" and "exempt" information are defined in the Access to Information Rules in **Part** of this constitution.

Article 2 – Members of the Council

2.01 The Council

- (a) **Composition.** The Council comprises 50 councillors (members). Members are elected by the voters of each ward in accordance with a scheme drawn up by the Local Government Commission and approved by the Secretary of State. Council elections are held every four years and councillors serve for that four year period. In May 2015, and in line with proposals from the Local Government Commission, the size of the Council was reduced from 55 to 50 members, with 19 two member wards and four three member ward.
- (b) **Eligibility.** Only registered voters of the district or those living or working in the borough will be eligible to hold the office of councillor.

2.02 Election and terms of councillors

Election and terms. The regular election of councillors will be held on the first Thursday in May every four years beginning in 2003. The terms of office of councillors will start on the fourth day after being elected and will finish on the fourth day after the date of the next regular election.

2.03 Roles and functions of all councillors

(a) Key roles

All councillors shall:

- (i) collectively be the ultimate policy-makers for the Council;
- (ii) contribute to the good governance of the area and actively encourage community participation and action and involvement in decision making;
- (iii) lead and champion the interests of the local community and effectively represent the interests of their ward and of individual constituents;
- (iv) develop and maintain a good knowledge of their ward and Council;
- (v) develop and maintain strong positive relationships with local people by meeting; communicating and liaising with them regularly and involving and consulting them on local issues, decisions that affect them and opportunities in the community;
- (vi) deal with individual casework and act as an advocate for constituents in resolving particular concerns or grievances;
- (vii) respond to constituents' enquiries and representations fairly and impartially;
- (viii) be available to represent the Council on other bodies and submit reports on the activities of bodies upon which they represent the Council as required;
- (ix) represent the Council to the community and the community to the Council and support fellow councillors; and
- (x) maintain the highest standards of conduct and ethics.

(b) Rights and duties

- (i) Councillors have rights of access to such documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law;

- (ii) Councillors should not make public any information which is confidential or exempt without the consent of the Council or divulge information given in confidence to anyone other than a councillor or officer entitled to know it; and
- (iii) For these purposes, "confidential" and "exempt" information are defined in the Access to Information Rules in **Part 4C** of this constitution.

2.04 Conduct

Councillors and town and parish councillors have a statutory duty to observe the Code of Conduct for Elected Members (see Part 5A). Councillors are also expected to work within the Council's protocols (see Part 5C).

2.05 Allowances

Councillors are entitled to receive allowances in accordance with the Scheme of Members' Allowances, as set out in Part 6.

Article 4 – Council Meeting

4.01 Meanings

(a) **Policy Framework.** The policy framework means the following plans and strategies:-

- Asset Management Plan;
- Community Safety Strategy;
- Sustainable Community Strategy;
- Corporate Plan;
- Equality, Diversity and Community Cohesion Strategy;
- Financial Strategy;
- Treasury Management Strategy;
- Housing Investment Programme - (including the Plan and Strategy);
- Local Area Agreement;
- Local Development Framework, excluding those elements which make up the Local Development Scheme; and
- Sustainability and Climate Change Strategy.

(b) **Budget.** The budget includes the allocation of financial resources to different services and projects, contingency funds, reserve funds, setting the Council tax, decisions relating to the control of the Council's borrowing requirement, the control of its capital expenditure and the setting of virement limits.

(c) **Housing Land Transfer.** Housing Land Transfer means the approval or adoption of applications (whether in draft form or not) to the Secretary of State for approval of a programme of disposal of 500 or more properties to a person under the Leasehold Reform and Urban Development Act 1993 or to dispose of land used for residential purposes where approval is required under sections 32 or 43 of the Housing Act 1985.

4.02 Functions of the Council

Only the Council will exercise the following functions:

- (a) adopting and changing the constitution;
- (b) approving or adopting the policy framework, the budget and any application to the Secretary of State in respect of any Housing Land Transfer;
- (c) subject to the urgency procedure contained in the Access to Information Rules in Part 4C of this constitution, making decisions about any matter in the discharge of a Cabinet function which is covered by the policy framework or the budget where the decision maker is minded to make it in a manner which would be contrary to the policy framework or contrary to/or not wholly in accordance with the budget;
- (d) electing the Executive Leader at the first business meeting of the municipal year for a period of four years;
- (e) agreeing and/or amending the terms of reference for committees, the Members' Remuneration Panel and the Forward Editorial Panel and deciding on their composition and making appointments to them;
- (f) appointing representatives to outside bodies subject to a report from the Monitoring Officer;
- (g) adopting a scheme of members' allowances under Article 2.05;
- (h) changing the name of the area;
- (i) conferring the title of honorary alderman or freedom of the borough;
- (j) agreeing the appointments panel to appoint the head of paid service;
- (k) making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills;
- (l) all local choice functions set out in Part 3 of this constitution which the Council decides should be undertaken by itself rather than the Cabinet;
- (m) agreeing the Code of Conduct for Elected members and the Protocols as set out in Part 5; and
- (n) all other matters which, by law, must be reserved to Council.

4.03 Council Meetings

There are three types of Council meeting:

- (a) the annual meeting (mayoral installation);
- (b) ordinary meeting; and
- (c) extraordinary meeting.

Council meetings must be conducted in accordance with the Council Procedure Rules (Standing Orders) as set out in Part 4A, of this constitution.

Article 5 – The Mayor

5.01 Role and function of the Mayor

In accordance with Section 11(7) of the Local Government Act 2000, the Mayor and Deputy Mayor shall not be members of the Cabinet.

The Mayor and in his/her absence, the Deputy Mayor, has the following roles and functions:

5.02 Ceremonial Role

The Mayor presides at such civic and ceremonial occasions as the Council deems appropriate. The Mayor also acts as first citizen of the borough and should always represent the Borough of South Ribble in a fit and proper manner.

The Mayor also attends functions within the borough, and on occasions outside the borough, at the request of the organisers of the particular function and represents the Council on each and every occasion.

5.03 Chairing the Council Meeting

The Mayor will be elected by the Council annually. The Mayor has the following responsibilities at Council meetings:

- i) to uphold and promote the purposes of the constitution, and to interpret the constitution when necessary;
- ii) to preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of councillors and the interests of the community;
- iii) to ensure that the Council meeting is a forum for the debate of matters of concern to the local community and the place at which members who are not on the Cabinet are able to hold to account the Cabinet members and any other member of the Council who hold positions of responsibility e.g. chairman of a committee, or is a Council representative on an outside body;
- iv) in partnership with the Leader of the Council, to promote public involvement in the Council's activities; and
- v) to be the conscience of the Council.

5.04 Chairing other Committee Meetings

The Mayor shall be able to sit on but not chair other committees.

REPORT TO	ON
Governance Committee	13 September 2017

Jan 2017



TITLE	AUTHOR
Review of Constitution - General Licensing Committee and Licensing Act Committee	Interim Governance Manager

1. PURPOSE OF THE REPORT

1.1 At their meeting on the 1 February 2017 the Governance Committee resolved to review the Terms of Reference for the General Licensing Committee and the Licensing Act Committee as part of their overall review of the Constitution. It is the intention to introduce a more streamlined system for hearings of the General Licensing Committee with the introduction of smaller Sub-Committees.

1.2 This report provides Members with the opportunity to comment on the proposals prior to their submission to the Council for approval at their meeting on 27th of September 2017. Unfortunately Licensing Committee(s) do not meet to discuss these proposals until the 19th of September 2017 – hence delegated authority is sought for the Chair and Vice Chair of this committee to finalise the decision (in the context of any comments being made from the Licensing committee(s)) prior to consideration by Full Council.

2. RECOMMENDATIONS

2.1 That Members consider and comment on the proposed new Terms of Reference for General Licensing Committee and Licensing Act Committee

2.2 The final decision be delegated to the Chairman and Vice Chairman to recommend the wording for approval to the Council meeting on the 27th of September 2017 subject to any comments/views being made by the Licensing committee(s) on the 19th of September

3. CORPORATE PRIORITIES

The report relates to the following corporate priorities

Clean, green and safe		Strong and healthy communities	
Strong South Ribble in the heart of prosperous Lancashire		Efficient, effective and exceptional council	√

4. BACKGROUND TO THE REPORT

4.1 As part of the general ongoing review of the Constitution there is a need to review the terms of reference as it relates to both of our Licensing committees – General Licensing and Licensing Act.

4.2 As a result of previous difficulties encountered by the Licensing function, during early 2017 the Council requested that Commissioner Mary Ney (a senior manager at Rotherham Council with considerable experience in the transformation of Licensing services) undertake an independent review of the service. Commissioner Ney visited the Council on 21 – 23 March 2017, when she

carried out a range of activities intended to enable her to better understand the Council's approach to the licensing of Private Hire / Hackney Carriage vehicles, drivers and operators. These included interviews with senior Council officers and members, as well as attending a meeting of the General Licensing Committee on 21 March.

4.3 On 23 March Commissioner Ney presented her review of the Council's taxi licensing function to an audience which included members of the General Licensing Committee, as well as other officers and members. Whilst Commissioner Ney found much about which she could speak positively, one of the areas she felt could be made more robust related to the conducting of hearings (where the Committee sits as a quasi-judicial body to determine the suitability of an applicant / driver to hold a licence with this authority under the statutory "fit and proper" test). Commissioner Ney noted that the Committee currently sat as a full committee during such hearings; this could involve up to 11 members sitting in deliberation at any one time.

4.4 Local authorities across the country conduct licensing hearings for taxi-related matters in a variety of ways, ranging from the use of a full committee to delegation to a single senior officer (although the trend is generally towards the use of smaller rather than larger bodies to conduct proceedings). Each system has its own merits, and it is clear that the current South Ribble approach has the advantage of full member involvement in the process, with all members of the Committee playing a part in each decision.

4.5 However, it is also considered that the current system has certain disadvantages including:

- the large number of members in attendance makes it hard for the committee to develop and sustain a co-ordinated line of questioning (especially in cases where the driver / applicant may be unwilling to engage or the allegation is of a particularly sensitive nature);
- the number of members present in a formal environment may intimidate some drivers / applicants and therefore undermine the committee's attempts to gather information from the person in front of them; and
- larger meetings are administratively unwieldy, requiring a large number of members to attend each hearing session. This problem will be exacerbated by the more proactive approach to Licensing enforcement which the Council has now adopted, with an increased number of hearings more likely in future.

5. EXISTING CONSTITUTIONAL ARRANGEMENTS

5.1 A copy of the Council's current Terms of Reference for both the General Licensing Committee and the Licensing Act Committee is attached as Appendix 1. Members may consider this document to be brief and not fully reflective of the Committee's wider role and responsibilities.

6. PROPOSED NEW ARRANGEMENTS

6.1 In view of the above concerns it is proposed to adopt revised Terms of Reference for both the General Licensing Committee and the Licensing Act Committee. The draft Terms of Reference for the General Licensing Committee and the Licensing Act Committee are attached as Appendices 2 and 3 respectively.

6.2 As part of the process of revising the General Licensing Committee's Terms of Reference, it is also proposed to introduce a new and more streamlined system for hearings. It is proposed that in future:

- hearings should be heard by a Sub-Committee Panel consisting of 5 members only, drawn from the General Licensing Committee;

- in order to ensure consistency of approach across all the hearings which take place, each Sub-Committee Panel should be chaired by either the Chair or Vice Chair of the Licensing Committee;
- other member vacancies on the Sub-Committee Panels would be filled on a rota basis to ensure that all members continue to play a positive role in the practical work of the Committee and contribute to its output; and
- it is suggested that – for matters concerning taxi licensing but not liquor licensing - members (other than the Chair/Vice-Chair of the Panel depending on availability) should be allocated in accordance with political balance.

6.3 In all other respects, the agreed procedures for Sub-Committee Panels of the General Licensing Committee would remain the same as for a hearing at full committee, eg Legal Services will attend and draft the Decision Notice and the Licensing Manager will present details of the allegations.

6.4 This new suggested approach would:

- enable members' attendance at hearings to be pulled together more speedily and flexibly in order to prevent a backlog of hearings building up, as has occurred in the recent past;
- bring the hearing process into line with that of the majority of other licensing authorities, very few of whom are now seen to hold hearings at full committee level; and
- free up the main committees to strengthen their strategic role in the development of policy.

6.5 It is important to note that the above proposal for 5 member panels only relates to the General Licensing Committee and does not extend to the panels convened under the Licensing Act 2003. Section 9(1) of the 2003 Act states that:

“A licensing committee may establish one or more subcommittees consisting of three members of the committee.”

As a statutory requirement, the Council does not intend to alter its current approach and the use of 3 member panels will be retained for the Licensing Act Committee. As with Sub-Committees Panels for the General Licensing Committee, the panels for the Licensing Act Committee will be chaired by the Chair or Vice-Chair of the main committee.

6.6 Essentially we are now looking at two new documents. The main provisions with regard to the General Licensing Committee are as follows:

Heading	Summary	Rationale
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1. General Licensing Committee	General Introduction	Short Explanatory introduction – slightly expanded to existing wording
2. Membership	Sets out the rules for membership of the Committee including the requirement for political proportionality	Within current version.
3. Terms of Reference	Sets out more detailed Terms of Reference	A more thorough set of terms of reference is set out to bring greater clarity. References to Health and Safety are removed as they are not considered relevant.
4. Delegation to Sub-Committee	Sets out scope of proposed delegation (see paras 6.1 – 6.6 above)	Essentially new wording to reflect the proposals set out in the report
5. Terms of Reference for Sub-Committee	Sets out the terms of reference for the proposed new Sub-Committees (see paras 6.1 – 6.6 above)	Essentially new wording to reflect latest proposals

6.7 The main provisions with regard to the Licensing Act Committee are:

Heading	Summary	Rationale
1. Licensing Act Committee	General Introduction	Short Explanatory introduction.
2. Membership	Sets out the rules for membership of the Committee	Within current version.
3. Terms of Reference	Sets out new Terms of Reference	New text but essentially reflects current practice
4. Delegation to Sub-Committee	Sets out the Scope of Delegation – this is based on the Licensing Act 2203 and essentially happens now	New text but essentially reflects current practice
5. Terms of Reference for Sub-	Sets out the Terms of Reference for	New text but essentially reflects

Committee/Panel	the Sub-Committee/Panel - this essentially happens now	current practice
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7. TIMESCALES & PRACTICAL IMPLICATIONS

- 7.1 As has already been explained these new documents still require the approval of the Licensing committee(s) – they will be considered on the 19th of September. If at all possible though we would like to get these documents approved by Full Council on the 27th of September – hence the reason for the current report.
- 7.2 If the move to Sub-Committee Panels for the General Licensing Committee is confirmed, there will be a need for officers to amend current procedures and documentation accordingly.

8. CONCLUSION

- 8.1 If adopted, the proposal to adopt revised Terms of Reference will update the Council's constitutional arrangements for both the General Licensing Committee and the Licensing Act Committee. The proposed introduction of 5 member panels for hearings under the remit of the General Licensing Committee would provide a modern and streamlined approach to the conducting of hearings. Whilst the General Licensing Committee's workload in this regard is difficult to quantify in advance, it is undoubtedly increasing and the new structure would provide a more flexible and agile approach.
- 8.2 Members of the General Licensing Committee would still be actively involved through their roles on the Sub-Committee Panels as allocated, as well as retaining an overall responsibility for policy development in an area of key importance for the authority.

9. WIDER IMPLICATIONS AND BACKGROUND DOCUMENTATION

9.1 Comments of the Statutory Finance Officer

There are no financial implications arising from this report.

9.2 Comments of the Monitoring Officer

The Licensing Committee has the power to delegate its functions to a Sub-Committee for hearings. This should enable a more effective and streamlined approach.

<p>Other implications:</p> <ul style="list-style-type: none"> • Risk • Equality • HR 	<p>The introduction of smaller Sub-Committee Panels could potentially lead to members becoming disengaged from the Licensing process. However, this will be overcome by regular scheduled attendance on Panels (the number of which is likely to increase overall), whilst the overall responsibility for policy development is still retained.</p> <p>None</p> <p>None</p>
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10. BACKGROUND DOCUMENTS (or there are no background papers to this report)

Appendix 1 – existing Terms of Reference
Appendix 2 – proposed Terms of Reference (General Licensing Committee)
Appendix 3 – proposed Terms of Reference (Licensing Act Committee)

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APPENDIX 1

2F General Licensing Committee & Licensing Act Committee

1. General Licensing Committee

Appointed by Council at the first business meeting of the municipal year to deal with taxi and miscellaneous licensing matters

2. Membership

- a) **Political Balance.** The committee is required to have proportional political balance in accordance with the requirements of the Local Government & Housing Act 1989
- b) **Membership.** 11 Members
- c) **Chairing the Committee.** Chairman to be appointed by the Council at the first business meeting of the new municipal year.

3. Terms of Reference

1. Taxi and miscellaneous licensing

Functions relating to licensing and registration as set out in Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 but excluding those functions relating to licensing under the provisions of the Licensing Act 2003 and the Gambling Act 2005.

2. Health and safety

Functions relating to health and safety under any “relevant statutory provision” within the meaning of Part 1 of the Health and Safety at Work Act 1974, to the extent that those functions are discharged otherwise than in the Council’s capacity as employer

2. Licensing Act Committee

Appointed by Council at the first business meeting of the municipal year to deal with liquor licensing, gambling and matters relating to Scrap Metal Dealers.

2. Membership

- a) **Political Balance.** The committee is required to have proportional political balance in accordance with the requirements of the Local Government & Housing Act 1989

b) **Membership.** 11 Members

c) **Chairing the Committee.** Chairman to be appointed by the Council at the first business meeting of the new municipal year.

3. Terms of Reference

1. Functions relating to licensing under the Licensing Act 2003.
2. Functions relating to gambling under the Gambling Act 2005.
3. Functions relating to licensing under the Scrap Metal Dealers Act 2013.

General Licensing Committee

1. General Licensing Committee

Appointed by Council at the first business meeting of the municipal year.

The General Licensing Committee will sit as a full committee and is responsible for dealing with the Council's taxi licensing and other specific licensing functions.

2. Membership

a) Political Balance

The General Licensing Committee is required to have proportional political balance in accordance with the requirements of the Local Government & Housing Act 1989.

b) Membership

11 members

c) Chairing the Committee

Chairman to be appointed by the Council at the first business meeting of the new municipal year.

3. Terms of Reference

The General Licensing Committee will be responsible for overseeing, developing and approving taxi licensing policy (with the exception of matters reserved by statute to Council or the Cabinet).

This includes:

- a) overseeing the processes to determine the application of the statutory "fit and proper" test, and vehicle age policy, to ensure public safety within the Borough;
- b) all functions of the Council relating to applications for private hire, hackney carriage and miscellaneous licences;
- c) receiving reports on these matters, and on the functions delegated to the Taxi and Miscellaneous Panels and to officers. To call for a report on any individual case;
- d) determining the procedures to be followed in handling applications, notices, representations and all hearings, subject to the relevant Regulations;
- e) exercising the functions of the Taxi Licensing and Miscellaneous Sub-Committee Panels in any case referred to the Committee by its Chair, or by the Chair of a Taxi Licensing and Miscellaneous Sub-Committee Panel, on the grounds of its special significance or difficulty;

- f) meeting with representatives of the licensed taxi trades to discuss matters of concern;
- g) setting fees and charges (subject to their formal adoption by full council);
- h) presenting an annual report on the work of the General Licensing Committee to Council; and
- i) in a Council Election Year when there is a need to hold a hearing in the period between Election day and the Annual Meeting of the Council, those Members of the General Licensing Committee who are re-elected as Councillors shall meet as the General Licensing Committee to exercise any of the functions of the Taxi Licensing and Miscellaneous Sub-Committee Panels, or under (e) above, and shall elect a Chair for the meeting.

Excluded from the General Licensing Committee's terms of reference are:

- (a) any functions specifically delegated to the Licensing Act Committee, or those Licensing Act functions statutorily referred to the Cabinet and the full Council (including the formal review and determination of the Licensing Policy Statement and the Statement of Gambling Policy); and
- (b) the functions delegated to the Taxi Licensing and Miscellaneous Sub-Committee Panels as set out below, except where referred back to the Committee under sub-paragraph 3(e) above.

4. Delegation to Sub-Committee - Taxi Licensing and Miscellaneous Sub-Committee Panel

This sub-committee is a Sub-Committee Panel of the General Licensing Committee, appointed by that Committee under the Local Government Act 1972.

The General Licensing Committee has arranged under S101(1) of the Act for the discharge of such of the Council's functions as are within the Sub-committee Panel's terms of reference in Section 5 below.

Certain functions are delegated by the Taxi Licensing and Miscellaneous Sub-Committee Panel to officers. These are identified in the Scheme of Delegation which can be found in the Constitution.

5. Taxi Licensing and Miscellaneous Sub-Committee Panel - Terms of Reference

Sitting as a Sub-Committee Panel comprising of 5 members (drawn from the full Committee on a politically proportionate basis):-

The Chair of the Taxi Licensing and Miscellaneous Sub-Committee Panel will be the Chair or Vice Chair (depending on availability) of the General Licensing Committee.

The Sub-Committee Panel will carry out the following functions:-

Except for matters of Policy, to undertake all licensing functions, powers and duties conferred by the Local Government Act 1972 including (but not limited to) the matters set out immediately below and also subsequently in Paragraph 5:

- a) where evidence exists to cast doubt on whether the applicant / driver is a fit and proper person, the Sub-Committee Panel may determine all matters relating to the grant, renewal or review of taxi licences (which, in the interest of clarity, in these Terms of Reference shall include hackney carriage and private hire vehicle driver and operator licences), and to suspend or revoke taxi licences in accordance with legislation;
- b) in cases where the Director has on public safety grounds revoked with immediate effect a taxi licence, to determine an application for the grant of a new licence submitted by the driver/operator whose earlier licence was revoked;
- c) except for matters of Policy to undertake all licensing functions, powers and duties conferred by the Local Government Act 1972 including but not limited to the matters set out below:
 - i) power to license hackney carriages and private hire vehicles;
 - ii) power to license drivers of hackney carriages and private hire vehicles;
 - iii) power to license operators of hackney carriages and private hire vehicles;
 - iv) power to license sex shops and sex cinema and sex entertainment venues; and
 - v) power to grant medical exemption from the obligation to provide support to wheelchair users and/or carry assistance dogs and
 - vi) power to license scrap metal dealers

Paragraph 5
Schedule 1B – Local Authorities (Functions and Responsibilities) (England)
Regulations 2000
(Licensing and registration functions (in so far as not covered by any other paragraph of this Schedule))

The list below relates to the exercise of specialist legislation including (but not exclusively) the following, subject to the functions not being Council functions as set out above:

1. Power to license hackney carriages and private hire vehicles.
 - (a) as to hackney carriages, the [Town Police Clauses Act 1847 \(10 & 11 Vict. c. 89\)](#), as extended by section 171 of the [Public Health Act 1875 \(38 & 39 Vict. c. 55\)](#), and section 15 of the [Transport Act 1985 \(c. 67\)](#); and sections 47, 57, 58, 60 and 79 of the [Local Government \(Miscellaneous Provisions\) Act 1976 \(c. 57\)](#);
 - (b) as to private hire vehicles, sections 48, 57, 58, 60 and 79 of the [Local Government \(Miscellaneous Provisions\) Act 1976](#).
2. Power to license drivers of hackney carriages and private hire vehicles.
 - Sections 51, 53, 54, 59, 61 and 79 of the [Local Government \(Miscellaneous Provisions\) Act 1976](#).
3. Power to license operators of hackney carriages and private hire vehicles.
 - Sections 55 to 58, 62 and 79 of the [Local Government \(Miscellaneous Provisions\) Act 1976](#).

4. Power to grant medical exemption from obligation to transport assistance dogs Sections 168-173 of the Equalities Act 2010
5. Power to grant medical exemption from requirement to provide support for wheelchair users Section 165 and 167 of the Equalities Act 2010
6. Power to determine suitability of scrap metal dealers to hold a licence (site licence or mobile collector) and to set fees as appropriate Scrap Metal Dealers Act 2013
7. Power to license persons to collect for charitable and other causes. Section 5 of the Police, Factories etc. (Miscellaneous Provisions) Act 1916 (c. 31) and section 2 of the House to House Collections Act 1939 (c. 44)(31).
8. Power to issue a street trading licence Local Government (Miscellaneous Provisions) Act 1982
9. Power to issue cinema and cinema club licences. Section 1 of the Cinema Act 1985 (c. 13).
10. Power to license sex shops and sex cinemas. The Local Government (Miscellaneous Provisions) Act 1982, section 2 and Schedule 3.

Licensing Act Committee

Appendix 3

1. Licensing Act Committee

Appointed by Council at the first business meeting of the municipal year.

The Licensing Act Committee will sit as a full committee and is responsible for dealing with the Council's Liquor Licensing, Gambling Act and other specified functions.

This is a Committee of the Council appointed by the Council under Section 6 of the Licensing Act 2003.

The Council has arranged under Section 7 of the 2003 Act and S101 of the Local Government Act 1972 for the discharge by the Committee of such of the Council's functions, as specified in the Local Authorities (Functions and Responsibilities) Regulations 2000-Schedule 1B as amended, and to undertake all licensing functions, powers and duties conferred by the Licensing Act 2003.

2. Membership

a) Political Balance

The committee is not required to have proportional political balance in accordance with the requirements of the Local Government & Housing Act 1989.

b) Membership

11 members

c) Chairing the Committee

Chairman to be appointed by the Council at the first business meeting of the new municipal year.

3. Terms of Reference

Sitting as the Licensing Act Committee, to oversee, develop and approve licensing policy (with the exception of matters reserved by statute to Council or the Cabinet).

This includes:

- a) responsibility for monitoring the operation of licensable activities under the Licensing Act 2003 and the Gambling Act 2005 within the Borough;
- b) receiving reports on these matters and on the functions delegated to the Licensing Act 2003 Sub-Committee Panels and to officers. To call for a report on any individual case;
- c) being consulted on the review and determination of the Licensing Policy Statement and the Statement of Gambling Policy including procedures for Council consultation with external stakeholders;

- d) setting fees and charges as required and (subject to Regulations) to determine the fees payable for applications for premises licences and related matters under the Gambling Act 2005;
- e) determining the procedures to be followed in handling applications, notices, representations and all hearings, subject to the relevant Regulations;
- f) exercising the functions of the Licensing Act Sub-Committee Panels in any case referred to the Committee by its Chair, or by the Chair of a Licensing Act Sub-Committee Panel on the grounds of its special significance or difficulty;
- g) presenting an annual report on the work of the Licensing Act Committee to Council; and
- h) in a Council Election Year when there is a need to hold a hearing in the period between Election day and the Annual Meeting of the Council, those Members of the Licensing Committee who are re-elected as Councillors shall meet as the Licensing Committee to exercise any of the functions of the Licensing Act Sub-Committee Panels, or under (f) above, and shall elect a Chair for the meeting.

Excluded from the Licensing Act Committee's terms of reference are:

- (a) The functions statutorily referred to the Cabinet and the full Council including the formal review and determination of the Licensing Policy Statement and the Statement of Gambling Policy; and
- (b) The functions delegated to the Licensing Act Sub-Committee Panels as set out below, except where referred back to the Committee under sub-paragraph 3(f) above.

4. Delegation to Sub-Committee – Licensing Act 2003 Sub-Committee Panel

- a) This is a sub-committee of the Licensing Act Committee, appointed by the Committee under the Licensing Act 2003.
- b) The Licensing Act Committee has arranged under Section 9 of that Act to delegate its day to day decision making on such matters to the Sub-Committee Panel of such of the Council's functions as set out in the terms of reference below.
- c) Certain functions are delegated by the Sub-Committee Panel to officers. These are identified in the Scheme of Delegation which can found in the Constitution.
- d) The Sub-Committee Panel shall consist of 3 members and will be drawn from the full Licensing Act Committee on an ad-hoc basis. The Chair of the Sub-Committee Panel will either be the Chair or Vice Chair (depending on availability) of the Licensing Act Committee.

5. Licensing Act Sub-Committee Panel – Terms of Reference

Sitting as a Sub-Committee Panel comprising of 3 members, the Sub-Committee Panel will carry out the following functions:-

Except for matters of Policy, to undertake all licensing functions, powers and duties conferred by the Licensing Act 2003 and Gambling Act 2005, including (but not limited to) the matters set out immediately below and also subsequently in Paragraph 5:

Licensing Act 2003

Except for matters of Policy, to undertake all functions, powers and duties conferred by the Licensing Act 2003 including (but not limited to) the matters set out below:

- a) Power to determine applications for personal licences;
- b) Power to determine applications for premises licences and club premises certificate;
- c) Power to determine applications for variation of premises licence and club premises certificates;
- d) Power to determine applications for transfer of premises licences;
- e) Power to review premises licence and club premises certificates; and
- f) Power to determine police or Environmental Health objections to temporary event notices.

Gambling Act 2005

Where representations on the following applications have been received and not withdrawn, to determine applications:

- a) for premises licences;
- b) for variation of premises licences;
- c) for transfer of premises licences;
- d) for a provisional statement;
- e) for club gaming or club machine permits; and
- f) the cancellation of club gaming or club machine permits.

In addition, the Sub-Committee Panel will:

- g) decide whether to give a counter notice to a temporary use notice;
- h) take "action" under Section 202 where the review is heard by the committee;
- i) exercise its power to register pool betting operating licence;
- j) exercise its power to grant track betting licences;
- k) exercise its power to licence inter-track betting schemes;
- l) exercise its power to grant gaming and betting machine licences;
- m) exercise its power to register societies wishing to promote lotteries; and
- n) exercise its power to issue premises licences and to receive temporary use notices.

In these matters, the decision of a Sub-Committee Panel will represent that of the full Committee.

Paragraph 5

Schedule 1B – Local Authorities (Functions and Responsibilities) (England)

Regulations 2000

(Licensing and registration functions (in so far as not covered by any other paragraph of this Schedule))

The list below relates to the exercise of specialist legislation including (but not exclusively) the following, subject to the functions not being Council functions as set out above:

- | | |
|---|--|
| 1. Power to register pool promoters. | Schedule 2 to the Betting, Gaming and Lotteries Act 1963 (c. 2)(12). |
| 2. Power to grant track betting licences. | Schedule 3 to the Betting, Gaming and Lotteries Act 1963(13). |
| 3. Power to license inter-track betting schemes. | Schedules 5ZA to the Betting, Gaming and Lotteries Act 1963(14). |
| 4. Power to grant permits in respect of premises with amusement machines. | Schedule 9 to the Gaming Act 1968 (c. 65)(15). |
| 5. Power to register societies wishing to promote lotteries. | Schedule 1 to the Lotteries and Amusements Act 1976 (c. 32)(16). |
| 6. Power to grant permits in respect of premises where amusements with prizes are provided. | Schedule 3 to the Lotteries and Amusements Act 1976(17). |
| 7. Power to license night cafes and take-away food shops. | Licensing Act 2003 |