



# Doncaster Council

## Agenda

---

To all Members of the

## **ELECTIONS AND DEMOCRATIC STRUCTURES COMMITTEE**

**Notice is given that an Extraordinary Meeting of the above Committee is to be held as follows:**

**Venue:** Room 008, Ground Floor, Civic Office, Waterdale, Doncaster, DN1 3BU

**Date:** Wednesday, 1st May, 2019

**Time:** 2.00 pm

---

### **Items for Discussion:**

- |   | <b>PageNo.</b> |
|---|----------------|
| 1. Apologies for absence.   |                |
| 2. To consider the extent, if any, to which the public and press are to be excluded from the meeting. |                |
| 3. Declarations of Interest, if any.  |                |
| <b>A. Reports where the public and press may not be excluded.</b>                                     |                |
| 4. Revisions to the Council's Constitution  | 1 - 82         |

**Jo Miller**  
**Chief Executive**

---

Issued on: Tuesday, 23rd April, 2019

Governance Services Officer for this meeting: Andrea Hedges  
01302 736716

**MEMBERS OF THE ELECTIONS AND DEMOCRATIC STRUCTURES  
COMMITTEE (11)**

**Chair** – Councillor Phil Cole

**Vice-Chair** – Councillor Nick Allen

Councillor Lani-Mae Ball	Councillor Susan Durant
Councillor Sean Gibbons	Councillor Pat Haith
Councillor Charlie Hogarth	Councillor Mark Houlbrook
Councillor David Hughes	Councillor Ken Keegan
Councillor Sue Wilkinson	



## Doncaster Council

### Report

---

Date: 1<sup>st</sup> May 2019

#### To the Chair and Members of the ELECTIONS AND DEMOCRATIC STRUCTURES COMMITTEE

#### REVISIONS TO THE COUNCIL'S CONSTITUTION

#### EXECUTIVE SUMMARY

1. This report presents to the Elections and Democratic Structures Committee (EDSC) proposed revisions to the Council's Constitution including the Contract Procedure Rules (CPRs) and Financial Procedure Rules (FPRs). The proposed revisions are:
  - a. in response to issues which have arisen since the Constitution was last reviewed. Specifically, these relate to the Articles (Section 3 of Part 2 of the Constitution) Council Procedure Rules (Section 1 of Part 4 of the Constitution) and the Executive Procedure Rules (Section 4 of Part 4 of the Constitution);
  - b. to ensure the CPRs are in line with the relevant legislation; best practice procurement practices and enhance the governance around contracting activity.
  - c. to ensure the FPRs are in line with the relevant legislation; current working practices; better aligned to the key decision thresholds; provide greater clarity to managers and ensure financial decision making is made at the appropriate level.

#### EXEMPT REPORT

2. Not applicable

#### RECOMMENDATIONS

3. The Committee is requested to consider the proposed revisions to the Council's Constitution, as outlined within Appendices A to C to the report and make any necessary recommendations to the Annual Council Meeting to be held on 17th May, 2019.

#### WHAT DOES THIS MEAN FOR THE CITIZENS OF DONCASTER?

4. The Council's Constitution sets out how the Council operates, how decisions are made and the procedures which are followed to ensure that these are
- [www.doncaster.gov.uk](http://www.doncaster.gov.uk)

efficient, transparent and accountable to local people. The proposed revisions to Procedure Rules outlined in this report are aimed:

- a. to ensure that Council and Executive meetings are managed effectively and in a fair and consistent manner, and the highest standards of governance are maintained.
- b. demonstrate better practices and facilitate the Council in achieving value for money for the citizens of Doncaster through having robust procurement practices and financial procedure rules.

## **BACKGROUND**

5. The following changes are proposed to the Councils constitution covering the articles (Section 3 of Part 2 of the Constitution) Council Procedure Rules (Section 1 of Part 4 of the Constitution) and the Executive Procedure Rules (Section 4 of Part 4 of the Constitution).

### **Revisions to the Constitution**

#### Proposed revisions to Article 3 of the Constitution

6. Members will recall that in 2016 Council agreed to hold an annual State of the Borough assessment where information will be presented on the borough and its residents. It is proposed to remove the obligation to hold such an item on an annual basis. The Constitution already provides the Chair of Council the opportunity to call a State of the Borough Debate annually in a form to be agreed with the Elected Mayor, and that there is no legal requirement to hold a State of the Borough Assessment. The information contained within the state of the Borough assessment will be provided to members in other forms which provide a better opportunity to consider the information provided. It is therefore proposed that paragraph 3.01 (m) within Article 3 of the Constitution - 3.01 Functions of Full Council, be removed, as detailed in Appendix A.

#### Proposed revision to Article 8 of the Constitution

7. It is proposed that the financial threshold for a key decision is retained at £250k for revenue decisions but includes a revised limit of over £1m for capital decisions. It is good practice to periodically review key decision thresholds to ensure it remains appropriate and in keeping with the current operating environment. The key decision threshold was last revised in July 2011. This proposed change provides a better alignment for capital decisions currently detailed in Financial Procedure Rules. It is also proposed that individual care plans are excluded from the key decision threshold as these are determined in accordance with individual need and can therefore not be made publicly available on the Forward Plan due to their confidential nature. It would also be inappropriate for any of decisions that may hit the threshold to be subject to Call In.

#### Proposed revisions to Council Procedure Rule 15.2 – Questions by Members

8. The Constitution sets out the procedure which governs 'Question Time' at Council meetings. Paragraph 15.2 of the Council Procedure Rules specifically relates to questions without Notice from Elected Members to the Elected Mayor, Cabinet Members and Chairs of Overview and Scrutiny Management Committee, Audit Committee, Elections and Democratic

Structures Committee and Health and Wellbeing Board.

9. In order to provide a consistent approach to the procedure where a Member of the Council may ask the Mayor, the relevant Cabinet Member or the Chair of a Committee a Supplementary question in relation to questions on Notice and questions without Notice, it is proposed to amend Council Procedure Rule 15.2.2, as detailed within Appendix A.

#### Proposed revisions to Executive Procedure Rules

10. In the eventuality that either the Mayor or Deputy Mayor were unable to attend and Chair at a meeting of the Executive, it is proposed to amend the Executive Procedure Rules, as detailed within Appendix A, to provide clarification of the procedure to be followed.
11. The Committee is therefore requested to consider the above proposals in accordance with its remit to recommend Constitutional revisions to the Full Council.

#### **Proposed revisions to Financial Procedure Rules (FPRs)**

12. The key decision rules are set out in Article 8 of the Council's Constitution. Changes are proposed in Appendix B to align the key decision threshold to the Financial Procedure Rules i.e. the limit for capital decisions detailed in the current Financial Procedure Rules is £1,000,000 which is greater than the current key decision threshold of £250,000. It is proposed to retain the £250,000 threshold for revenue purposes and include an additional threshold of £1,000,000 for capital purposes. This will provide greater clarity for managers, improving the overall understanding and remove the contradictions between the Financial Procedure Rules and key decision thresholds.
13. The Financial Procedure Rules are detailed in Part 4 Rules of Procedure of the Council's Constitution in section 6. The Financial Procedure Rules have been reviewed and updates proposed to; improve the overall understanding of the rules including aligning the FPRs to the key decision rules; respond to comments received from managers; update for changes in legislation; reflect current working practices where they differ to the rules and promote the right behaviours, ensuring financial decisions are taken at the appropriate level.
14. The proposed changes to the Financial Procedure Rules are detailed in Appendix B1, with the some of the changes highlighted below:
  - a. The revenue and capital management and monitoring sections have been merged to show the same rules apply irrespective of the financing method e.g. expenditure must be managed within the budget allocation. Clarity has been provided that any new additions to the capital programme should be approved as part of the annual capital budget setting process and the Chief Financial Officer (CFO) is responsible for approving any exceptions considered in year, which would then require approval per the key decision rules.
  - b. Revision to the Financial Procedure Rule for Virements to remove the current limit for Chief Executive approval and update the thresholds, increase the range for CFO approval from 0 to £250,000 (currently £100,000 to £250,000). Any virements above £250,000 will require

key decision approval i.e. by Elected Mayor and/or Cabinet and/or Portfolio Holder. Therefore the specific limit for Cabinet approval above £500,000 has been removed to align to the Mayor's Scheme of Delegation.

- c. Align the financial limits quoted in the FPRs to the new key decision thresholds e.g.:
  - i. Increase the limits for write offs to £50,000 to £250,000 for CFO approval and anything above £250,000 would need to be in consultation with the Elected Mayor (previously Cabinet),
  - ii. Increase the limit for approval of grants to voluntary organisations to £250,000 (currently £50,000).
- d. Further clarity has been added regarding applying for external funding. Directors will be authorised to apply for external funding, in consultation with the CFO, which contribute to the delivery of Council services or achievement of Council goals. Accepting the grant and making any financial commitment would then be subject to Council decision making in accordance with the key decision rules).

### **Revisions to Contract Procedure Rules (CPRs)**

- 15. The Contract Procedure Rules are detailed in Part 4 Rules of Procedure of the Constitution, section 7. It is proposed that the Contract Procedure Rules (CPRs) are revised as per Appendix C1 and have a complimentary Contract Procedures Guide (CPG) shown in Appendix C2. This will simplify the CPRs
- 16. Council agreed changes to the CPRs in January 2016 in order to comply with the Public Contract Regulations 2015 Regulations. The new amendments also take account of further legislation changes including the 'Public Concessions Regulations 2016', the General Data Protection Regulation (GDPR) 2018 and the tax legislation IR35.
- 17. Proposed changes will reflect good procurement practice - currently CPRs require the use of third party framework agreements, the proposed changes state a decision on whether to use third party frameworks should be based on what is best for the delivery of the contract. CPRs will also no longer apply to health and care contracts where the recipient of care has a personal choice or direct payment. The changes also set out that a CPR Waiver can be granted ;
  - a. To allow for the safe exit from a contract or to de-commission
  - b. Where a contract forms part of a wider strategic programme of works
- 18. Contracts valued under £25,000 can be awarded following one verbal quotation (current rule is £5,000). This will give additional opportunities to local companies. It will also remove approximately 50% of CPR waivers, thereby reducing officer time.
- 19. To encourage the promotion of Social value by ensuring that 10% of all evaluation criteria is devoted to Social Value on all contracts valued in excess of £181,302. This follows other authorities including Sheffield City Council, North Lincolnshire Council and Manchester City Council.

## OPTIONS CONSIDERED AND REASONS FOR RECOMMENDED OPTION

20. There are no other options considered appropriate. The amendments outlined in the report arise from the need to update and/or enhance specific information, which the Council should incorporate within its Constitution.

## IMPACT ON THE COUNCIL'S KEY OUTCOMES

21.

	<b>Outcomes</b>	<b>Implications</b>
	<p><b>Doncaster Working:</b> Our vision is for more people to be able to pursue their ambitions through work that gives them and Doncaster a brighter and prosperous future;</p> <ul style="list-style-type: none"> <li>• Better access to good fulfilling work</li> <li>• Doncaster businesses are supported to flourish</li> <li>• Inward Investment</li> </ul>	<p>Revisions to the Council Constitution therefore impacts on all outcomes</p>
	<p><b>Doncaster Living:</b> Our vision is for Doncaster's people to live in a borough that is vibrant and full of opportunity, where people enjoy spending time;</p> <ul style="list-style-type: none"> <li>• The town centres are the beating heart of Doncaster</li> <li>• More people can live in a good quality, affordable home</li> <li>• Healthy and Vibrant Communities through Physical Activity and Sport</li> <li>• Everyone takes responsibility for keeping Doncaster Clean</li> <li>• Building on our cultural, artistic and sporting heritage</li> </ul>	
	<p><b>Doncaster Learning:</b> Our vision is for learning that prepares all children, young people and adults for a life that is fulfilling;</p> <ul style="list-style-type: none"> <li>• Every child has life-changing learning experiences within and beyond school</li> <li>• Many more great teachers work in Doncaster Schools that are good or better</li> <li>• Learning in Doncaster prepares young people for the world of work</li> </ul>	

	<p><b>Doncaster Caring:</b> Our vision is for a borough that cares together for its most vulnerable residents;</p> <ul style="list-style-type: none"> <li>• Children have the best start in life</li> <li>• Vulnerable families and individuals have support from someone they trust</li> <li>• Older people can live well and independently in their own homes</li> </ul>	
	<p><b>Connected Council:</b></p> <ul style="list-style-type: none"> <li>• A modern, efficient and flexible workforce</li> <li>• Modern, accessible customer interactions</li> <li>• Operating within our resources and delivering value for money</li> <li>• A co-ordinated, whole person, whole life focus on the needs and aspirations of residents</li> <li>• Building community resilience and self-reliance by connecting community assets and strengths</li> <li>• Working with our partners and residents to provide effective leadership and governance</li> </ul>	

## **RISKS AND ASSUMPTIONS**

22. Failure to amend the CPRs with legislative changes could lead to legal challenge and non-compliance with other legislation that should be considered when contracting on behalf of the Council. Robust CPRs ensure better procurement practices that take into account the risks of contracting and value for money principles.
23. The Financial Procedure Rules form part of the overall control framework within which Doncaster Council operates, it is therefore important that they are regularly reviewed and kept up to date.

## **LEGAL IMPLICATIONS [Officer SF, Date 16/4/19]**

24. There are no specific legal implications arising from the proposed changes to Procedure Rules. As these are changes to the Council's Constitution, a decision of Full Council is required to agree the revisions.

## **FINANCIAL IMPLICATIONS [Officer RI, Date 23/4/19]**

25. There are no specific financial implications arising from this report.

## **HUMAN RESOURCES IMPLICATIONS [Officer RH, Date 23/4/19]**

26. There are no specific Human Resources implications associated with this report.

## **TECHNOLOGY IMPLICATIONS [Officer BH, Date...23/4/19]**

27. There are no specific technology implications arising from this report.

## **HEALTH IMPLICATIONS [Officer RS, Date 18/4/19]**

28. There are no direct health implications in this report. However good governance of institutions, including transparency of decision making supports overall health and wellbeing. These proposals should support improved governance.

## **EQUALITY IMPLICATIONS [Officer HW, Date .18/4/19]**

29. Effective procurement processes take into account legislation linked to equality. Having enhanced CPRs will ensure this is considered when contracting.

## **CONSULTATION**

30. Consultation has been undertaken with the Mayor, Governance Board and Audit Committee members. This report presents the information for consultation with Elections and Democratic Structure Committee.

## **BACKGROUND PAPERS**

The Council's Constitution.

## **REPORT AUTHOR & CONTRIBUTORS**

David M. Taylor, Senior Governance Officer  
Tel: 01302 736712; Email: [david.taylor@doncaster.gov.uk](mailto:david.taylor@doncaster.gov.uk)

Holly Wilson, Head of Strategic Procurement  
Tel: 01302 737664; Email: [holly.wilson@doncaster.gov.uk](mailto:holly.wilson@doncaster.gov.uk)

Faye Tyas, Head of Financial Management  
Tel: 01302 862606; Email: [faye.tyas@doncaster.gov.uk](mailto:faye.tyas@doncaster.gov.uk)

**Scott Fawcus**  
**Assistant Director, Legal and Democratic Services**

**Steve Mawson**  
**Chief Financial Officer, Assistant Director Finance**

**APPENDIX A – Revisions to Constitution**

Current Procedure Rule	Proposed Procedure Rule wording	Comment(s)
<p><b><u>Part 2</u></b>  <b><u>Articles of the Constitution</u></b>  <b><u>Article 3 - The Full Council</u></b>  <b><u>3.01 Functions of Full Council</u></b></p> <p>(m) receiving a State of the Borough assessment each year to inform the policy and budget setting process;</p>	<p>Delete the paragraph.</p>	<p>There is no legal requirement to hold a State of the Borough (SOTB) Assessment and a State of the Borough Debate currently exist within the Constitution.  All Members will still be provided with the opportunity to consider in detail the annual SOTB assessment.</p>
<p><b><u>Part 4</u></b>  <b><u>Section 1 - Council Procedure Rules</u></b>  <b><u>15.2.2 - Questions by Members</u></b></p> <p>Insert new paragraph</p>	<p>(e) If the Chair permits, a Member asking a question under Rule 15.2 may ask one supplementary question without notice of the Member to whom the first question was asked. The supplemental question must arise directly out of the original question or the reply and shall be put and answered without discussion.</p>	<p>To provide a consistent approach to the procedure where a Member of the Council may ask the Mayor, the relevant Cabinet Member or the Chair of a Committee a Supplementary question in relation to questions on and without Notice.</p>

<p><b><u>Part 4</u></b> <b><u>Section 4 - Executive Procedure Rules</u></b></p> <p><b>1.8 Quorum</b></p> <p>The quorum for a meeting of the Executive shall be 3, including either the Mayor or Deputy Mayor.</p>	<p><b>1.8 Quorum</b></p> <p>The quorum for a meeting of the Executive shall be 3.</p>	<p>To simplify the procedure if either the Mayor or Deputy Mayor were unable to attend at a meeting of the Executive.</p>
<p><b><u>Part 4</u></b> <b><u>Section 4 - Executive Procedure Rules</u></b></p> <p><b>2. CONDUCT OF EXECUTIVE MEETINGS</b></p> <p><b>2.1 Chairing</b></p> <p>(a) If the Mayor is present he/she will take the Chair.</p> <p>(b) In the absence of the Mayor, the Deputy Mayor will take the Chair.</p>	<p><b>2. CONDUCT OF EXECUTIVE MEETINGS</b></p> <p><b>2.1 Chairing</b></p> <p>(a) If the Mayor is present he/she will take the Chair.</p> <p>(b) In the absence of the Mayor, the Deputy Mayor will take the Chair.</p> <p>(c) In the absence of the Mayor and the Deputy Mayor, the Mayor will notify the Chief Executive, in writing by no later 9.00 am on the day of the meeting, the name of the Executive Member to preside and Chair the meeting.</p>	<p>To provide a process if either the Mayor or Deputy Mayor were unable to attend and Chair at a meeting of the Executive.</p>

**APPENDIX B – REVISIONS TO CONSITUTION – KEY DECISIONS**

<b>Current Procedure Rule</b>	<b>Proposed Procedure Rule wording</b>	<b>Comment(s)</b>
<p><b><u>Part 2</u></b>  <b><u>Articles of the Constitution</u></b>  <b><u>Article 8 – Decision Making</u></b>  <b><u>8.03 Types of Decision</u></b></p> <p>(b) Key decisions            (i) A key decision is any Executive decision which is:                (a) likely to result in the Local Authority incurring expenditure which is, or the making of savings which are, significant having regard to the Local Authority’s budget for the service or function to which the decision relates; or                (b) likely to be significant in terms of its effects on communities living or working in an area comprising two or more wards or electoral divisions in the area of the Local Authority;            or            (c) related to the approval or variation of the Policy and Budget Framework that is reserved to the Full Council.</p>	<p>(b) Key decisions            (i) A key decision is any Executive decision which is:                (a) likely to result in the Local Authority incurring expenditure which is, or the making of savings which are, significant having regard to the Local Authority’s budget for the service or function to which the decision relates; or                (b) likely to be significant in terms of its effects on communities living or working in an area comprising two or more wards or electoral divisions in the area of the Local Authority;            or            (c) related to the approval or variation of the Policy and Budget Framework that is reserved to the Full Council.</p>	<p>Wording updated to align to the Financial Procedure Rules, simplifying and increasing the understanding of requirements for key decisions for managers.</p> <p>No change is proposed to the overall definition for key decisions, this highlights the importance of making key decisions appropriately. Section i) is included to view the full guidance for key decisions only.</p>

<p>(ii) The level of expenditure/savings which this Authority has adopted as being financially significant is £250,000.</p> <p>(iii) A decision is not to be treated as a key decision if:-</p> <ul style="list-style-type: none"> <li>(a) it is a direct consequence of implementing a previous key decision and the income, expenditure or savings were in the contemplation of the decision maker when the decision was made; or</li> <li>(b) it relates to expenditure for the day to day provision of services that was in the contemplation of the Full Council when the Revenue Budget was approved and is inevitable expenditure (e.g. the recruitment of staff or provision of day to day supplies); or</li> <li>(c) it relates to expenditure that must be incurred to comply with the terms of contracts won by the Council in competitive tender.</li> </ul> <p>(iv) A decision taker may only make a key decision in accordance</p>	<p>(ii) The level of expenditure/savings which this Authority has adopted as being financially significant are:</p> <ul style="list-style-type: none"> <li>a) in the case of the revenue budget, gross full-year effect of £250,000 or more.</li> <li>b) in the case of the capital budget, £1,000,000 or more in respect of a single project or otherwise across one financial year.</li> </ul> <p>(iii) A decision is not to be treated as a key decision if:-</p> <ul style="list-style-type: none"> <li>(a) it is a direct consequence of implementing a previous key decision and the income, expenditure or savings were in the contemplation of the decision maker when the decision was made; or</li> <li>(b) it relates to expenditure for the day to day provision of services that was in the contemplation of the Full Council when the Revenue Budget was approved and is inevitable expenditure (e.g. the recruitment of staff or provision of day to day supplies); or</li> </ul>	<p>The level of the expenditure/savings has been updated to align to that already included in the Financial Procedure Rules. The current key decision limit of £250,000 will remain for revenue decisions and further clarity is provided to reference the gross full-year effect. An additional limit has been added to capital purposes of £1,000,000, which is currently detailed on the Financial Procedure Rules.</p> <p>An additional exception has been included for care plans in accordance with specific legislation.</p>
--	--	---

<p>with the requirements of the Executive Procedure Rules or the Urgency Procedure set out in Rules 15 and 16 of the Access to Information Rules as set out in Part 4 of this Constitution.</p>	<p>(c) it relates to expenditure that must be incurred to comply with the terms of contracts won by the Council in competitive tender.</p> <p>(d) it relates to expenditure on a care plan which the Council has a duty or power to provide as defined by s46 of National Health Service and Community Care Act 1990 and s2 of the Chronically Sick and Disabled Persons Act 1970. Ss17 and 20 Children Act 1989</p> <p>(iv) A decision taker may only make a key decision in accordance with the requirements of the Executive Procedure Rules or the Urgency Procedure set out in Rules 15 and 16 of the Access to Information Rules as set out in Part 4 of this Constitution.</p>	<p>There isn't any change proposed to iv) included for completeness.</p>
---	---	--

# APPENDIX B1 – REVISIONS TO FINANCIAL PROCEDURE RULES

## PART 4 RULES OF PROCEDURE

### 6. FINANCIAL PROCEDURE RULES

CONTENTS	Paragraph
<b>Introduction:</b>	1.1
Application of the Rules	2.1
Maintaining these Rules	3.1
Non-compliance with the Rules	4.1
General Principles of Financial Management	5.1
 <b>Financial Procedure Rules:</b>	
<b>Part A: Financial Management - Responsibilities</b>	
Responsibilities of Full Council	A.1
Responsibilities of Elected Mayor & Cabinet	A.4
Responsibilities of Committees	A.7
Responsibilities of Officers	A.12
Responsibilities of Directors	A.3332
 <b>Part B: Financial Planning and Budgeting</b>	
Budget Preparation & Approval	B.1
<del>Revenue</del> Budget Management and Monitoring	B.4
<del>Capital Budget Management and Monitoring</del>	<del>B.9</del>
Virement	<del>sB.1511</del>
Fees and Charges Approval	B.1915
Treatment of Year End Balances	B.2318
 <b>Part C: Risk Management &amp; Control of Resources</b>	
Introduction	C.1
Risk Management	C.2
Insurance	C.3
Internal Control	C.4
Audit Requirements	C.8
Preventing Fraud & Corruption	C.11
Asset Management	C.1316
Leasing Agreements	C.1721
Inventory	C.2025
Treasury Management	C.2328
 <b>Part D: Systems &amp; Procedures</b>	
General	D.1
<del>Income &amp; Expenditure</del> Scheme of Authorisation	D.4
Income	D.5
Banking Arrangements	D.10
Ordering and Paying for <del>WorkWorks</del> , Goods and Services	D.11
Payments to Employees & Members	D.14
Taxations	D.15
<del>Trading Accounts</del>	<del>D.17</del>
 <b>Part E: External Arrangements</b>	
Introduction	E.1

## APPENDIX B1 – REVISIONS TO FINANCIAL PROCEDURE RULES

Partnerships, <a href="#">Trusts or Other Organisations</a>	E.3
External Funding	E.9
Work for Third Parties	E.1314
Grants to Outside Bodies:	
<del>Non Accountable Body</del>	E.1415
<del>Accountable Body</del>	E.17

### Appendix A – Glossary

## INTRODUCTION

- 1.1 These **Financial Procedure Rules** form part of the overall control framework within which Doncaster Council operates. They aim to facilitate [effective](#) service delivery by setting out best practice for the administration of all financial matters throughout the Council, ensuring a high quality of financial information and enabling [better](#) decision making. They enable the Council to conduct its business efficiently and operate an appropriate level of public accountability.
- 1.2 The Constitution defines the rules governing the procedures of the Council including responsibility for functions, Contract Procedure Rules and these Financial Procedure Rules.
- 1.3 The Constitution defines the framework within which the powers to make decisions, take action etc. are delegated to the appropriate level in the organisation. In particular the Constitution: -
  - requires all Directors to act within the terms of these Rules in the exercise of their delegated powers;
  - empowers the Chief Financial Officer (CFO) to act as the Proper Officer under Section 114 of the Local Government Finance Act 1988 (as amended) and the Local Government Act 2003;
  - empowers the CFO to exercise the proper administration of the Council's financial affairs under Section 151 of the Local Government Act 1972 (as amended).
- 1.4 The Contract Procedure Rules define the correct procedures to be followed when the Council enters into any contractual arrangement and should be read in conjunction with these Rules.
- 1.5 The Finance Manual is a comprehensive document detailing all aspects of financial systems and procedures and is designed for use on a day to day basis by staff involved in any aspect of financial administration. Any new or revised instructions on financial matters issued by the CFO will be incorporated into the Finance Manual.

## APPENDIX B1 – REVISIONS TO FINANCIAL PROCEDURE RULES

### Application of the Rules

- 2.1 These rules apply across all parts of the Council. They govern management of financial resources and assets under the Council's direct control but also extend to the Council's partnerships, its subsidiaries, its associates, joint ventures, joint operations and any other arrangements in which the Council has an interest. This is to the extent that they are capable of being imposed by virtue of the Council's control or influence and would not be detrimental to the interests of the Council. Doncaster Schools have their own financial procedure rules, approved by governors, which are aligned to those of the Council.
- 2.2 All members and staff have a general responsibility for taking reasonable action to provide for the security of the assets, funds and resources under their control, and for ensuring that the use of these resources is legal, is properly authorised and provides value for money.

### Maintaining the Rules

- 3.1 The Council operates a system of managerial and financial control whereby the CFO has overall responsibility for the proper management of the finances of the Council as a whole but the responsibility for the day-to-day financial control and administration in Directorates and other corporate project and programme work is devolved to the relevant Director.
- 3.2 The overall responsibilities of the CFO in respect of these rules are therefore to:
  - maintain these Rules and submit any additions or changes necessary to Council for approval in consultation with the MO (Monitoring Officer) and Chief Executive;
  - issue explanatory advice and guidance to underpin these Rules as necessary. Where such advice and guidance is issued, Members, officers and others acting on behalf of the Council are required to comply with the general provisions of these Rules;
  - require any officer to take any action deemed necessary (as is proportionate and appropriate) to ensure proper compliance with these Rules;
  - report, where appropriate, any breaches of these Rules to Members;
  - report all waivers of Rules to Members approved by [him/her/the CFO](#) during the course of any financial year which [he/she/the CFO](#) has delegated authority to determine.
- 3.3 Should any uncertainty or dispute arise pursuant to these Rules, the matter must be referred to the CFO for interpretation and/or arbitration.

### Non-Compliance with the Rules

- 4.1 Failure to comply with any part of these Rules may constitute misconduct and lead to formal disciplinary action. Non-compliance will be referred for management action, to be dealt with by the relevant Director in most instances. Serious breaches will be referred to the CFO who may require remedial action to be taken by the Director.

## APPENDIX B1 – REVISIONS TO FINANCIAL PROCEDURE RULES

4.2 Any waivers or non-compliance will be reported to Audit Committee on a 6-monthly basis.

### General Principles of Financial Management

5.1 The financial management staff report to the CFO and provide day to day support to all Directorates. They are able to provide assistance to any member or officer regarding financial management. The general principles of financial management operated in the Council follow best practice guidance and aim to ensure that: -

- roles and responsibilities are clearly understood;
- there is a system of financial control which ensures that transactions are authorised appropriately, with adequate separation of duties;
- financial transactions are recorded properly, with a clear audit trail;
- clear, up-to-date and accurate position reports will be provided to Directors and Cabinet to properly monitor the financial standing of the Council;
- risks are managed on an ongoing basis and, for significant projects with financial impact, risks are registered and managed;
- the Council's [ERP Enterprise Resource Planning \(ERP\)](#) system and other key financial systems and processes are documented and business continuity plans in place to maintain effective financial administration at all times;
- staff are aware of and comply in spirit and substance with the Council's anti-fraud and corruption policy.

## APPENDIX B1 – REVISIONS TO FINANCIAL PROCEDURE RULES

### FINANCIAL PROCEDURE RULE A: FINANCIAL MANAGEMENT – RESPONSIBILITIES

#### Responsibilities of the Full Council

These are detailed in the Constitution at Article 3; the financial responsibilities are: -

- A.1 Setting the Budget and Policy Framework within which the Cabinet will operate.
- A.2 Approving any budgetary decision that causes the total expenditure financed from Council Tax, grants and ~~corporately held~~ reserves to be increased above that approved.
- A.3 Approving the Treasury Management policy statement and an annual Investment strategy for the Council's cash balances.

#### Responsibilities of the Elected Mayor and Cabinet

These are detailed in the Constitution; the financial responsibilities of the Elected Mayor and Cabinet are: -

- A.4 Proposing the Budget and Policy Framework and Capital Programme to Council and for discharging executive functions in accordance with the Budget and Policy Framework agreed by ~~full~~ Council.
- A.5 Approving the Strategic Risk Management policy statement and strategy.
- A.6 The Elected Mayor determines the Scheme of Delegation which will govern the framework for financial decision-making and budgetary responsibility, except where these financial procedure rules impose other responsibilities or arrangements. Executive decisions can be delegated by the Elected Mayor, to a committee of Cabinet, an individual cabinet member, a member of staff, or a joint committee. Where the scheme of delegation established by the Elected Mayor is silent as to where responsibility for a budget lies, the budget holder will be the officer with responsibility for the relevant service, policy or project.

#### Responsibilities of Committees

##### Audit Committee is responsible for: -

- A.7 Approving the Council's Annual Governance Statement.
- A.8 Considering audit matters for recommendation to Cabinet including the Council's anti-fraud and corruption policy.

##### Overview and Scrutiny Management Committee's financial responsibilities include: -

- A.9 Scrutinising executive decisions before or after they have been implemented and for holding the Executive to account.
- A.10 Making recommendations on future policy options and for reviewing the general policy, budget and service delivery of the Council.
- A.11 Providing a response within 4 weeks to the Elected Mayor's budget proposal.

## APPENDIX B1 – REVISIONS TO FINANCIAL PROCEDURE RULES

### Responsibilities of Officers

- A.12 Officer responsibilities for the overall management of the Council's financial affairs are variously set out by legislation, the provisions of the Council's Constitution and the Council's Scheme of Delegation.
- A.13 Certain legislation requires the Council to designate particular officers as the 'proper officer' for the performance of certain functions. 'Proper Officer' functions include the responsibilities of the Head of Paid Service (HPS), the Monitoring Officer (MO) and Chief ~~Finance~~Financial Officer (CFO) in managing the overall financial affairs of the Council. Formal recognition is also given to the particular responsibilities and functions of the ~~Chief~~Head of Internal ~~Auditor~~(CIA Audit (HIA)) at the Council in accordance with best practice advice and guidance.

### Chief Executive

The Head of Paid Service (HPS) is designated as the Chief Executive. The financial responsibilities of the Chief Executive include: -

- A.14 Advising the Elected Mayor on budget strategies as linked to the Corporate Plan and Council Policies, including the preparation of a medium-term financial strategyforecast.
- A.15 Advising the Elected Mayor in preparing a capital programme and establishing capital budgets for identified projects.
- A.16 Establishing protocols to ensure that those with Executive decision-making powers consult with relevant officers before taking a decision within his-or-her~~his or her~~ delegated authority. In doing so, the individual officer or Member must take account of legal, financial and human resource implications, other internal policies and any cross-cutting issues where relevant.
- A.17 Ensuring that there is a proper scheme of delegation, which clarifies responsibilities from the Elected Mayor downwards and the skills to carry out those responsibilities. This will include developing and maintaining a resource allocation process that ensures due consideration of the Council's Budget and Policy Framework.
- A.18 Establishing arrangements for the ongoing regular review, assessment and assurance of the effectiveness of the Council's internal control arrangements and for annually preparing an Annual Governance Statement.

### Monitoring Officer (MO)

The ~~Monitoring Officer~~MO is responsible for: -

- A.19 Promoting and maintaining high standards of conduct including those of financial administration.
- A.20 Reporting any actual or potential breaches of the law or maladministration to Council and/or to the Cabinet.
- A.21 Ensuring that procedures for recording and reporting key decisions are operating effectively and that executive decisions and the reasons for them are made public. He-or-she~~He or she~~ The MO must also ensure that all ~~Council~~ Members are aware of key decisions made by those with Executive decision-making powers.

## APPENDIX B1 – REVISIONS TO FINANCIAL PROCEDURE RULES

A.22 Advising all ~~councillors~~Members and employees about who has authority to take a particular decision.

A.23 Advising (in conjunction with the CFO), whether a decision is likely to be considered contrary or not wholly in accordance with the Budget and Policy Framework (see rule A.27 for examples of 'contrary to the budget').

~~A.24 Decisions that may be 'contrary to the budget' include:-~~

- ~~• causing the total expenditure financed from Council Tax, grants and corporate reserves to increase above that stated in the budget approved by full Council;~~
- ~~• committing expenditure in future years significantly above the current year budget level or as set out in the approved medium term financial plan and budget strategy.~~

### Chief Financial Officer (CFO)

A.~~25~~24 The functions and responsibilities of the CFO are directed in the first instance by legislation that imposes statutory duties on the CFO for the proper management, financial administration and stewardship of Council assets and the fiduciary interests of current and future local tax payers. These responsibilities include: -

- proper administration of the council's financial affairs, systems and procedures;
- providing advice to the political and appointed Executive, Overview and Scrutiny and Council on financial and economic factors likely to influence the budget and policy framework. This may also include legal requirements, medium-term planning prospects, available resources, borrowing requirements, spending pressures, best-value for money and other relevant government guidelines;
- reporting on the adequacy of the Council's reserves and the robustness of budgets to the Council meeting, which approves the Elected Mayor's budget and Council Tax proposal;
- setting and monitoring compliance with financial management standards, accounting standards and policies;
- ensuring proper professional practices are adhered to in relation to the standards, performance and development of all finance staff;
- advising on the corporate financial position and on the key financial controls necessary to secure sound financial management;
- providing high quality financial information to decision makers and preparing the annual statement of accounts in accordance with CIPFA's Accounting Code of Practice;
- preparing the revenue budget and capital programme;
- treasury management and insurance;
- ~~• proper procurement practice;~~
- ~~• ensuring adherence to the CPR, promoting value for money through compliant and best practice procurement processes;~~

## APPENDIX B1 – REVISIONS TO FINANCIAL PROCEDURE RULES

- in exceptional circumstances personally suspending these Financial Procedure Rules, where to do so appears to be in the best interests of the Council and in its financial interests.

A.2625 Section 114 of the Local Government Finance Act 1988 requires the CFO to report to the full Council, Executive and external auditor if the Council or one of its employees: -

- has made, or is about to make, a decision which involves or would involve incurring expenditure which is unlawful;
- has taken, or is about to take a course of action which, if pursued to its conclusion, would be unlawful and likely to cause a loss or deficiency on the part of the Council;
- is about to enter an item of account the entry of which is unlawful.

It is the duty of the CFO, in preparing the report to consult with the MO and the Chief Executive as far as practicable.

A.2726 Section 114 of the 1988 Act also requires: -

- the CFO to nominate a properly qualified member of staff to deputise should the CFO be unable to perform the duties under section 114 personally;
- the Council to provide the CFO with sufficient staff, accommodation and other resources, including legal advice where this is necessary, to carry out the duties under section 114 of the 1988 Local Government Finance Act.

A.2827 In addition, the CFO (together with the MO) is responsible for advising Members as to whether a decision is likely to be considered contrary or not wholly in accordance with the Budget. Actions that may be contrary to the Budget include: -

- initiating new policies that may impact on agreed budgetary provisions and resource allocations;
- committing expenditure in future years over and above the Council's Budget;
- causing the total expenditure financed from Council Tax, grants and corporately held reserves to increase, or to increase by more than a specified amount.
- incurring interdepartmental transfers above the virement limits set out in these Rules.

A.2928 The CFO can choose to delegate day-to-day responsibilities to an appropriate representative(s). Where this is the case, the delegation and officer responsibilities must be clearly documented and be kept under regular review by the CFO.

### **The ChiefHead of Internal Auditor (CIAAudit (HIA))**

A.3029 The CIAHIA is designated by the CFO and plays a key role in providing assurance to the Members, the CFO, the HPS and Council's Management Team about the probity, practical deployment and effectiveness of financial management at the Council.

## APPENDIX B1 – REVISIONS TO FINANCIAL PROCEDURE RULES

A.3130 The [CIAHIA](#) has rights of access to information and data held by officers or Members of the Council at all reasonable times and is responsible for the overall co-ordination and deployment of internal audit resources at the Council.

A.3231 The [CIAHIA](#) is responsible for reporting on any relevant matter of concern to senior management and Members of the Council outside normal line management arrangements to protect the interests of the Council and/or local tax payers.

### Responsibilities of Directors

A.3332 Whilst the CFO has overall responsibility for the finances of the Council, Directors are responsible for ensuring the effective discharge of the day-~~today~~[to-day](#) management of their Directorate finances and/or the finances of any projects or programmes for which they are responsible. It is the responsibility of Directors to make appropriate arrangements for the discharging of their financial responsibilities by Assistant Directors and Managers within their Directorate, delegating authority to manage budgets to an appropriate level of management and thereby creating a budget holder structure. Directors should review the performance of managers in delivering their budget holder role.

Directors, Assistant Directors and Managers responsibilities include: -

A.3433 Operating sound financial management of their allocated budget and only ~~commit~~[committing](#) the Council to expenditure where there is sufficient funding available;

A.3534 Promoting and ensuring compliance with the financial management standards and practices set by the CFO in their Directorates and/or any projects or programmes for which they are responsible;

A.3635 Consulting with the CFO on any matter which is liable to materially affect the resources of the Council. This must be done before any commitment is incurred, or a report made to a Portfolio Holder or to a Committee for decision;

A.3736 Ensuring that Portfolio Holders are advised of the financial implications of all proposals and that these have been agreed by the CFO or ~~his/her~~[their](#) nominated representative;

A.3837 Reporting suspected fraud and irregularities to the Police or external agencies in consultation with the CFO;

A.3938 Safeguarding all assets and information used in their day-to-day activities within the Directorate.

### FINANCIAL PROCEDURE RULE B: FINANCIAL PLANNING AND BUDGETING

#### ~~BUDGET STRATEGY~~

##### Budget Preparation and Approval

- B.1 The annual revenue budget (including medium-term financial ~~strategy forecast~~) proposed by the Elected Mayor will be ~~considered agreed~~ by Cabinet and then put forward for approval to Council. Council may amend the budget strategy or ask the Elected Mayor to reconsider it before approving it, as detailed in the Constitution (part 4, section 3).
- B.2 The CFO will report on the robustness of budgets and the adequacy of Council reserves to the Council meeting which approves the ~~Elected~~ Mayor's budget and Council Tax proposal.
- B.3 ~~Capital budgets for individual or groups of projects will be approved within the framework of a multi-year capital programme. The multi-year capital programme proposed by the Elected Mayor will be agreed by Cabinet and then put forward for approval to Council annually. The annual review will update the multi-year capital programme for any new additions and revisions to the approved budgets.~~ The CFO will advise on the affordability of capital investment plans and propose prudential indicators for the approval of Council. Relevant approval is required before a project can commence or commit to capital spend.

##### ~~Revenue~~ Budget Management and Monitoring

- B.4 Directors and budget holders will control income and expenditure within their area, taking account of financial information provided by the CFO. The Chief Executive will ensure that the Management Team monitor and control expenditure against approved budgets and address any problems of overspending or resource re-allocation.
- B.5 A Budget Holder may only authorise expenditure from budgets under their direct control. Throughout the financial year each Budget Holder shall monitor income (including any grants) and expenditure against those specific budgets for which they are responsible. Budget Holders shall supply the CFO with sufficient information, as and when required, to enable financial projections to be produced.
- B.6 Directors should report on variances within their own budget responsibility areas and should formulate and promptly implement, action plans in respect of any significant variances. They should also take any action necessary to avoid exceeding their budget allocation and must alert the CFO to any problems at the earliest opportunity.
- B.7 The latest forecast budget position ~~and any virements for approval~~ will be ~~included in the quarterly report~~ reported regularly to Directors and Cabinet.
- B.8 The CFO is responsible for agreeing the system and methodology of all recharges.

## APPENDIX B1 – REVISIONS TO FINANCIAL PROCEDURE RULES

### Capital Budget Management and Monitoring

- ~~B.9~~ ~~Relevant approval is required before a project can commence or commit to capital spend. New The CFO is responsible for agreeing any in-year additions to the capital programme are approved in either the annual capital budget setting report or the quarterly monitoring report; which must be followed by a more detailed ODR. Following CFO agreement and before any commitment to spend, a project specific report in line with key decision rules, is required to approve the capital project for inclusion in the capital programme.~~
- ~~B.10~~ ~~If approval is required outside these times, a project specific report will be needed, approved by CFO and relevant Director, in consultation with the relevant Portfolio Holder, unless key decision rules apply. These will then be included in the next quarterly monitoring report. With the exception that Council approval is required for new capital projects funded by more than £1,000,000 general uncommitted reserves.~~
- ~~B.11~~ ~~Projects, once approved and included in the capital programme and which can be delivered within the project's approved budget are not subject to further key decision reporting. The only exception is that any project that involves a capital commitment of £1,000,000 or more requires the completion of an ODR for the approval of the relevant Director and CFO in consultation with the Portfolio Holder (Finance & Corporate Services) before a formal commitment is entered into or a contract signed.~~
- ~~B.12~~ ~~Any project expecting to exceed its approved budget must identify sources of funding to cover the additional expenditure. Where no additional funding can be identified, a request for additional resources must be made to the CFO by an ODR approved by the relevant Director before the additional spend is committed. The CFO will then determine if additional resources are available and amend the capital programme if required.~~
- ~~B.13~~ ~~B.10~~ ~~The CFO will report any significant deviations from expectations for prudential indicators as part of the quarterly financial management through regular reports to Cabinet. The key objectives of the prudential indicators are to ensure that capital investment plans are affordable, prudent and sustainable.~~
- ~~B.14~~ ~~The Chief Executive will ensure that the Management Team monitor and control expenditure against approved budgets and address any problems of overspending or resource re-allocation.~~

### Virements

- ~~B.45~~11 Virement is the transfer of resources from one budget heading to another, including movement between any earmarked reserves.
- ~~B.46~~12 Virement is not permitted from certain budget heads, other than by the CFO, as these impact this impacts on the Council's ability to fund non-discretionary expenditure. These excluded heads are as follows, or as may be determined from time to time by the CFO: -
- ~~•~~ Depreciation;
  - ~~•~~ Corporate Capital Charges and Financing;
  - ~~•~~ Support Services Recharges;

## APPENDIX B1 – REVISIONS TO FINANCIAL PROCEDURE RULES

- Administration and Building ~~Recharge budgets~~ Recharges.

~~B.1713~~ Directors are responsible for agreeing in-year virements within their Directorate budgets. ~~Proposals for virement between Directorates must be approved by the CFO, up to £100,000, Chief Executive, £100,000 to £250,000, Portfolio Holder (Finance & Corporate Services), £250,000 to £500,000. Proposals for virement between Directorates for £500,000 and above must be approved by Cabinet.~~

~~Proposals for virement between Directorates for £500,000 and above must be approved by Cabinet.~~

~~B.18~~ Directors ~~but~~ cannot agree virements within their Directorate for budgets funded by: -

- Corporate Capital Resources including prudential borrowing;
- Earmarked Reserves.

~~B.14~~ Proposals for virement between Directorates must be approved by the CFO, up to £250,000 and key decision approval is required for virements greater than £250,000 i.e. by Elected Mayor and/or Cabinet and/or Portfolio Holder. The value of the virement is defined as the gross annual budget.

### Fees and Charges Approval

~~B.1915~~ At the annual budget meeting Council will approve the annual percentage change for all discretionary fees & charges for the forthcoming financial year as proposed by Cabinet. Council will also agree any exceptions which must be agreed by the relevant Portfolio Holder prior to the annual budget meeting. The proposals will be based on advice from the CFO taking into consideration inflation, market forces and the Council's overall financial position.

~~B.2016~~ Any new fees and charges proposed within the financial year or any changes to existing fees and charges will be approved by the CFO in consultation with the relevant Portfolio Holder, subject to key decision rules and reported to Cabinet in the quarterly monitoring report.

~~B.2117~~ Some fees and charges are set by legislation and therefore the above paragraphs (B. ~~159~~ and B. ~~1620~~) do not apply.

~~B.22~~ Any changes not covered by the above paragraphs will be approved by the CFO and reported to Cabinet in the quarterly monitoring report.

### Treatment of Year-End Under/Overspends

~~B.2318~~ Any under / overspend at the year-end on the Directorate revenue budget will not be carried forward to the following financial year. ~~Cabinet will approve~~

~~B.19~~ The CFO may approve a budget carry forward of a ring-fenced grant or where a grant has conditions or expectations attached, where the related expenditure is not expected to be incurred in the current financial year. The CFO may also approve a budget carry forward where not carrying the budget forward would adversely affect the Council's budget position. Cabinet will approve all other budget carry forward requests through the outturn report, taking advice from the CFO and Chief Executive.

## APPENDIX B1 – REVISIONS TO FINANCIAL PROCEDURE RULES

~~B.24—Where a Directorate is forecasting an overspend outturn position, alternative resources should be identified and/or budget virements actioned to mitigate the adverse financial position.~~

## APPENDIX B1 – REVISIONS TO FINANCIAL PROCEDURE RULES

### FINANCIAL PROCEDURE RULE C: RISK MANAGEMENT AND CONTROL OF RESOURCES

#### Introduction

- C.1 It is essential that robust, integrated systems are developed and maintained for identifying and evaluating all significant strategic and operational risks to the Council. This should include the ongoing pro-active participation of all those associated with planning and delivering services.

#### Risk Management

- C.2 Cabinet is responsible for approving the Council's [Strategic](#) Risk management policy and to promote a culture of risk management awareness throughout the Council, which is monitored by the Audit Committee.

#### Insurance

- C.3 The CFO is responsible for ensuring that proper insurance exists where appropriate. Directors are responsible for updating and approving insurance schedules for the CFO. Directors are also responsible for providing timely and accurate information to the CFO in relation to any insurance claims. The CFO is responsible for advising the Cabinet on proper insurance cover where appropriate.

#### Internal Control

- C.4 'Internal control' refers to the systems of control devised by management ~~to help ensure the Council's objectives are achieved in a manner that promotes economical, efficient and effective use of resources and that the Council's assets and interests are safeguarded, which must: -~~

- ~~• C.5— Directors are responsible for maintaining adequate internal control~~facilitate the effective exercise of the Council's functions and the achievement of the Council's aims and objectives;
- ~~• ensure that the financial and operational management of the Council is effective; and~~
- ~~• include effective arrangements in their service areas. for the management of risk.~~

- ~~C.5 The CFO/HIA is responsible for the Internal Audit function and advising on the Council's internal control arrangements.~~

- ~~C.6— The CFO is responsible for establishing arrangements for the ongoing and regular review, completing an assessment and assurance forming an opinion on the overall adequacy and effectiveness of the Council's internal governance, risk management and control arrangements and via an annual report to Audit Committee.~~

## APPENDIX B1 – REVISIONS TO FINANCIAL PROCEDURE RULES

C.6 [The CFO is responsible](#) for annually preparing an Annual Governance Statement to the requirements of the Accounts and Audit Regulations [2003/2015](#) (as amended).

C.7 It is the responsibility of Directors to [maintain adequate internal control arrangements in their service areas and](#) establish sound arrangements for planning, appraising, authorising and controlling their operations in order to achieve continuous improvement, economy, efficiency and effectiveness and for achieving their financial and service performance targets.

### Audit Requirements

C.8 The Accounts and Audit Regulations 2010 require every local authority to maintain an adequate and effective internal audit of its accounts and supporting systems. The Council's internal audit function will fulfil this requirement and will do so in accordance with the approved Audit Charter and the [C.I.P.F.A. Code of Practice for United Kingdom Public Sector Internal Audit in Local Government Standards](#). These require: -

- that internal auditors are given access at all reasonable times for requests to access premises, personnel, documents and assets that the auditors consider necessary for the discharge of their official duties;
- that auditors are provided with any information and explanations that they seek in the course of their work;
- audit reports and recommendations are responded to within 30 working days;
- that any agreed actions arising from audit recommendations are carried out [in a timely and efficient manner; within timescales agreed between both Management and Internal Audit. The relevant Director must ensure that sufficient resources are in place to implement the agreed management actions and will be required to account to the Council's Audit Committee where such actions are not achieved; and](#)
- that new systems for maintaining financial records, or records of assets, or changes to such systems, are discussed with and agreed by the Head of Internal Audit prior to implementation.

C.9 External Auditors shall be appointed to the Council to conduct and report on, the external audit of the Council in accordance with the relevant statutory code of audit practice.

C.10 The Council may, from time to time, be subject to audit, inspection or investigation by external bodies that have statutory rights of access.

## APPENDIX B1 – REVISIONS TO FINANCIAL PROCEDURE RULES

### Preventing Fraud and Corruption

- C.11 ~~Directors co-ordinated by the CFO are responsible for the drafting, submission to Audit Committee and delivery of a suitable effective corporate anti-fraud and anti-corruption policy and relating strategy. The Chief Executive has overall responsibility for the maintenance and operation of this framework. The Chief Executive is supported in this by the Director of Corporate Resources, Assistant Director of Finance, Assistant Director of Human Resources and Communications, Assistant Director of Legal and Democratic Services and the HIA.~~
- C.12 This policy and strategy shall be subject to periodic monitoring and updating with the intention of ensuring that the policy remains relevant. ~~Cabinet will receive reports from time to time on the effectiveness of the policy and strategy.~~
- C.13 An Annual Fraud Report is produced showing the outcomes of the Council's anti-fraud work and a counter fraud plan is included within the annual audit plan.
- C.14 Members of staff at all levels will lead by example in ensuring adherence to legal requirements, rules, procedures and practices.
- C.4215 Directors must notify the CFO, via the HIA, immediately of any suspected fraud, irregularity, improper use or misappropriation of the Council's property or resources. Pending investigation and reporting, the Director, in consultation with the CFO should take all necessary steps to prevent further loss and to secure records and documentation against removal or alteration. Directors are responsible for reporting suspected fraud and irregularities to the Police or external agencies, in consultation with the CFO.

### Asset Management

- C.4316 The Council holds tangible assets in the form of property, vehicles, equipment ~~(e.g. blackberries, computers, mobiles),~~ electronic devices, furniture and other items (e.g. share certificates) worth many millions of pounds. It also makes use of other non-tangible assets such as intellectual property. It is essential to the financial health and well-being of the Council that these assets are safeguarded and used efficiently and effectively in supporting the delivery of Council services. All staff are responsible for safeguarding the assets and information used in their day to day activities.
- C.4417 The Assistant Director of Legal and Democratic Services shall have the custody of all title deeds under secure arrangements, maintaining a separate register of all such deeds. The Property Officer (responsible for the Council's properties) will maintain an up-to-date register of all Council land and buildings.
- C.4518 The CFO shall ensure that a full and accurate register of all Council fixed assets is maintained, in accordance with good practice standards and the relevant Codes of Practice. The Property Officer is responsible for arranging the valuation of all land and buildings as necessary to meet the accounting requirements of the CFO.

## APPENDIX B1 – REVISIONS TO FINANCIAL PROCEDURE RULES

C.4619 In the absence of any specific conditions or exemptions agreed by Cabinet and these [Financial Procedure Rules FPR](#), the following have authority to undertake a review of property charges. If, in each case, the revised rent, licence fees, easement or wayleave payment or compensation claim does not exceed £250,000 per annum, the Property Officer may approve. [In line with the revenue key decision threshold](#), if it is over £250,000 per annum, the approval of Cabinet is required.

C.4720 In respect of disposals of land and property: -

- processes followed should be robust and transparent and in accordance with current legislation;
- in all cases of planned disposal of land or property, the Property Officer, the Assistant Director of Legal and Democratic Services and the CFO must be consulted.
- [In line with the capital key decision threshold](#), where the estimated disposal value is less than £1,000,000 the Property Officer, having taken financial and legal advice, may arrange for the disposal of land or property; ~~W~~where the estimated disposal value of individual property assets is equal to or greater than £1,000,000, a decision of Cabinet is required;
- in respect of disposal at less than Best Consideration where the estimated disposal value would otherwise have been at less than £250,000 ([revenue key decision limit](#)), the Property Officer may arrange for the disposal of land or property;
- in respect of disposal at less than the Best Consideration ~~that can reasonably be obtained~~ where the estimated disposal value would otherwise have been at or above £250,000 ([revenue key decision limit](#)), the Property Officer, shall prepare a report to Cabinet, requesting approval to proceed with the disposal in accordance with the relevant legislation (Circular 06/03: Local Government Act 1972 general disposal consent (England) 2003;
- all arrangements for the acquisition and disposal of land and buildings shall be in accordance with Council Asset Management Policy, and be conducted by the Property Officer, including all negotiations and the preparation and certification of valuation certificates.

In respect of the acquisition of land and property: -

- where budget provision for an acquisition exists within the total Council budget, the Property Officer may approve a purchase of land or property.

### Leasing Agreements

C.4821 The ~~CFO shall undertake~~ [Property Officer is responsible for](#) the negotiation of terms ~~for, and authorise the and conditions and authorising any~~ leasing of, [land and property](#) assets ~~for to or from~~ the Council, [and maintaining a register of land and property leases](#).

## APPENDIX B1 – REVISIONS TO FINANCIAL PROCEDURE RULES

C.1922 The Council will not lease in or out any assets other than land and property except where the CFO determines that it is in the best interests of the Council. In those cases, the CFO is responsible for the negotiation of terms and conditions and authorising any leasing of assets to or from the Council, and maintaining a register of such leases.

C.23 Directors are responsible for adhering to the terms and conditions for assets (excluding land and property) in their service acquired under a lease agreement, particularly in relation to wear and tear and residual condition of the asset at the end of the leasing period.

C.2024 Any assets subject to a leasing agreement must not be disposed of without the prior consent of the CFO who shall be responsible for agreeing conditions and terminating the lease.

### Inventory

C.2125 Directors are responsible for the care, custody and recording of the stocks, stores and equipment in their respective service areas; ensuring that they are kept securely, protected from loss, theft and damage etc.

C.2226 Directors are responsible for: -

- only holding stocks, stores or equipment that are required to meet their service's reasonable requirements;
- maintaining local inventories recording adequate descriptions of all furniture, fittings, equipment, plant and machinery above £5001,000 together with all attractive and portable items below this figure; reviewing annually the stocks, stores or equipment required for their service areas; and
- review and write-off promptly obsolete items of stocks, stores or equipment.

C.2327 Directors shall provide the CFO with the information in relation to all inventoryinventories that is required for accounting, costing and financial records.

### Treasury Management

C.2428 The Council will have due regard to all recognised codes of practice and guidance issued relating to its Treasury Management operations. The Council defines its treasury management activities as: -

"The management of the organisation's investments and cash flows, its banking, money market and capital market transactions; the effective control of risks associated with those activities, and the pursuit of optimum performance consistent with those risks."

C.2529 The Council will create and maintain the following: -

- a Treasury Management strategy statement, approved by Council, stating the policies and objectives of its treasury management activities;

## APPENDIX B1 – REVISIONS TO FINANCIAL PROCEDURE RULES

- suitable treasury management practices, setting out the manner in which the organisation will seek to achieve those policies and objectives, and prescribing how it will manage and control those activities; and
- Treasury Management Prudential Indicators as part of the Council's budget and policy framework.

| C.2630 The Cabinet will receive regular reports on the treasury management activities which will include as a minimum an annual strategy report in advance of the forthcoming financial year and an annual report detailing the performance of actual activity six months after the financial year.

| C.27 This31 The Council delegates responsibility for all decisions, execution and administration of its treasury management activities to the CFO. The CFO will enter into any borrowing, investment and guarantees on behalf of the Council.

## FINANCIAL PROCEDURE RULE D: SYSTEMS AND PROCEDURES

### General

- D.1 The CFO is responsible for the operation of the Council's Enterprise Resource Planning ('ERP') system, the form of accounts and the supporting financial records.
- D.2 Any new or changes to current systems containing financial transactions must be approved by the CFO prior to procurement and/or implementation. The CFO can request changes to be made to Directorate systems, where they do not provide the necessary financial data required. Suitable and appropriate business continuity arrangements should be established, tested and kept up to-date in respect of all important financial systems.
- D.3 Directors must ensure that, ~~where appropriate, computer and other systems are registered~~ [information is processed](#) in accordance with data protection legislation. Directors must ensure that staff are aware of their responsibilities under the [Data Protection Act 2018, the General Data Protection Regulation, the Freedom of Information Act, the Regulation of Investigatory Powers Act](#), and any other Council policies and guidance relating to the use of [information and the use and procurement of I.T. systems, or the dissemination of information. Likewise any information system used by Members.](#)

## INCOME AND EXPENDITURE

### Scheme of Authorisation

- D.4 It is the responsibility of Directors, in consultation with the CFO, to ensure that a proper Scheme of Authorisation has been established within their area that is suitably documented and is operating effectively. The Scheme of Authorisation should identify staff authorised to act on the Director's behalf in income collection and placing orders/raising requisitions and making payments, together with the limits of their authority. These records should be amended promptly where changes in circumstances or personnel take place and reviewed annually to ensure that they are kept up-to-date.

### Income

- D.5 Directors are responsible for ensuring that all income due to the Council is identified and collected for the services provided by their Directorate. It is preferable to obtain income in advance of supplying goods or services as this improves the Council's cash flow and also avoids the time and cost of administering [and collecting](#) debts.
- D.6 Directors are responsible for the safeguarding of any income collected prior to banking. All relevant details must be forwarded to the CFO to allocate the income to the correct budgets.
- D.7 Any changes to fees and charges must be in accordance with rule B. ~~169 to~~ [B-22](#).

## APPENDIX B1 – REVISIONS TO FINANCIAL PROCEDURE RULES

- D.8 In order to comply with the Money Laundering Regulations ~~2003, this~~2017, the Council will not accept cash income for the purchase of goods with a value greater than the sterling equivalent of €15,000 (approx. £11,000). This also applies where payment is accepted over a number of instalments and the total value of all instalments exceeds €15,000. If goods are sold exceeding this value, a payment method other than cash is required, ~~for example~~e.g. electronic bank transfer.
- D.9 Only the CFO has the legal authority to write-off bad debts ~~and will.~~ In order to do this, the following arrangements are in place: -
- The write-off of Bad or doubtful debts below £250,000 can be authorised by the CFO, who may delegate responsibilities as necessary for smaller items. ~~For larger items, the following arrangements are in place: -;~~
  - ~~Bad or doubtful debts below £50,000 can be authorised by the CFO;~~
  - ~~The CFO will consult with the Portfolio Holder (Finance & Corporate Services) Elected Mayor before authorising the writing-off of debts between £50,000 and £250,000;~~
  - ~~The CFO will consult with Cabinet for the write-off of bad or doubtful debts of £250,000 or over.~~

In all cases, debts will not be written-off unless processes for collection have proved fruitless. All requests for write-offs should~~will be made by the relevant Director with due explanation for non-collection.~~ All write-offs made will be properly recorded and such records retained, ~~with due explanation for non-collection.~~

### Banking Arrangements

- D.10 The CFO is responsible for all matters relating to the establishment, varying and closing of bank accounts for the Council and for approving all standing orders, direct debits or other electronic payment methods from the Council's bank accounts. This includes imprest and petty cash accounts and debit/credit cards.

### Ordering and Paying for WorkWorks, Goods and Services

- D.11 The CFO is responsible for approving the form of orders and associated terms and conditions.
- D.12 Directors should identify and maintain a list of designated officers to authorise orders.
- D.13 Directors should ensure that the following key controls are complied with: -
- works, goods and services are ordered~~procured~~ in accordance with the Contract Procedure Rules (~~CPRs~~CPR) and by designated officers;
  - designated officers ensure that there is uncommitted budget before placing an order;
  - works, goods and services received are checked to ensure they are in accordance with the order;

## APPENDIX B1 – REVISIONS TO FINANCIAL PROCEDURE RULES

- there is proper separation of duties between staff responsible for ordering, receiving, checking works, services and goods and authorising invoices for payment;
- payments should not be made unless goods have been received by the Council to the correct price, quantity and quality standards, except where the CFO advises that payment in advance is the accepted practice for the type of expenditure involved, e.g. subscriptions, travel or conference facility fees;
- ~~payments in advance must be avoided except where this is the accepted practice for the type of expenditure involved (e.g. leasing payments, travel or conference facility fees), following advice from the CFO.~~
- payments are made to the correct person for the correct amount and are properly recorded;
- where payments are made by cheque or electronically these should be made by the CFO;
- appropriate evidence of the transaction and payment documents are retained and stored for the appropriate period as defined by the document retention schedule; and
- expenditure, including V.A.T. is accurately recorded against the appropriate budget and that budgetary provision exists to cover the payment.

### Payments to Employees and Members

D.14 The CFO is responsible for all payments of salaries, wages and expenses to staff and members in accordance with approved procedures and rules.

### Taxation

D.15 The CFO is responsible for advising Directors on all taxation issues that affect the Council.

D.16 The CFO is responsible for maintaining the Council's tax records, making all tax payments, receiving tax credits and submitting tax returns by their due date as appropriate. Directors shall provide such information, maintain such records and administer taxes in a suitable manner, as the CFO requires, to fulfil these responsibilities.

### ~~TRADING ACCOUNTS~~

~~D.17 The CFO is responsible for advising Directors and Members on the establishment of trading accounts and the operation of 'contractor' business units.~~

## APPENDIX B1 – REVISIONS TO FINANCIAL PROCEDURE RULES

~~D.18—Directors are responsible for observing all statutory requirements, including the maintenance of a separate revenue account to which all relevant income is credited and all relevant expenditure, including overhead costs are charged and to produce an annual report in support of the final accounts. Directors must ensure the Council's accounting principles are applied in relation to trading accounts.~~

## APPENDIX B1 – REVISIONS TO FINANCIAL PROCEDURE RULES

### FINANCIAL PROCEDURE RULE E: EXTERNAL ARRANGEMENTS

#### Introduction

- E.1 The Council provides a distinctive leadership role for the community and brings together the contributions of the various stakeholders. It must also act to achieve the promotion or improvement of the economic, social, or environmental well-being of its area.
- E.2 All projects involving the voluntary sector must be supported by an appropriate assessment of need, options appraisal, value for money and contain expected outcomes.

#### Partnerships, Trusts or Other Organisations

- E.3 The Council should be clear about the role and responsibility of officers or members attending or participating in any partnerships, trusts or other organisations as a result of their position within the Council. Cabinet is responsible for approving delegation of financial management arrangements relating to, and specifically, agreeing partnerships. ~~The CFO will create and maintain a register of significant partnerships the Council has representation on and include the representation.~~
- E.4 The Council representative on any partnership, trust or other organisation must refer all financial decisions to Cabinet, including considering any recommendations that would create a commitment or liability for the Council. Any other specific delegation arrangements in respect of partnerships will be set out in the Scheme of Delegation.
- E.5 The ~~Monitoring Officer~~ MO is responsible for promoting and maintaining the same high standards of conduct with regard to partnerships that apply throughout the Council and representatives to partnerships should exercise these same high standards. Representatives should not be put under any actual or perceived undue pressure to carry out a particular course of action.
- E.6 The CFO must ensure that accounting arrangements to be adopted relating to partnerships, joint operations and joint ventures are satisfactory. Directors must also consider any overall corporate governance issues and shall take account of any legal issues when arranging contracts with external bodies. They must ensure that the risks have been fully appraised and brought to the attention of the respective decision-maker before agreements are entered into with partners and other external bodies and that all significant risks are effectively managed and reported upon.

## APPENDIX B1 – REVISIONS TO FINANCIAL PROCEDURE RULES

- E.7 All partnership agreements involving the discharge of Council Services and statutory duties by external bodies in exchange for payment shall contain the following clause: -

In order to deliver the Council's statutory responsibilities for internal audit, the [CIAHIA](#) shall have all reasonable rights of access to information and persons of the partner body so as to ensure that the Council's internal control arrangements are sound, its financial interests protected and all income due to it and payments made by it can be vouched for and confirmed to be adequate and correct.

- E.8 Directors are responsible for ensuring that appropriate approvals are obtained before any negotiations are concluded in relation to work or partnerships with external bodies, before financial arrangements are made.

### External Funding

- E.9 Directors are [authorised to apply for external funding, in consultation with the CFO, which contribute to the delivery of Council services or achievement of Council goals. Grant acceptance and/or commitment is subject to key decision rules.](#)

[E.10 Any external funding received by the Council after the budget for the year has been approved, outside of rule E.9, will be classed as a corporate resource unless otherwise determined by the CFO.](#)

[E.11 Directors are](#) responsible for ensuring that action plans are in place (including exit strategies [and match funding arrangements](#)) for all external funding within the Directorate.

~~E.10 The Council may receive external funding after the budget for the year has been approved. Any new grant received in the financial year in excess of £50,000 unless there are conditions attached, will be classed as a corporate resource unless a business plan prepared by the relevant Director, in consultation with the relevant portfolio holder for Finance & Corporate Services, is approved by the Management Team within reasonable timescales agreed with the CFO.~~

~~E.11 The CFO~~[E.12 The CFO](#), in consultation with the respective Director, is responsible for ensuring that all funding notified by external bodies is received and properly recorded in the Council's accounts. Directors are responsible for [promptly](#) informing the CFO, ~~promptly~~, about such funding and of any subsequent modifications to timing and amounts of anticipated funding.

~~E.12~~[E.13](#) Where the income is receivable against a grant claim, the respective Director is responsible for producing the grant claim and shall provide sufficient information to enable the claim to be signed by the [Chief Executive, CFO or any other relevant person](#) where ~~it is~~ appropriate.

## APPENDIX B1 – REVISIONS TO FINANCIAL PROCEDURE RULES

### Work for Third Parties

~~E.13~~<sup>14</sup> Current legislation enables the Council to provide a range of services to other bodies, e.g. shared services, joint ventures. ~~Cabinet are~~The relevant Director, in consultation with the CFO, is responsible for approving the contractual arrangements for work undertaken on behalf of third parties or external bodies ~~where the value of the contractual commitment exceeds £250,000 in value. Where the value of such work is below £250,000 the responsible Director may approve such work, in consultation with the CFO,~~ subject to key decision rules. In all cases consideration must be given to the financial, legal, risk and human resources implications of such arrangements both in the short and longer term.

### Grants to Outside Bodies — ~~Where the Council is not Acting as an Accountable Body~~

~~E.14~~ ~~The approval of Cabinet is required for all~~ <sup>E.15</sup> Directors are authorised to approve grants and annual assistance to external bodies with a financial value of £50,000 or more with the exception of Academies, VA schools for capital projects and joint arrangements under sections 75 and 76 of the National Health Service Act 2006. Where the value in total per annum to any one body is below £50,000 the respective Directors may approve such assistance, subject to key decision rules and other requirements of these ~~financial procedure rules~~FPR and related guidance and this approval being formally recorded. Grants to Academies and Voluntary Aided schools for capital projects are exempt.

~~E.15~~<sup>16</sup> Irrespective of where approval responsibility rests, the relevant Director must ensure the Council's interests are protected at all times and must be in a position to provide assurance that the following requirements have been met or will be met before any grant or other assistance is actually made: -

- the receiving body has been properly identified with suitable lead parties, its work/purpose is identified, and are bona fide, with suitable trust documents or Constitution;
- any conflicts of interest have been declared and properly managed;
- any risks to such agreements and the Council's interests are being adequately and appropriately managed on a continuous basis;
- it will be possible to confirm the proper use of the Council's assistance, including the purpose and outcomes, which contribute to the delivery of Council services or achievement of Council goals;
- arrangements for the repayment of any loan have been made;
- arrangements to gain repayment/recovery for the value of the assistance are in place in the event of default by the recipient, including taking security of assets where appropriate;
- appropriate monitoring and performance arrangements, commensurate with the value of grant, are to be set in place to ensure the predetermined expected outcomes and performance of the external organisation are being satisfactorily achieved;

## APPENDIX B1 – REVISIONS TO FINANCIAL PROCEDURE RULES

- arrangements are set in place whereby the recipient will produce his/her financial accounts to a representative of the council so that they can confirm the proper use of the grant/assisted sum and the recording of its receipt in the proper accounts of the body;
- the recipient will provide evidence to the Council demonstrating the proper accounting for and use by the recipient of the assistance, including, for assistance over £5,000 in value, a copy of the annual accounts of the body, access to other accounting records as is deemed necessary and the CFO and representative of the Council are given rights supporting such access to information, documents and evidence;
- a formal legally binding agreement is in place between the Council and the body covering the above conditions relating to the use of the grant or other assistance;
- for grants in excess of £10,000, arrangements should be made to monitor the financial status of the recipient in order to ensure that the Council is not providing assistance to a body that is to, or is likely to, terminate for financial reasons and hence be unable to fulfil the purpose for which assistance is being given.

E.16 Full records shall be maintained of all grants and related applications for assistance; they should identify members of staff or Members involved in the processing of applications and grants; should record the date of approval of any grant or other assistance, together with other relevant transaction information.

### ~~Grants to Outside Bodies – Where the Council is Acting as the Accountable Body~~

~~E.17 – Where grants are given and the Council is acting as a funding conduit or accountable body for a particular grant stream it is equally important that the interests of both the Council and funding body are protected and that the use of such funds does add value to and benefit the local Doncaster community. It is the responsibility of the administering Director to ensure that:–~~

- ~~• Grants are actually used for the intended purpose;~~
- ~~• Grant outcomes are achieved;~~
- ~~• Assets related to such grants can be accounted for;~~
- ~~• All related expenditure is correctly accounted for;~~
- ~~• That the details highlighted in E.15 above are adequately covered;~~
- ~~• Spending and scheme target attainment is adequately monitored; and~~

~~Action is promptly taken~~E.18 Directors are responsible for promptly taking action where there are concerns over delivery, accounting or any other aspects of scheme administration and management. This may require ~~the~~ recovering grant sums or the value of assistance given and assets provided by ~~Doncaster~~the Council.

## APPENDIX B1 – REVISIONS TO FINANCIAL PROCEDURE RULES

### APPENDIX A: GLOSSARY

In these Rules, unless the context otherwise requires: -

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

~~**Annual Revenue Budget** is the Council's revenue spending plans for the year including the level of Council tax.~~

**Bad debt** means any debt that is unable to be collected after all reasonable efforts have been exhausted.

~~**Doubtful debts** means any debt that is unlikely to be collected after all reasonable efforts have been exhausted.~~

**Budget** is a plan expressed in financial terms.

**Budget Framework** is the overall budget approved by Council this includes the revenue, capital and HRA ~~budget~~ [budgets](#) for the medium-term.

**Budget Holder** is an officer nominated by a Director as being responsible for managing a defined sum of money (i.e. 'budget').

**Capital Programme** is the sum of all the Council's individual capital projects.

**Capital Project** is a project which uses capital resources to build, improve, increase the market value or substantially lengthen the useful life of an asset.

**Capital Expenditure** is to acquire fixed assets that will be of use for more than one year in which they are acquired and which adds to the Council's tangible assets rather than simply maintaining existing ones.

**Council** means ~~the~~ Doncaster Council.

**Chief Financial Officer (CFO)** is appointed by the Council to exercise the powers defined in Section 151 of the Local Government Act 1972. The CFO is designated as the [Assistant](#) Director of Finance ~~& Corporate Services~~.

~~**Chief Internal Auditor (CIA)** [CIPFA](#) is designated as the [Head](#) [Chartered Institute](#) of [Internal Audit](#). The responsibilities of [Public Finance and Accountancy](#); the [CIA](#) are set out [professional body for people](#) in the [Code of Governance](#) [public finance](#).~~

**CPR** means the Contract Procedure Rules.

**Depreciation** means the measure of the wearing out, consumption or other reduction, in the economic life of a fixed asset, whether arising from use, passage of time or obsolescence through technological or other changes.

**Director** means the Chief Executive and those Managers that report direct to the Chief Executive.

**Directorate** refers to the large departments that make up the Council's management structure.

~~**Doubtful debts** means any debt that is unlikely to be collected after all reasonable efforts have been exhausted.~~

**Earmarked Reserves** are funds set aside for a specific purpose.

## APPENDIX B1 – REVISIONS TO FINANCIAL PROCEDURE RULES

**Executive** means the body described in Part 1 of the Constitution.

**Finance Manual** is the detailed financial guidance which will assist users in the applications of these [rules](#)~~FPR~~.

[FPR means these Financial Procedure Rules.](#)

[Head of Internal Audit \(HIA\) leads the Council's Internal Audit function.](#)

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

~~**Officer** means any employee of the Council or other authorised agent.~~

**Management Team** means the group of executive staff comprising the senior management charged with the execution of strategy.

**Medium-term Financial Strategy (MTFS)**~~Forecast (MTFF)~~ refers to the overview of the Council's revenue position over the next four-year period.

[Member is an elected member of the Council otherwise known as a Councillor.](#)

**Monitoring Officer (MO)** is designated as the Assistant Director Legal and Democratic Services.

~~[Officer means any employee of the Council or other authorised agent.](#)~~

**Partnership** means an arrangement where parties agree to cooperate to advance their mutual interests.

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

**Property** refers to any estate or interest in land or buildings.

**Property Officer** is [identified](#) within ~~these rules~~ [refers to the Council Scheme of Delegation and is currently the Assistant Director of Regeneration and Environment with responsibilities for Trading and Property Services.](#)

**Reserves** means the accumulation of surpluses, deficits and appropriations over past years.

**Revenue** is income or expenditure, arising from or spent on, day-to-day activities and short lived commodities or consumables.

[Rules means these Financial Procedure Rules.](#)

~~[Revenue Budget is the Council's revenue spending plans for the year including the level of Council tax.](#)~~

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

**Virement** is the transfer of resources between or within approved cost centres for both revenue and capital purposes.

**APPENDIX C1 REVISIONS TO CONTRACT PROCEDURE RULES (CPRs)  
PART 4  
RULES OF PROCEDURE**

**7. CONTRACT PROCEDURE RULES**

<b>INDEX</b>	
1.0	Introduction
2.0	<del>and definition of Procurement</del>
3.0	Basic Principles of Procurement
4.0	Procedures for Schools
5.0	Compliance <del>and Conduct</del>
6.0	Procurement Plan <del>and</del> Contracts Register <del>&amp; Statistical Return</del>
7.0	Contract Value
8.0	Awarding <del>the</del> <u>Contracts</u>
9.0	Relevant Contracts
10.0	Exemptions to <u>the</u> Contract Procedure Rules
11.0	Waivers to <u>the</u> Contract Procedure Rules
12.0	<del>Using In House Suppliers (IHS)</del> <u>Contracting Route Options</u>
13.0	<del>Using Council Wide Contracts</del>
14.0	<del>Using Framework Contracts</del>
15.0	Approved Lists <u>(below EU threshold only)</u>
16.0	Joint Procurement
17.0	<u>Trial Purchases</u>
18.0	<u>Negotiated Contracts</u>
19.0	<u>Concession Contracts</u>
20.0	<del>Contracting Rules based on Value and Commodity being Procureds</del>
21.0	<del>valued up to £5,000</del>
22.0	<del>Contracts valued £5,000 to £25,000</del> <u>General Data Protection</u>
23.0	<u>Regulation (GDPR)</u>
24.0	<del>Contracts valued £25,000 to £181,302</del>
25.0	<del>Contracts valued over £181,302 (or EU Threshold)</del>
26.0	ICT <del>and ICT</del> Related Contracts
27.9	<u>Qualification</u>
28.0	<del>The Invitation to Tender/Quote</del>
29.0	<del>Submission, Receipt, Opening &amp; Registration of Tenders/Quotes</del>
30.0	<del>Hard Copy Quotation</del>
31.0	<u>General</u>
<del>32.0</del>	<del>Evaluation of Tenders and Quotations</del>
<del>33.0</del>	<del>Errors in Tenders/Quotations</del>
<del>34.0</del>	<del>Post Tender Negotiation</del>
<del>35.0</del>	<del>Awarding Contracts</del>
<del>36.0</del>	<del>Debriefing</del>
<del>37.0</del>	<del>Contract Award Notice</del>
<del>38.0</del>	<del>Contract Terms &amp; Conditions</del>
<del>39.0</del>	<del>Contract Extensions and Variations</del>
<del>40.0</del>	<del>Transfer of Contracts – Novation and Assignment</del>
<del>41.0</del>	<del>Termination of Contract(s)</del>
	Procurement by External Agents
	Member Involvement
	Record, Document Retention <u>and</u> Control
	Council Purchase Cards
	Cost Control

## PART 4 RULES OF PROCEDURE

### 7. CONTRACT PROCEDURE RULES

#### SECTION 1 – SCOPE OF CONTRACT PROCEDURE RULES

##### 1.0 Introduction and definition of procurement

- 1.1 Strategic Procurement is ‘the process of acquiring goods, works and services, covering both acquisitions from third parties and from in-house providers. The process spans the **whole life cycle** from identification of needs, through to the end of a services contract or the end of the useful life of an asset. It involves options appraisal and the critical 'make or buy' decision.’<sup>1</sup>
- 1.2 These Contract Procedure Rules outline the policy and procedures for the procurement activities across the Council which includes ordering for the purchase, commissioning, hire and lease, rental of goods, services supplies, and works and services on behalf of the Council.
- 1.3 Compliance with the Contract Procedure Rules ensures that:
- All contractors, suppliers and providers are treated fairly and equally and that all procurement takes place in an open and transparent way, encouraging competition.
  - The rules and procedures governing the procurement process are set out clearly for Council Members, Officers, third parties buying or commissioning on behalf of the Council, and suppliers and other interested stakeholders.
  - All elements of procurement, from identifying the need through to disposal of goods or ending of contracts, are governed to ensure sound, robust procurement practice.

---

<sup>1</sup> Source – National Procurement Strategy for Local Government

- The Council complies with EU Procurement Directives, ~~and the~~ UK Public Procurement Regulations and any other legislation governing public sector procurement.
  - The Council can defend against allegations of incorrect or fraudulent procurement practice, should the need arise.
- 1.4 The Council has a duty to make the best use of its assets and finances on behalf of the residents and businesses of the borough. It is important that goods, services and works ~~works, goods and services~~ are procured in a way that offers value for money and is carefully regulated, lawful, and ensures transparency and accountability.
- 1.5 The following pages offer further details in relation to the compliance and general requirements around procuring goods, services and works ~~goods and services~~ on behalf of the Council and should be read and complied with for any procurement ~~exercise~~activities.
- 1.6 It also should be noted that these Contract Procedure Rules should be read in conjunction with the Council's Finance Procedure Rules (FPR's), the Contract Procedures Guide and ~~the other~~ Procurement Guidance Manual ~~es~~ in order for ~~budget holders~~Council employees to discharge their responsibilities accordingly.

## 2.0 Basic Principles of Procurement

2.1 All procurement and commissioning procedures must:

- Be in line with the Council's objectives as set out in the Corporate Plan.
- Meet the procurement need and achieve value for money.
- Ensure fairness and transparency in the allocation of public contracts.
- Comply with all appropriate legal requirements.
- Ensure that all risks in the process are appropriately assessed and managed.
- Ensure that all required pre-tender consultation has taken place.
- Ensuring Strategic Procurement is engaged at an early stage of the Commissioning process to ensure that the best commercial option is undertaken in any resulting tendering exercise
- Encourage the participation of local businesses in Council contracts.
- Promote social value through the Councils contracting activities.

2.2 Procurement Procedures - once the need for goods, services or works has been identified, Officers are required to :-

- a. investigate whether the Council has an In-House Supplier which can meet the requirements; if this is not possible
- b. investigate whether the Council operates a Council Wide contract or other arrangement through which the requirement can be met; if this is not possible
- c. investigate whether there is a suitable regional or national framework which could be used to source the requirement; if this is not possible or
- d. investigate conducting a Council ~~consider carrying out a DMBC~~ procurement process (c and d should be conducted simultaneously to ensure the best route

~~to market is obtained)(for the avoidance of doubt a DMBC process should only be carried out if steps a-c have not proved possible).~~

### 3.0 Procedures for Schools

3.1 Governing bodies, in association with Head Teachers and Management Teams, are required to use the Council's Contract Procedure Rules as the basis for development of their own Contract Procedure Rules.

### 4.0 Compliance and Conduct

4.1 The Contract Procedure Rules must be adhered to by:

- All Members
- All Officers
- ~~Contractors, suppliers and third parties~~Persons or organisations responsible for awarding, managing and monitoring contracts on behalf of the Council.

4.2 The highest standards of probity are required of all those involved in the procurement, award and management of Council contracts.

4.3 Any **failure to comply** with any of the provisions of these Contract Procedure Rules, the Code of Practice, the Financial Procedure Rules or UK and European Union legal requirements by Officers **may result in disciplinary action** and may in some instances/cases constitute a criminal offence.

4.4 The Contract Procedure Rules are a minimum standard and a more prescriptive procurement regime must be followed where this is required by European and UK Law and agreements with Grant Funding Organisations.

4.5 Measures should be taken to effectively prevent, identify and remedy conflicts of interest arising through procurement activity so as to avoid any distortion of competition and to ensure equal treatment of all suppliers.

4.24.6 Any Officer, Member or other person acting on the Council's behalf must declare any potential Conflict of Interest as soon as they become aware of it. This must be declared to Strategic Procurement Team (SPT) and a decision to allow continued involvement approved or declined by the Head of Strategic Procurement and recorded.

### 5.0 Procurement Plan and Contracts Register ~~and Statistical Returns~~

5.1 The Council's Strategic Procurement Team (SPT), in conjunction with Directorates, ~~shall~~may publish Prior Information Notice's in the Official Journal of the European Union listing the contracts for goods, services and works ~~services and supplies~~ which it expects to procure in the coming financial year.

5.15.2 Directors shall ensure that all contracts to be procured over the £181,302 (or EU thresholds as revised) per annum are notified to ~~the procurement team~~SPT and are registered on the procurement forward plans.

5.25.3 Each Director shall ensure they notify the SPT of any contracts awarded, ~~or~~ extended or novated so that SPT may update the ~~Corporate~~ Contracts Register.

## 6.0 Contract Value

~~6.1 Competitive tendering exercises must be undertaken with due consideration to Contract Procedure Rules, EU Procurement Regulations and EC Treaty principles which include fairness, transparency, non-discrimination and mutual recognition.~~

6.1 When contracting goods, services or works, a genuine assessment of the whole life value of the ~~costs contract or framework agreement~~ must be undertaken. (Refer to the **Contract Procedures Guide** for further guidance on how to calculate).

~~6.2 The estimated value must present the total potential cost, exclusive of VAT, over the whole life of the project, including any extension terms.~~

~~6.36.2~~ If the project can be demonstrated as truly, innovative and an estimate cannot be provided approval to proceed must be obtained from the Chief Financial Officer (CFO) or nominated deputy before commencing a competitive tendering process.

6.3 The Council shall make the best use of its purchasing power by aggregating purchases wherever possible. In particular contracts for ~~supplies goods~~, services or works shall not be ~~split disaggregated~~ in an attempt to avoid the /application of these Contract Procedure Rules or the Regulations.

6.4 For Concession contracts the value of the contract shall be the total turnover of the concessionaire generated over the duration of the contract, net of VAT, in consideration for the goods, services or works that are the object of the Concession contract. (For further detail refer to the **Contract Procedures Guide**)

~~6.46.5~~ The value of an Income Contracts is the gross income generated by the Council as a result of the rights granted, or goods, services or works supplied by the Council.

## 7.0 Awarding ~~of~~ Contracts

7.1 These CPRs should be read in conjunction with the decision making provisions in the Council's Constitution and Financial Procedure Rules. Directors may take the decision to ~~accept a tender~~ award a contract themselves provided that any appropriate key decision or budget approvals are already in place.

## 8.0 Relevant Contracts

8.1 All relevant contracts must comply with the Contract Procedure Rules

8.2 A relevant contract is any arrangement made by, or on behalf of, the Council for the carrying out ~~of works, or for the supply or provision of goods, materials or services~~ or works.

This includes arrangements for:

- ~~• The supply or disposal of goods~~
- The purchase, hire, ~~rental~~ or leasing of goods and equipment
- The delivery of services, including (but not limited to) those related to
- Use of agency staff
- Land and property transactions relating to development agreements
- Financial services

- Consultancy services
  - Concession and Income contracts
- 8.3 Relevant contracts do not include:
- ~~Contracts for the employment of individual members staff~~ Employment contracts of permanent, interim or casual. For the avoidance of doubt the appointment of recruitment agencies services would need to be subject to the CPRs.
  - Contracts relating to disposal or acquisition of an interest in land
  - Certain financial services in connection with the issue, sale, purchase or transfer of securities or other financial instruments
  - Concessions relating to street traders and market stalls
  - Residential and nursing care contracts which the Council has a duty to provide under S117 Mental Health Act 1983, S17, s17A, s17B and s17ZA – ZI Children Act 1989 and S2 Local Government Act 2000
  - Health and care contracts where the recipient of care has a personal choice or direct payment including under sections 18 – 36 of the Care Act 2014, section 57 - s 58 of the Health and Social Care Act 2001, section 12A of the NHS Act 2006 and section 17A of the Children Act 1989;
  - The employment of Barristers - Barristers engaged to represent the Council must be appointed through the Assistant Director of Legal and Democratic Services
  - Legal services contracts and arbitration services provided they fall within the exemptions set out in Regulation 10 of the Public Contract Regulations.
  - The selection of a supplier who usage is a condition of a Grant funding approval.
  - Where there is one supplier, such as works of art, copyrighted material, taxes or licence arrangements
- 8.4 A contract is a legally binding agreement required for all goods, services or works entered into by a representative of the Council. A contract can be formed through verbal, written means or via the exchange of monies.
- 8.5 All contracts above £250,000 are required to be approved by the Assistant Director of Legal and Democratic Services.
- 8.6 Letters of Intent will only be issued in very exceptional circumstances following consultation and approval of the Assistant Director of Legal and Democratic Services.
- 8.7 The Council may enter into nil (cash) value contracts and the Council's Contract Procedure Rules will still apply in this case.
- 8.8 Suppliers undertaking procurement activity on behalf of the Council must comply with the Council's Contract Procedure Rules. ~~Contractors fulfilling duties on behalf of the Council must comply with the Council's Contract Procedure Rules.~~
- 8.9 Any lease, hire, ~~rental~~ or credit arrangement (such as vehicle or equipment leasing) which has a capital cost must be approved for inclusion in the Capital

Programme in accordance Finance Procedure Rules relating to Capital expenditure, prior to commencing any procurement exercise

## 9.0 Exemptions to the Contract Procedure Rules

9.1 No exemptions can be made to the requirements of competition in terms of the Contract Procedure Rules, unless authorised in writing by the CFO (or nominated deputy), after considering a written report by the appropriate Director.

~~9.2~~ A register of all exemptions will be maintained by the Assistant Director – Finance and Performance.

~~9.29.3~~ Any breaches to the Contract Procedure Rules will be reported to the Audit Committee on a six monthly basis.

~~and will be reported to the Audit Committee on a six monthly basis.~~

## 10.0 Waivers to Contract Procedure Rules

10.1 Waivers to contract procedure rules may be allowed under certain circumstances. Waivers which may be permitted include:

- a) Where the Director is able to demonstrate that only one specialist firm is able to meet the requirement
- b) A contract to be placed as an emergency solution only where the Director is able to demonstrate immediate risk to persons or property or serious disruption to Council Services
- c) To allow for the safe exit from a contract or to decommission
- d) Forms part of a wider strategic programme of works

The Director must notify the CFO (or nominated deputy) immediately of the action taken in dealing with the emergency. The specific circumstances in which the exception was justified must be recorded.

10.2 Only the CFO (or nominated deputy) has authority to waive Contract Procedure Rules for exceptions listed or the Monitoring Officer for Finance waivers.

~~10.3~~ Any other request for a waiver of Contract Procedure Rules outside those listed requires the approval of the CFO (or nominated deputy) or the Monitoring Officer (or nominated deputy) in respect of waivers.

~~10.4~~ 10.3 Waivers must be obtained in advance of the procurement action as a waiver cannot be issued authorised retrospectively unless in an emergency situation.

~~10.5~~ 10.4 Waivers **must not** be used to avoid the requirements of the Contract Procedure Rules to go to competition due to lack of time available within the procurement timelines to procure. Procurement exercises should be planned well in advance.

~~10.6~~ 10.5 Requirements of EU Procurement Directives, UK Procurement legislation or any other relevant law or external regulatory framework cannot be waived.

~~10.7~~ 10.6 Waivers for goods & services contracts can only allowed up to the value of **£181,302, £615,278** for contracts under the Light Touch Regime (Social & Other Specified Services) and **£4,551,413** (or current EU thresholds) for works contracts.

~~10.8 All Waivers for services subject to the Light Touch Regime above £181,302 and below £615,278 will require joint approval of the CFO (or nominated deputy) and the Chief Executive.~~

~~10.9~~10.7 Waivers must demonstrate that value for money has been obtained and there ~~is~~ are clear benefits or advantages to the Council.

~~10.10~~10.8 Waivers must be documented in a form approved by the CFO; this is available on the Council's intranet and should be submitted to ~~Strategie Procurement Team~~ the SPT for approval.

## 11.0 Contracting Route Options (refer to Contract Procedures Guide on how to follow each option)

There are different methodologies to contracting on behalf of the Council, these are:

11.1 Using In House Suppliers (IHS)Using In House Suppliers

11.2 Using Council Wide Contracts

11.3 Using Dynamic Purchasing Systems (DPS) and Framework Contracts (Third Party Arrangements)

11.4 Council Framework Agreements and Dynamic Purchasing Systems (DPS)

~~Where an In House Supplier is available, then this provider must be used. A full list of In House Suppliers is available on the Council's intranet page.~~

~~Where the IHS cannot provide the service required, they will be responsible for procuring the requirements for the Council.~~

~~The council will benchmark all In House Suppliers to ensure they are achieving value for money, and where it is decided that the Council is not receiving value for money then alternative arrangements will be considered, this may include looking to external suppliers to provide the service.~~

~~10.11 **Using Council Wide Contracts** Where the Council holds council wide contracts on behalf of all services, officers are required to use those contracts.~~

~~10.12 Details of the current council wide contracts are available on the Council's intranet page~~

~~10.13 There is no exemption from the use of council wide contracts unless agreed by the CFO (or nominated deputy).~~

### **Using Framework Contracts**

~~10.14 Services must use a framework agreement let by another public sector body, such as public sector consortia or another Council, where these are available for the service or goods that are required. SPT maintain a list of such frameworks on the Council's Intranet page (see link)~~

~~10.15 The advice of SPT should be sought when using Frameworks. The Strategic Procurement Team will provide a list of all appropriate frameworks that can be accessed for the service or goods required.~~

~~The framework may also include within its terms the requirement for a mini-competition exercise, if this is required, the SPT will assist with this process, in line with the guidance published on the SPT intranet page~~

#### **11.012.0 Approved Lists (below EU threshold only)**

~~11.1 Approved lists may only be set in agreement with the CFO (or nominated deputy) and in line with the [Contract Procedures Guide](#) SPT guidance on setting up approved lists.~~

~~11.2 Where authorised approved lists have been set up, Directors shall ensure that these are regular reviewed and agreed with the CFO.~~

~~Before drawing up an approved list it should be advertised and expressions of interest should be invited for contractors to become approved suppliers for the particular type of contract. The officer establishing the approved list should ensure that the approved list is advertised in such a manner so as to ensure that it will be visible by Doncaster Businesses. An approved list shall:~~

~~Set out the criteria for inclusion, suspension and exclusion from the list including but not by way of limitation:~~

~~Economic and financial standing~~

~~Technical ability and capacity~~

~~Insurance arrangements~~

~~Quality systems~~

~~Health and Safety Records~~

~~Environmental performance and compliance with environmental legislation~~

~~Compliance with all relevant legislation~~

~~Transparency/basis of appointment~~

~~Indicate the categories of contracts for which the contractors listed may be invited to tender~~

~~Be reviewed at regular intervals of not less than one year or more than four years~~

#### **11.312.1**

~~11.4 Approved lists must be operated so as to ensure that all contractors on the list are given a reasonable opportunity of submitting quotations or tenders for appropriate contracts let by the Council from time to time.~~

~~11.5 Approved lists **must not** be used for any procurement exercise over the EU procurement thresholds (which are currently set at £181,302 for goods and services, £615,278 for contracts under the Light Touch Regime £4,551,413 for Works contracts).~~

#### **12.013.0 Joint Procurement**

~~13.1 When undertaking a joint procurement arrangement on behalf of the Council the Director must ensure [this is done in line with the Contract Procedures Guide](#).~~

~~the other public bodies that are to be included in that arrangement are listed in the advertisement and contract documents. They can either be individually listed or referred to as a class of organisation within a particular region e.g. "all Local~~

Authorities in the Yorkshire and Humber Region". The estimate given must include the potential usage of that joint arrangement by those public bodies listed.

### **13.014.0 Trial Purchases**

13.114.1 Directors may purchase a trial of goods, services or works that is new to the Council up to a value of £100,000, to ascertain if the supply is of interest to the Council, without competition.

13.214.2 Where an exception to competition in CPR 10.0 does not apply, a full competition, compliant with the CPR's must be conducted following the trial, if the Director wishes to continue with the type of supply.

13.314.3 Arrangements must be made to ensure the supplier(s) involved in the trial has not obtained any advantage through that involvement when compared to alternative suppliers of a similar supply.

14.4 The CFO must approve proposed trial arrangements exceeding £25,000.

### **14.015.0 Negotiated Contracts**

14.115.1 There may be a need to consider negotiation when procuring goods, services and works. Officers should be advised that there are restrictions associated with procuring above EU procurement thresholds. Refer to the **Contract Procedures Guide** for further information on when it is appropriate.

14.215.2 The use of a negotiated process must be approved by the CFO and the relevant Director.

14.315.3 Verbal negotiation must be undertaken by at least two Council Officers at least one of whom must be independent of the process and approved by the CFO (or nominated deputy).

14.415.4 Written negotiation must be subject to evidenced independent process check, calculation and value for money. If the contract value is above threshold and the proposed procedure is either Competitive Dialogue or Negotiated Procedure, these must be conducted in line with the EU procurement regulations and the advice of the SPT sought.

15.5 For any contract valued above £181,302 the Director must obtain approval to negotiate the contract from the Assistant Director for Legal and Governance including the cost and the reason for choice.

### **15.016.0 Concession Contracts**

15.116.1 Concession contracts for services or works are a supply contract and the procurement of Concessions shall follow the competitive and contracting requirements in these CPRs.

15.216.2 Concession contracts for works or services with a value of £4,551,413 or more are subject to the Public Concessions Regulations 2016 and will be such to such additional procurement process requirements. To calculate the value of a Concession contract refer to CPR 6.4 and in addition to that the following should be taken into account:

16.3 The value of a Concession contract shall be the total turnover generated by the concessionaire over the duration of the contract, net of VAT, in relation to the

services or works that are the object of the Concession contract. For further guidance refer to the **Contract Procedures Guide**.

#### 16.017.0 Contracting Rules based on value and commodity being procured

For further guidance on the below refer to the **Contract Procedures Guide** valued up to (£5,000 inclusive)

Where the estimated value or amount of a proposed Contract does not exceed £5,000 then the Authorised officer should obtain at least 1 verbal quotation from suitable suppliers followed up by written confirmation (including email). Wherever possible the quotation should be sought from a Doncaster based business.

Whilst there is only a requirement for one quotation the Authorised Officer must consider whether additional quotations are in the Councils best interest.

#### 17.1 Contracts valued up to £25,000 inclusive

- Where the estimated value or amount of a proposed Contract does not exceed £25,000 then the Authorised officer should obtain at least 1 verbal quotation from suitable suppliers followed up by written confirmation (including email).
- A quotation should be sought from a Doncaster based business. Whilst there is only a requirement for one quotation the Authorised Officer must consider whether additional quotations are in the Councils best interest.

**All contracts awarded over £25,000 must have an award notice published on Contracts Finder**

#### 17.2 Contracts valued £25,000 to £181,302 – Quotation

- Between these values the requirement is to obtain at least 3 written quotations from suitable suppliers. Wherever possible a minimum of one of the quotations must be sought from a Doncaster Business.
- A written record must be kept of all quotations and procedures followed.
- A decision on how to conduct the quotation should be based on the contracting risk.

#### 17.3 Contracts valued £181,302 to £615,278 (Social & Other Specified Services)

- A minimum of **three** tenders should be sought from suitable suppliers. Wherever possible a minimum of one tender must be sought from a Doncaster Business.
- When using an approved third party framework agreement that has been validly set up to be called off on a non-competitive basis (direct award) the Officer must have a written justification for the selection of the supplier(s) and if above **£250,000** the decision to execute the direct award must be approved by the CFO (or nominated deputy).
- Social value should form part of the evaluation criteria for all procurements above £181,302 as a minimum of 10%.

#### 17.4 Contracts valued £181,302 to £4,551,413 (Works)

- A minimum of **three** tenders should be sought from suitable suppliers or providers. Wherever possible a minimum of one tender must be sought from a Doncaster Business.
- When using an approved third party framework agreement that has been validly set up to be called off on a non-competitive basis (direct award) the Officer must have a written justification for the selection of the supplier(s) and if above **£250,000** the decision to execute the direct award must be approved by the CFO (or nominated deputy).
- Social value should form part of the evaluation criteria for all procurements above £181,302 as a minimum of 10%.

#### 17.5 Contracts valued over £181,302 (Goods & Services), £615,278 (Social & Other Specified Services) or £4,551,413 (Works)

- Over these values the requirement is to tender all contracts in accordance with the EU regulations and Contract Procedure Rules.
- When using an approved third party framework agreement that has been validly set up to be called off on a non-competitive basis (direct award) the Officer must have a written justification for the selection of the supplier(s) and if above **£250,000** the decision to execute the direct award must be approved by the CFO (or nominated deputy).
- Social value should form part of the evaluation criteria for all procurements above £181,302 as a minimum of 10%.

#### 17.018.0 General Data Protection Regulation (GDPR)

17.118.1 Where any Supplier is given possession of or access to any personal data, the Service Director must comply with the Council's Data Protection obligations. The Service Director must follow the Council's Information Security and Data Protection Policies, in particular regarding contracting with data processors and sharing data, and carry out a Data Protection Impact Assessment (DPIA) in consultation with the Information Governance Team. For further information refer to the **Contract Procedures Guide**.

#### 18.019.0 ~~ICT and~~ ICT Related Contracts

18.119.1 The Assistant Director – Customers, Digital & ICT or nominated officer must be consulted regarding the procurement of ICT related goods or services such as ICT consumables, hardware, software or website development or any other ICT service prior to the commencement of any tendering activity.

#### 19.020.0 ~~The precise date when the standstill is expected to en~~ Contract Award Notice

19.120.1 All Contract awards above **£5,000** will be recorded on the Supplier Contract management System (ProContract) Council's Contract Register.

19.220.2 All contracts over **£250,000** shall be under seal, unless the Assistant Director of Legal and Democratic Services approves other arrangements.

~~19.320.3~~ Contracts with a value up to **£181,302** (EU Threshold) will be based on the Council's standard terms and conditions. Where a variation is required from the standard terms and conditions this will be agreed by the Assistant Director of Legal and Democratic Services (or nominated deputy).

~~19.420.4~~ The decision to award a contract shall be made by the Director (or nominated deputy) on receipt of a written recommendation from the relevant officer. This recommendation should give details of the reasons why tenders, if any, were disqualified and the reasons for the selection of ~~Contractor~~supplier(s).

~~19.520.5~~ Where the terms and conditions of Contract are not fully agreed no ~~supplier Contractor~~ shall be allowed to commence delivery of goods, ~~services works~~ or ~~works services~~ until a full risk assessment has been carried out by the Authorised Officer as to the possible implications to the Council by the ~~Contractor~~ supplier being allowed to commence work before the Contract terms and conditions have been finalised.

~~19.620.6~~ Following the notification of award of contract the Authorised Officer is required to submit a ~~pro-forma~~ Contract Award Form to the Strategic Procurement Team so the details of the awarded Contract can be published on the Council's Corporate Contracts Register and Contracts Finder to meet the requirements of the Regulations and Transparency Agenda.

~~19.720.7~~ Where a contract has been tendered pursuant to the Regulations, the Council shall publish a contract award notice ~~in the Official Journal of the European Union and on the ProContract system as soon as possible after the decision to award the contract has been taken, and in any event no later than 30 days after the date of award of the contract as per the relevant legislative requirements.~~

~~19.820.8~~ Authorised Officers are also required to prepare a report in accordance with Regulation 84 of the Public Contract Regulations.

## **20.021.0 Contract Terms and Conditions**

~~20.421.1~~ The officer shall use their best endeavours to ensure that Contracts are entered into on the Council's terms and conditions, which shall be included with each purchase order or Invitation to Tender. Where this is not possible, because the Council's terms and conditions are not suitable, and a ~~Contractor~~ supplier has been asked to submit their terms and conditions, where there are material changes to the ~~councils~~ Councils terms and conditions they must be formally approved in writing by the Assistant Director of Legal and Democratic Services (or nominated deputy) before they can be accepted.

~~21.022.0~~ ~~the reasons for the decision, including the characteristics and relative advantages of the successful tender.~~ **Contract Extensions and Variations**

### **Variations**

~~21.122.1~~ Variations must be evidenced in writing.

~~21.222.2~~ All Contract variations must be carried out within the scope of the original Contract. Contract variations that materially affect or change the scope of the original contract are not allowed.

~~21.322.3~~ A new procurement is required in the case of a material change where one or more of the following conditions are met:

- The variation introduces conditions which, had they been part of the initial procurement exercise, would have allowed for the admission of other tenderers than those initially selected or for the acceptance of an offer other than that originally accepted or would have attracted additional participants in the procurement procedure;
- The variation increases the value of the contract or the framework agreement substantially in favour of the supplier in a manner which was not provided for in the initial contract or framework agreement;
- The variation extends the scope of the contract or framework agreement considerably.

21.422.4 All ~~Contract~~contract variations must be in writing and signed by both the Council and the ~~Contractor~~supplier except where different provisions are made within the contract documentation.

21.522.5 The value of each variation must be assessed by the Authorised Officer and all necessary approvals sought prior to the variation taking place including registrations on the Council's forward plan if applicable.

21.622.6 Approval for any variation shall be sought in writing from the Director in a timely manner and supported by an appropriate decision record signed by the Director.

### Extensions

21.722.7 The term of any contract may only be extended where all the following criteria have been met:

- Provision for an extension of the term is evidenced by the original contract (and the original tender/quotation); and
- Where the budget provision and the extension is in line with the Financial Procedure Rules; and
- Where the contract value including the extension exceeds the key decision threshold (£250,000), a separate key decision has been approved.
- Where the contract still delivers Value For Money
- In the case of ICT related expenditure has had the appropriate approvals.

21.822.8 Only the CFO may approve an extension to the term of a contract outside the rules, after consulting the Portfolio Holder for Corporate Resources, and the Assistant Director of Legal and Democratic Services.

21.922.9 Contract extensions will not be permitted if the value of the extension is above the EU procurement threshold.

21.1022.10 All variations and extensions to any Council contracts must be in writing and reported to the SPT in order that ~~ProContract~~the Contracts Register for the Council can be updated accordingly.

### 22.023.0 ~~the score obtained by the winning bidder and the name of the winning bidder~~Transfer of Contracts – Novation and Assignment

22.123.1 Transfer, assignment and novation of contracts can only be agreed by the Legal Department.

## **23.024.0 Termination of Contract(s)**

**23.424.1** Provision for the termination of a contract must be included within the terms and conditions of the contract. Only the Assistant Director of Legal and Democratic Services has the authority to agree early termination of a contract where this is not built into the contract terms and conditions.

**23.224.2** The CFO must be consulted where there are serious concerns over the performance of a contract.

**23.324.3** The Assistant Director of Legal and Democratic Services must be consulted if the performance of a contract is giving rise to concern and consideration is given to termination.

**23.424.4** An Exit Plan, which can cover one or more Contracts, must be prepared for every contract well in advance of contract expiry. It is recommended that this should be put in place at least 6 months in advance in order to allow for the approvals and pre-planning process and any re-procurement.

## **24.025.0 ~~the score obtained by the recipient of the letter/n~~ Procurement by External Agents**

**24.125.1** Any consultants used by the Council shall be appointed in accordance with these Contract Procedure Rules. Where the Council uses consultants to act on its behalf in relation to any procurement, then the Director shall ensure that the consultants carry out any procurement in accordance with these Contract Procedure Rules.

**24.225.2** No consultant shall make any decision on whether to award a Contract or who a Contract should be awarded to.

**24.325.3** The Director shall ensure that the consultant's performance in relation to procurement is in accordance with these Contract Procedure Rules.

**24.425.4** Where the Council uses consultants to act on its behalf in relation to any procurement the consultant must declare any conflict of interest that may arise to the Director prior to commencing work on any Tender.

**24.525.5** Where the Director considers that such a conflict of interest is significant the Director should consider whether it is appropriate for the consultant to work on a particular tender and the consultant should not be allowed to evaluate Tenders on behalf of the Council.

**24.625.6** Before any self-employed supplier is awarded a contract, the supplier's details must be obtained and assessed through the Council's assessment tool to ensure our obligations under IR35 are adhered to.

## **25.026.0 Member Involvement**

**25.126.1** Directors are responsible for ensuring appropriate consultation has taken place with members, this could include consultation on the evaluation criteria.

**25.226.2** Members should not become involved in the remainder of the procurement activity, unless any specific decisions are required by portfolio holders, Cabinet or the Council, in accordance with the Councils constitution and scheme of delegation.

## **26.027.0 Record and Document Retention and Control**

~~26.1~~27.1 A Contracts Register of all Contracts awarded with an aggregated value above **£5,000** shall be maintained by the SPT.

~~26.2~~27.2 Each Relevant Director shall maintain ~~his/her~~their own register of all other Contracts, under **£25,000** as a minimum, entered into by ~~his/her department~~their directorate.

~~26.3~~27.3 For every individual Contract above **£25,000** a 'Contracts File' shall be maintained with appropriate documentation which must include, as a minimum, the following: -

1. The method for obtaining bids (~~see Rules 16, 17, 18 & 19~~);
2. Any exemption under Rule 10 together with reasons for it;
3. The evaluation criteria in descending order of importance and associated evaluation method;
4. Tender documents sent and received from ~~Contractors~~the Suppliers;
5. Any pre-tender market research;
6. All notes made by the evaluation panel during the evaluation of tenders;
7. Clarification and post-tender negotiation (to include minutes of meetings);
8. A copy of the Contract documents (originals should be held in Legal Services);
9. Post-contract evaluation and monitoring;
10. Communications with all ~~supplier(s)~~Contractors during the Tender process and with the successful ~~Contractor~~supplier throughout the period of the Contract;
11. Award of Contract documentation;
12. Any decision to abandon a procurement exercise or terminate a Contract.
13. All delegated decisions, authorisations, waivers and reports relating to the Tender process and subsequent Contract.

#### ~~27.0~~28.0 ~~contain the award criteria used to select the winning bi~~ **Council Purchase Cards**

~~27.1~~28.1 The Council uses Purchasing Cards in order to reduce transaction costs for low value purchases by reducing time spent on processing of orders and invoices.

~~27.2~~28.2 Purchase cards must not be used as a way of bypassing CPRs. However, in some circumstances, where a contract exists and the supplier allows, a purchase card may still be used as a method of payment, where this offers better value for money or is specified in the contract. For further guidance refer to the Purchase Card Policy or contact Strategic Procurement SPT.

#### ~~28.0~~29.0 **Cost Control**

~~28.1~~29.1 The Director shall ensure that suitable procedures are laid down and followed for the effective cost control of all contracts. Such procedures shall involve a continuous monitoring of the cost being incurred on each contract with the objective of ensuring that the project is completed within the authorised cost and that any unavoidable extra costs are identified quickly so that appropriate action can be taken.

~~28.2~~29.2 The procedures shall provide:

- (a) A cost statement to be prepared every time a contract payment is made assessing the probable final cost. This should take into account all known factors

including variations, adjustments of prime cost and provisional sums and other items such as re-measured work;

(b) A cash flow forecast based on a cost statement prepared by the relevant Director, showing the expected pattern of payments to the end of the contract, updated each month until the final payment is made.

As soon as it becomes apparent to the Director that costs will exceed the amount authorised, the Director must immediately report the situation to the CFO (or nominated deputy). A final cost report shall be submitted to the CFO (or nominated deputy).

### **29.030.0 Contract Claims and Disputes**

~~29.430.1~~ To safeguard the Council's right to deduct liquidated damages, if the contract is over-running the officer must certify in writing that the ~~supplier~~Contractor ought reasonably to have completed the works within the contract period. Such a certification must be in accordance with the contract conditions and be issued prior to the issue of the final certificate for payment.

~~29.230.2~~ Any events that may lead to claims for extension of time must immediately be brought to the attention of the officer.

~~29.330.3~~ Claims for extension of time must be assessed promptly and any extension award made in accordance with the conditions of contract.

~~29.430.4~~ If the works are not complete the officer must issue a certificate of non-completion in accordance with any relevant contract conditions immediately after the expiry of the (extended) date for completion. It is the ultimate responsibility of the Director (or nominated deputy) to arrange for the deduction of liquidated damages.

~~29.530.5~~ If the ~~Contractor~~supplier subsequently brings forward fresh evidence of delay, the officer may award a further extension but must then also issue a revised certificate stating the revised date in accordance with any relevant contract conditions.

~~29.630.6~~ Before the final certificate is issued the officer shall check that any necessary certificate has been issued in accordance with the relevant contract conditions.

~~29.730.7~~ ~~The above procedures must be strictly followed for each section of a 40.8.~~  
The CFO (or nominated deputy) shall be kept informed at all times of all contractual claims whether by or against the Council.

~~29.830.8~~ ~~It is critical that d~~Documentary evidence must be kept relating to all aspects and stages of a claim and these should be kept by the Director at one central point.

### ~~30.031.0~~ ~~30.3~~ ~~The Alcatel letter advises all tenderers of the result of the evaluation and as a minimum must:~~ **Review and Amendment of Contract Procedure Rules**

~~30.131.1~~ The CFO and Assistant Director of Legal and Democratic Services are authorised to make technical amendments ~~from time to time~~as necessary to ensure these procedures are consistent with legal requirements, changes in Council structures, ~~and~~ personnel and best practice.

Intentionally Left Blank

## **PART 4 – RULES OF PROCEDURE**

### **7. CONTRACT PROCEDURE RULES**

#### **Appendix A: Procurement Flow Chart**

#### **1.0 — Contracts below £5,000**

- 1.1 — Where the estimated value or amount of a proposed Contract does not exceed £5,000 the appropriate Director shall ensure that value for money is achieved.
- 1.2 — Where the estimated value or amount of a proposed Contract does not exceed £5,000 then the Authorised officer should obtain at least 1 verbal quotation from suitable suppliers followed up by written confirmation (including email). Wherever possible the quotation should be sought from a Doncaster based business
- 1.3 — Whilst there is only a requirement for one quotation the Authorised Officer must consider whether additional quotations are in the Councils best interest.
- 1.4 — For all Contracts valued below £5,000 the Authorised Officer must retain on file a note outlining the process undertaken and justification for the decision to award work to a given Supplier.

#### **2.0 — Between £5,000 and £25,000 (Quotations)**

- 2.1 — Where no appropriate In House Supplier, Council Wide Contract or Framework Agreement exists, competition (three verbal quotations three quotations using quick quotes ) is required for procurements with an estimated value of between £5,000 and £25,000 followed up by written confirmation. Wherever possible a minimum of one of the quotations should be requested from a Doncaster Business. Where an Approved List is in place it must be used.
- 2.2 — The Authorised Officer must ensure that for all contracts, details of the procurement is entered onto the Council e Procurement Portal and a unique reference number obtained, which will be applied to all stages and documentation of the procurement process.
- 2.3 — Once a Contractor is selected an order shall be issued specifying the services, supplies or works to be provided and the price and terms of payments.
- 2.4 — Subject to reasons outlined in CPRs, quotations should be invited using the Council's standard terms and conditions.
- 2.5 — Written confirmation of any verbal quotation accepted must be obtained from the contractor prior to placing an order as well as a written record (including email) containing the following information:
- — Details of the contract
  - — The full name and address of the contractor
  - — The person who verbally supplied the quotation
  - — The contractor's submitted price

### **~~3.0 — Between £25,000 and £181,302 — Intermediate Value Procurement (Quotations)~~**

- ~~3.1 — Where no appropriate In House Supplier, Council Wide Contract or Framework Agreement exists, competition (3 written and confirmed quotations) is required for procurements valued over £25,000 but at or below £164,176. Wherever possible a minimum of one of the quotations must be requested from a Doncaster Business. Where an Approved List is in place it must be used.~~
- ~~3.2 — The procurement must, as a minimum, be procured using ProContract. At least three written and confirmed Quotations shall be invited. The Authorised Officer shall obtain a unique reference number from ProContract which will be applied to all stages and documentation of the procurement.~~
- ~~3.3 — Procurements need not be advertised on ProContract where other arrangements are already in place which enables works, goods and services to be procured via a website set up for those purposes (for example conducting a procurement exercise via the Crown Commercial Services website). However, once complete details of those procurements must be registered on ProContract.~~
- ~~3.4 — Faxed or emailed quotations are not acceptable for these purposes.~~
- ~~3.5 — Director's shall ensure that, where proposed procurements, irrespective of their total value, might be of interest to potential Contractors located in other member states of the EU, a sufficiently accessible advertisement is published on ProContract and Contracts finder. Generally, the greater the interest of the procurement to potential bidders from other member states, the wider the coverage of the advertisement should be. Advice must be sought from SPT.~~
- ~~3.6 — Where clients undertake their own procurements they shall do so in accordance with these Contract Procedure Rules and Procurement Code of Practice as agreed by SPT.~~
- ~~3.7 — Details of all procurements undertaken by client departments of a value greater than £25,000 must be recorded on ProContract by the Authorised Officer or shall be forwarded to SPT in order that ProContract can be updated on their behalf.~~
- ~~3.8 — Where the procurement of any value is fully funded by a third party, and if that third party so requests, then the name(s) of one or more Contractor(s) may be added to the quotation list or be the only Contractor(s) invited provided the Approved List criteria are satisfied (and the Regulations not contravened).~~
- ~~3.9 — Quotations should be invited using the Council's standard terms and conditions~~

### **~~4.0 — Contracts over £181,302 — High Value Procurements (Tenders)~~**

- ~~4.1 — Where the estimated value of the proposed contract exceeds £181,302 tenders shall be invited. Where the proposed contracts exceed the EU threshold, then the contract shall be tendered in accordance with the Regulations and these CPRs. In all such circumstances appropriate advice must be sought from SPT and Legal Services. The current thresholds are:-~~

## ~~PART 4 – RULES OF PROCEDURE~~

### ~~7. CONTRACT PROCEDURE RULES~~

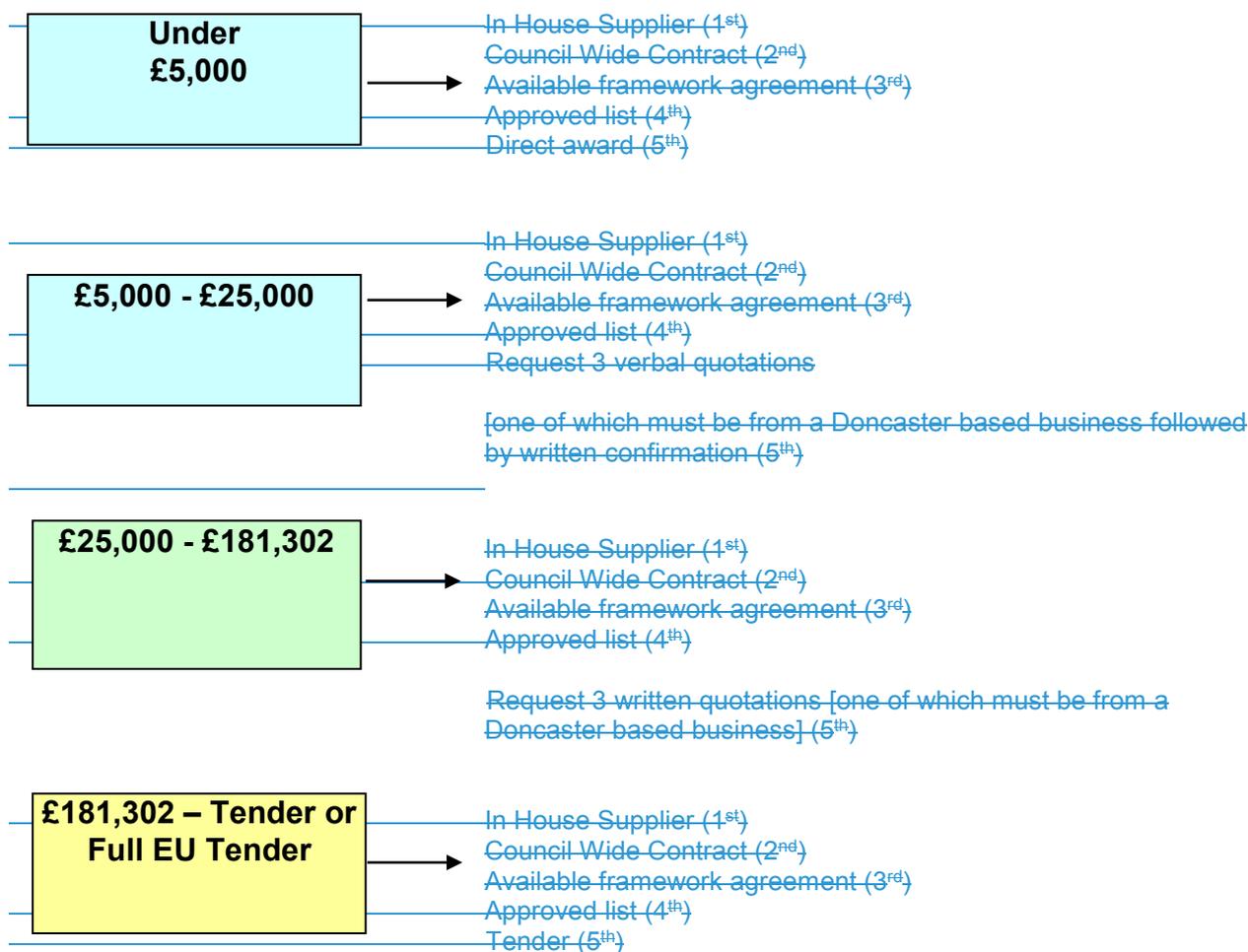
<del>Services</del>	<del>£181,302</del>
<del>Supplies</del>	<del>£181,302</del>
<del>Light Touch Regime</del>	<del>£615,278</del>
<del>Works</del>	<del>£4,551,413</del>

- ~~4.2 The thresholds change every two years and are due to change again on the 1<sup>st</sup> January 2020.~~
- ~~4.3 The Authorised Officer shall obtain a unique reference number from ProContract which will be applied to all stages and documentation of the procurement.~~
- ~~4.4 Approval of the proposed procurement and contract award procedure including the evaluation criteria to be applied shall be formally sought by the Authorised Officer from the Director in accordance with CPR's.~~
- ~~4.5 The officer shall develop and document the procurement approach which shall set out relevant considerations to the procurement exercise.~~
- ~~4.6 The procurement must, as a minimum, be procured using ProContract by the officer. This will include advertising the Tender on the system and ensuring that the Tender documents are electronically available in accordance with CPR's.~~
- ~~4.7 Where there are sufficient numbers of Contractors at least five written Tenders shall be invited. The only exception to this is where five suppliers fail to reach the minimum criteria for selection.~~
- ~~4.8 Faxed or emailed Tenders are not acceptable for these purposes.~~
- ~~4.9 Directors shall ensure that, where proposed procurements, irrespective of their total value, might be of interest to potential Contractors located in other member states of the EU, a sufficiently accessible advertisement is published on ProContract and Contracts Finder. Generally, the greater the interest of the procurement to potential bidders from other member states, the wider the coverage of the advertisement should be. Advice must be sought from SPT.~~
- ~~4.10 Where clients undertake their own procurements they shall do so in accordance with these Contract Procedure Rules the Procurement Guidance Manual as agreed by SPT.~~
- ~~4.11 Details of all procurements undertaken by client departments must be recorded on ProContract or shall be forwarded to SPT in order that ProContract can be updated on their behalf.~~
- ~~4.12 Where the procurement of any value is fully funded by a third party, and if that third party so requests, then the name(s) of one or more Contractor(s) may be added to the tender list or be the only Contractor(s) invited provided the Approved List criteria are satisfied (and the Regulations not contravened).~~
- ~~4.13 Subject to CPRs above Tenders should be invited using the Council's standard terms and conditions.~~

## PART 4 - RULES OF PROCEDURE

### 7. CONTRACT PROCEDURE RULES

Please follow the instructions below when procuring goods, services or works. These procedures aim to ensure the Council is achieving value for money and operating a fair, transparent and consistent approach to procurement.



Appendix [BA](#)

### GLOSSARY OF TERMS (including general procurement terms)

**Added Value** - Any benefits or services which can be provided over and above that of the contract requirements

**Aggregation of Demand** – Where similar or same purchases made separately over a period of time (and often from multiple suppliers) are combined into one contract requirement

Page [22 of 28](#)

**Alcatel (or Standstill) Period** – Contracts over the EU threshold must include a minimum [10 calendar days](#) standstill period between the decision to award a contract and the actual award. Unsuccessful suppliers are notified of the proposed award and given the opportunity to appeal if they believe that the award is not justified. It's named after the case law establishing a ruling of an unfairly awarded contract

**Approved List** – List of suppliers who have met a minimal level of quality assessments, usually through a pre-qualification questionnaire, or pre-approved list e.g. Constructionline database and approved to provide specific work, goods or services

**Approved Suppliers** – Suppliers included on approved lists

**Assignment** – The transfer of rights from one contractor to another on the basis of the same contract

**Audit Trail** – System or paper generated evidence showing how decisions and procedures were carried out

**Authorised Officer** – a person appointed by a Director who is responsible for the procurement Procedure

**Award** – The allocation of a contract to a successful bidder/contractor/supplier

**Award Stage** – Final stage of the tendering process, with notification of the successful supplier and the signing of the contract

**Bid** – A submitted tender

**Business Case (Procurement)** – The reasons for carrying out a procurement or project, usually indicating initial value, and justifying the need such an identified service need or meeting Council objectives

**Challenge Point** – a review of the evaluation process to ensure that the procedures and outcome of the evaluation process are fair, transparent and reflect the views of the evaluation panel

**Collaboration** – Process by which two or more 'organisations' (local authorities, other public sector bodies) work together to obtain a joint solution for a shared requirement. Used to capitalise on the advantages of aggregating demand, such as economies of scale or stronger positioning in the marketplace

**Collusion** – illegal process of agreeing to unfair activities in a procurement process, such as price fixing

**Commissioning** – the strategic activity of assessing need and using resources (both budgets and services) to meet those needs, with procurement forming part of commissioning for the sourcing and setting up contracts to provide services

**Competitive Dialogue** – Competitive dialogue is a procedure in which any economic operator may request to participate and whereby the contracting authority conducts a dialogue with the candidates admitted to that procedure, with the aim of developing one or more suitable alternatives capable of meeting its requirements, and on the basis of which the candidates chosen are invited to tender

**Concession** – an agreement between the Council and a private company for the sole right to provide a specific service

**Contingencies** – future events or circumstances which may occur

**Contract** – Legally binding document that sets out the terms and conditions of the delivery of the works, services or goods, including performance measures

**Contract Management** – Contract management activities can be broadly grouped into three areas.

**CFO** – Chief Financial Officer, the statutory Section 151 Officer, this is the Director of Corporate Resources

**Contract administration** – handles the formal governance of the contract and changes to the contract documentation.

**Contracts Finder** - Government portal for advertising contract valued above £25,000 as required by the Public [Procurement-Contract](#) Regulations 2015

**Contracts Register** – A register of Council wide contracts centrally held by Strategic Procurement

**Contract Award Notice** – Notice of the award of a contract published in the Official Journal of the European Union (OJEU) as required by EU legislation

[Contract Extension – continuing with the contract after the initial period of the contract term](#)

**Contract Procedure Rules** – The section of the Council's Constitution which sets out the rules which must be followed when undertaking any procurement process

**Council Wide Contracts** – contracts let on behalf of the Council to meet the requirements of good, services or works which are common or shared across the Council (previously referred to as Corporate Contracts)

**Criteria** – Set of specific requirements that a quote or tender will be marked against

**Delegated Authority** – Officers who have been authorised to carry out such tasks as set out in the Council's scheme of delegation contained within the Council constitution.

**Director** – The person responsible for the proper compliance with these procedures. Except as indicated otherwise, a Director may delegate authority to other persons to deliver their responsibilities.

**Disaggregation** – Splitting a requirement for similar works, goods or services into a number of smaller contracts to avoid having to undertake a full competitive tender exercise for contracts exceeding the EU thresholds. This practice is a breach of EU legislation

**Dispute** - Disagreement between Council and supplier or contractor which may result in Court action

**Doncaster Business** – A company or other organisation which has an office or premises within the Doncaster Metropolitan Borough Council area.

[Dynamic Purchasing System](#) - is a procedure available for contracts for works, services and goods that has aspects similar to a framework agreement, but where new suppliers can join at any time.

[Electronic Tendering \(E-Tendering\)](#) – Online tendering and contract management system

**EU Procurement Directives (EU Legislation)** – European procurement law enacted into UK law as the Public Procurement Regulations 2015, detailing rules and regulations that must be complied with for all public sector procurement processes that exceed specified thresholds

**Evaluation** – Detailed assessment and comparisons of bid submissions verifying how suppliers will meet the requirements of the contract, measured against quality and price criteria

**Evaluation Panel** – Group brought together with the specific aim of assessing submitted tenders against pre-set criteria, to make final recommendations on the award of contract.

**Exceptions** – Permits the undertaking of a procurement action within a specific area without the need for a competitive tender exercise, but signed by Assistant Director of Finance or the Director Corporate Resources and Finance.

**Execute** – the completion of contract documentation, including the signing, and sealing where required, of the formal contract

**Exemption** – excluding a procurement activity from one or more of the Contract Procedure Rules

**Framework Agreement** – Used where specific works, services or goods will be needed on a number of occasions over a known duration, but the exact requirement isn't known. Can be with a single supplier (sometimes referred to as a 'call-off' contract) or with a multiple number of suppliers. Once set up, there is no need to go to the open market as competition is held between those suppliers on the framework

**ISP** – In-House Service Provider is an identified internal service offered by the Council to carry out Council services

[ICT – Information, Communications and Technology](#)

**Invitation to Tender** – Sent to tenderers asking them to submit bids based on a specification, indicating the requirements of the Council.

**Joint Procurement** – Where other public bodies are included within a procurement exercise

**Key Decision** – A decision which is over £250,000 or affects 2 or more wards.

**Letter of Intent** – A written statement indicating the Council's willingness to enter into a formal contract

**Light Touch Regime** – The new light-touch regime (LTR) is a specific set of rules for certain service contracts that tend to be of lower interest to cross-border competition.

Those service contracts include certain social, health and education services, defined by Common Procurement Vocabulary (CPV) codes. The list of services to which the Light-Touch Regime applies is set out in Schedule 3 of the Public Contracts Regulations 2015

**Liquidated Damages** – Compensation awarded by a court judgement or a contract stipulation regarding breach of contract

**Marketplace** – Wording used to describe a commercial activity or a group of potential suppliers possibly able to meet requirements

**Negotiation** – Process by which a contract proposal is reached through discussion and agreement between the prospective contractor and the Council representative

**Negotiated Procedure** – Procurement process undertaken directly with one bidder. Used under specific circumstances

**Non-Commercial Consideration** – Non-financial concerns such as social and environmental factors

**Novation** – Substitution of a contractor with a new contractor, or of a contract with a new contract

**OJEU (Official Journal of the European Union)** – on-line publication advertising tender opportunities and publicising contract awards for the public sector in all EU Member states, the European Economic Area and the World Trade Organisation

**OJEU Notice** – published notice of tender opportunity or contract award in OJEU

**Open Tender Procedure** – Tender process which is open to any supplier who wishes to bid. All tenders must be considered

**PFI** – A Private Finance Initiative is a way of creating public – private partnerships by funding public infrastructure projects with private capital.

**Pre-Procurement Procedure** – A requirement for stakeholder to ensure they have correctly identified the needs of the service and outcomes have been assessed.

~~**Pre-Qualification Questionnaire** – Set of questions used to establish the suitability of a supplier to be included in a bidding process, based on experience, financial stability and quality assessments. Is also be used to eliminate bidders in a restricted (two stage) tender so that only the most suitable suppliers are invited to tender~~

~~**Procurement Code of Practice** – The document is an aid to understanding approaches and best practice approach to procurement activity.~~

**Qualified Tender** – Where a bidder submits a bid which has been amended to the bidders requirements, such as inserting their own terms and conditions

**Quotation** – Written or verbal price given by a supplier on request

**Remedies Directive** – EU legislation which sets out the rules by which the procurement actions and decisions may be challenged.

**Regulations** – EU Procurement Directives and the UK Public Procurement Regulations

**Relationship management** – keeps the relationship between the two parties open and constructive, aiming to resolve or ease tensions and identify problems early.

**Restricted Tender Procedure** – Tender process where potential suitable tenderers are identified by the evaluation of a pre-qualification questionnaire. Only those passing the evaluation criteria of the pre-qualification questionnaires will be invited to tender

~~[ProContract – Supplier, contract, management, system \(ProContract\) is an electronic e-tendering system used by Yorkshire Council's.](#)~~

**Service delivery management** – ensures that the service is being delivered as agreed, to the required level of performance and quality.

**Specification** – Detailed description of what is required, including monitoring procedures

**Stakeholder** – Individual or organisation with an active interest in the impact or effect of the Council's procurement activities

**State Aid** – Any Government aid must not distort competition by favouring certain businesses or goods

**Sub-Letting** – Engagement of another contractor by the main contractor

**Submission** – The bid or tender submitted by a supplier in response to an invitation to quote or tender

~~[Supplier – Any person, partnership, company or other organisation, which provides or contractually offers to provide any supply to the Council or on behalf of the Council.](#)~~

~~[Supplier Selection Questionnaire \(SSQ\) – Set of questions used to establish the suitability of a supplier to be included in a bidding process, based on experience, financial stability and quality assessments. Is also be used to eliminate bidders in a restricted \(two stage\) tender so that only the most suitable suppliers are invited to tender. This can only be used for above threshold procurements.](#)~~

**Sustainable Procurement** – the economic, environmental and social issues to be considered in procurement

**Tender** – Written response to an invitation to tender that contains a full costed proposal. Submitted in a sealed process, and evaluated against set criteria

**Tenderer** – Prospective supplier who submitted a bid in response to an invitation to tender or quote

**Tender Documents** – Set of documents provided to prospective tenderers which forms the basis on which tenders will be submitted. Includes, as a minimum, instructions to tenderers, contract terms and conditions, specification, evaluation criteria, pricing schedule, form of tender and anti-collusion statement

**Testing the Market** – Formal procurement process to establish whether there are suppliers able and interested in providing quotes or bidding

**Termination** – Cancellation of all or most of a contract.

**Thresholds** – Financial boundaries (based on the whole life value of a proposed contract) which determine the procurement action, for example whether a competitive tender is required, or whether an EU competitive action is required

**TUPE (Transfer of Undertakings (Protection of Employment) Regulations 2006)** - Preserves the continuity of employment and safeguards employment rights of all employees transferring to a new employer i.e. where there is a change of contract provider or where current Council staff are being transferred to another service provider

**Value for Money** – ensuring the needs of the Council are met whilst achieving the required balance of quality and price

**Variation** - A variation is usually a change to the specification. It may either be a one off item of work or service, or a change for the remainder of the contract. Deeds of Variation and Variation Orders are contractually binding on both parties.

**Waiver** – Approval obtained prior to procurement activity, by the CFO (or nominated deputy), permitting an exception to the Contract Procedure Rules.

**Whole Life Value** – All costs incurred in the lifespan of the contract, including disposal.

Further guidance is ~~also~~ available from the Strategic Procurement Team [\(SPT\) and the Contract Procedures Guide](#).

## Contract Procedures Guide

This guide should be read in conjunction with the Contract Procedure Rules (CPR's).

### Contents

- 1.0 How to Calculate the Total Contract Value**
- 2.0 Contracting Route Options**
  - 2.1 In House Suppliers**
  - 2.2 Council Wide Contracts or Frameworks**
  - 2.3 Dynamic Purchasing Systems (DPS) and Framework Contracts (Third Party Arrangements)**
  - 2.4 Council Framework Agreements and Dynamic Purchasing Systems**
  - 2.5 The Invitation to Tender/Quote**
    - 2.5.1 Submission, Receipt, Opening and Registration of Electronic Tendering**
    - 2.5.2 General**
    - 2.5.3 Evaluation of Tenders and Quotations**
    - 2.5.4 Errors in Tenders/Quotations**
    - 2.5.5 Post Tender Negotiation**
    - 2.5.6 Awarding Contracts**
    - 2.5.7 Debriefing**
- 3.0 Approved Lists (below EU threshold only)**
- 4.0 Joint Procurement**
- 5.0 Negotiated Contracts**
- 6.0 Concession Contracts**
- 7.0 General Data Protection Regulation**
- 8.0 Termination of Contracts**
- Appendix 1 Procurement Decision Table**

### 1.0 How to Calculate the Total Contract Value (links to CPR6.0)

Calculating the total contract value should include:

- Be estimated by reference to the gross value of the contract (including installation, supplier maintenance, options, and any income gained by all suppliers involved in the agreement)
- Assess the gross value of a Framework Agreement to be the reasonably estimated value of all supply contracts which may be made through it;
- Where the contract includes a fixed duration, cover the entire possible duration of the contract (i.e. including any options, such as extension periods or exit costs)
- Where the maximum contract duration is not certain, treat the contract as if it lasts 4 years
- Include any Grant funding
- Exclude VAT

### 2.0 Contracting Route Options (links to CPR 11.0)

#### 2.1 Using In House Suppliers (IHS)

Where an In House Supplier (IHS) is available, then this provider must be used. A full list of In House Suppliers is available on the Council's intranet page.

The Council will conduct a value for money review on IHS's including benchmarking the costs and services. Alternative arrangements will be considered, including external suppliers providing the goods, services or works and this must be formally approved by the relevant Director.

#### 2.2 Using Council Wide Contracts

Where the Council holds Council wide contracts on behalf of all services, officers are required to use those contracts.

Details of the current Council wide contracts are available on the Council's intranet page

There is no exemption from the use of Council wide contracts unless agreed by the CFO (or nominated deputy).

#### 2.3 Using Dynamic Purchasing Systems and Framework Contracts (Third Party Arrangements)

Contracts can be let through the use of a framework agreement let by another public sector body, such as public sector consortia or another Council, where these are available for the service or goods that are required. SPT maintain a list of such frameworks on the Council's Intranet page (see link)

The advice of SPT must be sought when using frameworks. SPT will provide a list of all appropriate frameworks that can be accessed for the works, services or goods required.

## APPENDIX C2 NEW CONTRACT PROCEDURES GUIDE

The framework provider will have set terms for using the framework offer such as performing a further competition exercise or how to direct award, SPT will assist to ensure correct call off arrangements

When using an approved framework agreement that has been validly set up to be called off on a non-competitive basis the direct award must make a written justification for the selection of the supplier. For direct awards above £250,000 the decision to execute the direct award must be approved by the CFO (or nominated deputy).

### 2.4 Council Framework Agreements and Dynamic Purchasing Systems

Framework suppliers must be chosen by a competitive process in accordance with the Contract Procedure Rules as if they were a goods, services or works contract (they must not be procured through a standing list, another framework agreement or a Dynamic purchasing system) and in accordance with the EU Procurement Rules.

All Framework Agreements will be in the form of a written contract detailing the method by which the Council will call off goods, services or works during the duration of the Framework Agreement and stating that there will be no obligation to order anything from a Framework Supplier.

Framework Agreements above the EU Threshold must be closed to new entrants and must not last longer than 4 years without this being justified in a written assessment of the exceptional factors present and the approval of the CFO

Contracts created through Framework Agreements must not be greater than 4 years in duration without being justified in a written assessment of the exceptional factors present and the approval of the CFO.

*Dynamic Purchasing Systems must be set up by an advertised competitive process which is approved by the Head of Procurement; and*

- remain advertised; and
- not limit the number of suppliers admitted to the system (but the system may be split into categories); and
- be set up with clear operative rules which involve obtaining quotations from all suppliers on the system, or on the relevant category on the system, as appropriate; and
- be operated wholly electronically; and
- be open to new entrants; and
- not last longer than 5 years.

When using Framework Agreements or Dynamic Purchasing Systems, the Council must follow the procurement rules set out in the Framework Agreement or the Dynamic Purchasing System.

The Head of Procurement will ensure that the use of Framework Suppliers and Dynamic Purchasing Systems provide value for money, considering all procurement costs and alternative approaches.

The Head of Procurement will maintain a list of all approved Framework Agreements and Dynamic Purchasing Systems (noting which of these comply with the EU Procurement Rules) which Service Directors are permitted to use.

## APPENDIX C2 NEW CONTRACT PROCEDURES GUIDE

### 2.5 The Invitation to Tender/Quote

The Invitation to Tender or Quote shall include details of the Council's requirements for the particular contract, the standard templates available from SPT should be used or those of the Third Party Framework provider if applicable. Other considerations when conducting a competitive process should be considered, these being:

- (a) The procurement timetable including the Tender/Quote return date and timescales. A reasonable period should be allowed for the applicants to prepare their Tender/Quotation and where applicable meet the minimum Regulation timescales;
- (b) A specification and instructions on whether any variant bids are permissible;
- (c) The terms and conditions for the contract must be sent with the Invitation to Tender/Quote. Standard forms such as JCT and NEC may be used for construction related contracts. For other contracts the Council's terms and conditions of contract should be used. If there is a request for the bidders to submit their terms and conditions or the contract is via a Third Party Framework Agreement terms and conditions these must be approved by the Head of Contracts, Property and Transformation.
- (d) The evaluation criteria including any weightings and or sub-criteria as considered appropriate;
- (e) Whether the Council is of the view that TUPE may apply;
- (f) if appropriate the form and content of method statements to be provided by the bidders;
- (g) rules for submitting of Tenders/Quotations (all Tenders/Quotations should state that the Council's preferred option is to have Tenders/Quotations submitted electronically where appropriate, when it is above EU Thresholds, as per Regulation 22, it is mandatory to provide and receive tenders/quotations electronically);
- (h) Consideration should also be given whether or not a performance bond should be required. This should be considered for all contracts over £500,000, and should only be specified following advice from legal services and finance.

#### 2.5.1 Submission, Receipt, Opening and Registration of Electronic Tendering

Requests for Quotations and Invitations to tender over £25k must be transmitted by electronic means using the Council's e-procurement system. This will:

- (a) Evidence and record successful transmissions
- (b) Securely store tenders/quotations under the control of the Head of Strategic Procurement to ensure that they are not opened until the deadline for receipt of quotations/tenders has passed.

#### 2.5.2 General

The design of the Tender/Quotation documents must be such that price documentation cannot be changed or substituted following submission of the Tender or Quotation.

## APPENDIX C2 NEW CONTRACT PROCEDURES GUIDE

Late Tenders, Quotations or Supplier Selection Questionnaires received after the specified date and time for their receipt cannot be considered by the Council unless the lateness is caused by the Council or other matters reasonably outside the control of the bidder and no unfair advantage is given to the bidder who submits late. Any decision to accept a late bid will be made by the Head of Strategic Procurement after such verification as he or she feels appropriate. Deadlines may be extended at any time prior to their arrival so long as this complies with the principle of equal treatment and non-discrimination between bidders.

All Tender/Quotation documents must be retained in line with the provisions set out at by the Council's records management policy and set out on the Council's intranet site.

*INSERT:* Pre-tender Submission Clarification

Prior to the tender bid submission deadline either the Council or a bidder may seek to clarify any aspects of the tender documentation. Adequate time must be allowed for both the clarification question and the response. Both the question and the answer must be in a log. Except in a very limited set of circumstances both the question (anonymised) and the response should be issued to everyone who has declared an interest to tender.

*INSERT:* In all procurements with a value of £181,302 or more the Council will only enter into a contract with a Supplier if it is satisfied as to the Supplier's eligibility, financial standing and technical capacity.

*INSERT:* The standard 'Supplier Selection Questionnaire (SSQ) should be used to assess a tenderer's ability to perform the contract being tendered (selection criteria) and must not be used to assess how a contractor will perform the contract (award criteria). For construction related contracts PAS91 should be used.

For all procurements with a value of over £181,302 the Council shall only enter into a contract with a supplier if it is satisfied as to the supplier's:-

- A.** Economic and financial standing
- B.** Technical ability and capacity
- C.** Insurance arrangements
- D.** Quality systems
- E.** Health and Safety Records
- F.** Environmental performance and compliance with environmental legislation
- G.** Compliance with all relevant legislation

When operating a procurement above EU thresholds the Council's standard form(s) of Supplier Selection Questionnaire (SSQ), applicable to the contract being procured, should be used (based on the selection questionnaire requirements of the procurement policy note 8/16) to establish the suitability and/or shortlist. Any variations to this must be agreed by SPT who will notify the relevant authorities as necessary (e.g. [mysteryshopper@crownccommercial.gov.uk](mailto:mysteryshopper@crownccommercial.gov.uk)).

*INSERT:* For all procurements under £181,302, a qualification stage must not be used, although key and proportional suitability questions linked to the subject matter of the contract should, as appropriate, be used to ascertain the suitability of the supplier.

*INSERT:* If there is intent to award a self-employed the Council's assessment tool should be used to ensure our obligations under IR35 are adhered to.

*INSERT:* Transfer of Contracts – novation and assignment

## APPENDIX C2 NEW CONTRACT PROCEDURES GUIDE

Transfer, assignment and novation of contracts can only be agreed by the Legal Department.

*INSERT:* For procurements below £181,302 Authorised Officer should assess whether it is necessary to assess a supplier's eligibility, financial standing and technical capacity. The assessment may be based on the contract type and risks associated if the contract failed to be delivered. Please note that two stage processes cannot be performed under PCR2015 and that the suitability assessment questions must be included as part of the quote/tender assessment.

### 2.5.3 Evaluation of Tenders and Quotations

The evaluation criteria with weightings shall be predetermined and approved by the relevant Head of Service and listed in the Invitation to tender/quote documentation. In addition, the published criteria shall be strictly observed (and remain unchanged) at all times throughout the contract award procedure.

Tenders subject to the Regulations shall be evaluated in accordance with the relevant Regulations and the evaluation criteria set out in the Invitation to Tender. Sub-criteria should also be listed – further advice is available from SPT. All other Quotations/Tenders shall be evaluated in accordance with the evaluation criteria set out in the Invitation to Tender.

All contracts, except contracts where lowest price was predetermined to be the only criteria, must be awarded on the basis of the offer which represents Value for Money for the Council.

Procurements can only be abandoned and re-tendered for proper justifiable reasons e.g. receipt of non-compliant bids so genuine competition cannot be obtained or funding is no longer available etc. It would be a breach of the Regulations if a tender was abandoned on the grounds that a particular Supplier was not the successful bidder and such action would leave the Council open to legal challenge.

*INSERT:* Social value should form part of the evaluation criteria for all procurements above £181,302 as a minimum of 10%. It should also be implemented in below threshold procurements where possible.

### 2.5.4 Errors in Tenders/Quotations

Errors in Tenders/Quotations must be dealt with either by asking the Supplier to confirm that they will accept the contract documentation as issued or if not withdraw the Tender/Quotation from the procurement process. Where a Supplier has made a genuine error they may be given an opportunity to correct that error within a strict time limit that represents the minimum time that a tenderer needs to make the correction. Other than where a procurement exercise is being carried out under the competitive dialogue or negotiated procedure, where fine tuning and clarifications are permitted, no other adjustment, revision or qualification is permitted.

Tender/Quotation documents must state how errors in Tenders/Quotations will be dealt with. All clarifications MUST be dealt with through the e-tendering system.

Suppliers regularly making errors should be warned appropriately.

## APPENDIX C2 NEW CONTRACT PROCEDURES GUIDE

### 2.5.5 Post Tender Negotiation

There are specific rules in the PCR2015 dealing with the negotiated procedure without publication of a notice, the competitive procedure with negotiation, the competitive dialogues procedures, the innovation partnership procedure and the procurement of Social and Other Specific Services (as defined in the PCR2015). Authorised Officers must seek advice from Legal and SPT when using these procedures.

Where procurements are conducted outside the Regulations, such as below threshold contracts, the CFO (or nominated deputy) may authorise negotiations if he/she considers that it is in the Council's interest to do so.

Negotiations shall be conducted on behalf of the Council by at least two appropriately trained officers (in correct procurement procedures) from the department concerned and a SPT or Legal representative. A full written record shall be kept of the results of the negotiations, signed by the Director or his or her nominee personally and the Contractor, and retained on a central file by the Director.

An amended tender, following negotiations, under this rule, may not be accepted unless it provides Value for Money to the Council.

At all times during the procurement process the Council shall ensure that all tenderers are treated equally and in a non-discriminatory and transparent manner.

#### INSERT: Clarifications, Presentations and Interviews

Clarity may be sought through planned presentations designed to assist in the understanding or verifying of submitted bids. Clarification questions may be asked during such presentations and prior scoring may be appropriately moderated (but the presentation itself must not be scored). All key information given in the presentation must be recorded thoroughly and any clarifications must be confirmed in writing.

Interviews and/or presentations which form part of the bid (rather than clarification of a submission) are discouraged and must be authorised by the Head of Strategic Procurement in writing. They must also be:

Comprehensively recorded; and

Assessed according to transparent and objectively verifiable criteria connect to the subject matter of the contract; and

Supervised by a senior procurement member of staff

### 2.5.6 Awarding Contracts

A contract shall only be awarded subject to the quote/tender evaluation criteria.

Where a Tender is to be evaluated on price only the Contract must be awarded to the Contractor submitting the lowest price.

Where the quotation/tender proposed for acceptance exceeds the estimated budget by more than 10% it shall not be accepted unless the Director has received written advice from:

- an authorised officer, explaining why the contract exceeds the budget; and

## APPENDIX C2 NEW CONTRACT PROCEDURES GUIDE

- the relevant Group Finance Manager has confirmed that adequate budgetary provision exists to cover the funding of the additional cost.

Where the scope of the original contract is to be reduced in order to fit within budgetary provision you will be required to re-enter negotiations with all contractors who have submitted a bid.

*INSERT:* All contracts awarded over £25k must have a contract award published via Contracts Finder.

### 2.5.7 Debriefing

Once a decision to award any contract, subject to the EU Regulations has been taken, the officer shall inform SPT and Legal services immediately in order for a 10 day standstill period to be implemented (i.e. a contract must not be entered into with the successful tenderer and neither goods, works or services may be performed or delivered to the Council during this period). It is also recommended that this occurs when using third party framework agreements for above EU threshold contracts.

Legal Services and the SPT will advise the officer on the preparation of a Regulation 86 letter. This is a specific letter that must be sent out to:

- The successful tenderer;
- any unsuccessful tenderer(s)

The Regulation 86 letter advises all tenderers of the result of the evaluation and as a minimum must:

- Name of Successful Tenderer (the 'Successful Tenderer')
- The score obtained by the winning bidder.
- The score obtained by the recipient of the letter/notice
- Criteria for the Award of the Contract
- Reasons for the decision including characteristics and relative advantages of the Successful Tenderer and scores
- Date when standstill period is expected to come to an end [and if relevant how the timing of its ending might be effected by any contingencies]
- Date before which the Council will not enter into the contract or conclude the framework agreement:

### 3.0 Approved Lists (below EU threshold only)

Approved lists may only be set in agreement with the CFO (or nominated deputy) and in line with the Contract Procedures Guide on setting up approved lists.

Where authorised approved lists have been set up, Directors shall ensure that these are regularly reviewed and agreed with the CFO.

Before drawing up an approved list it should be advertised and expressions of interest should be invited for suppliers to become members of the approved list for the particular type of contract. The officer establishing the approved list should ensure that the approved list is

## APPENDIX C2 NEW CONTRACT PROCEDURES GUIDE

advertised in such a manner so as to ensure that it will be visible by Doncaster Businesses also using Contracts Finder and the e-tendering portal. An approved list shall:

- Set out the criteria for inclusion, suspension and exclusion from the list including but not by way of limitation:
  - Economic and financial standing
  - Technical ability and capacity
  - Insurance arrangements
  - Quality systems
  - Health and Safety Records
  - Environmental performance and compliance with environmental legislation
  - Compliance with all relevant legislation
  - Transparency/basis of appointment
- Indicate the categories of contracts for which the suppliers listed may be invited to quote/tender
- Be reviewed at regular intervals of not less than one year or more than four years

Approved lists must be operated so as to ensure that all suppliers on the list are given a reasonable opportunity of submitting quotations or tenders for appropriate contracts let by the Council from time to time.

Approved lists **must not** be used for any procurement exercise over the EU procurement thresholds (which are currently set at £181,302 for goods and services, £615,278 for contracts under the Light Touch Regime and £4,551,413 for Works contracts).

### 4.0 Joint Procurement

When undertaking a joint procurement arrangement, on behalf of the Council, the Director must ensure the other public bodies that are to be included in that arrangement are listed in the contract advertisement and contract documents. The value estimate given must include the potential usage of that joint arrangement by those public bodies listed.

When using third party joint contracting arrangements that takes any degree of control the Director should ensure appropriate Due Diligence steps are taken to ensure that all arrangements are appropriate and compliant.

### 5.0 Negotiated Contracts

Situations where there may be a need to consider negotiations are:

- Following the receipt of quotations for the contract, it is necessary to seek to reduce the overall cost, or change other terms of the contract by negotiation with one or more suppliers who have submitted quotations.
- It is necessary to negotiate a repeat, continuation or serial contract with an existing supplier, by reference to the original quotation.
- The use of another local authority as a supplier of services by its own labour or as a procurement agent acting on behalf of the Council without competition is appropriate (although subject to EU Procurement Rules)

### 6.0 Concession Contracts

Concession contracts for services or works are a supply contract and the procurement of Concessions shall follow the competitive and contracting requirements in these CPRs.

Concession contracts for works or services with a value of £4,104,000 or more are subject to the Public Concessions Regulations 2016 and will be such to such additional procurement process requirements. To calculate the value of a Concession contract refer to CPR 6.4 and in addition to that the following should be taken into account:

The value of a Concession contract shall be the total turnover generated by the concessionaire over the duration of the contract, net of VAT, in relation to the services or works that are the object of the Concession contract. The Director should take into account: -

- The value of any form of option and any extension to the duration of the contract;
- Revenue from the payments of fees and fines by the users of the contract other than those collected on behalf of the Council
- Payments or any financial advantages from the Council or other public authority to the suppliers
- The value of grants or any other financial advantages from third parties in relation to the performance of the contract
- Revenue from sales of any assets which are part of the contract
- The value of all supplies and or services that are made available to the supplier that are necessary to execute the contract

### 7.0 General Data Protection Regulations (GDPR):

Where any Supplier is given possession of or access to any personal data, the Service Director must comply with the Council's Data Protection obligations. The Service Director must follow the Council's Information Security and Data Protection Policies, in particular regarding contracting with data processors and sharing data, and carry out a Data Protection Impact Assessment (DPIA) in consultation with the Information Governance Team. The Service Director must ensure that:

- A. a DPIA is completed
- B. the Supplier is verified as suitable to be trusted with the personal data before allowing access to the data;
- C. appropriate guarantees of the security of the personal data are included within a written contract;
- D. the performance of the contract is appropriately monitored;
- E. appropriate steps are taken to enforce the contract where the information security guarantees are not being met;
- F. appropriate steps are taken to minimise as far as possible the impact of a breach of data security.
- G. arrangements that appropriately deal with the transfer, return or deletion of the information at the end of the contract are established.
- H. All contracts that involve the processing or sharing of personal data must be reported to the Information Governance Team, who will keep a log of these contracts.

## **8.0 Termination of Contracts**

Provision for the termination of a contract must be included within the terms and conditions of the contract. Only the Assistant Director of Legal and Democratic Services has the authority to agree early termination of a contract where this is not built into the contract terms and conditions.

The CFO must be consulted where there are serious concerns over the performance of a contract.

The Assistant Director of Legal and Democratic Services must be consulted if the performance of a contract is giving rise to concern and consideration is given to termination.

INSERT An Exit Plan, which can cover one or more Contracts, must be prepared for every contract well in advance of contract expiry. It is recommended that this should be put in place at least 6 months in advance in order to allow for the approvals and pre-planning process and any re-procurement.

DRAFT

INSERT: Appendix 1 Procurement Decision Table

Page 81

Total Contract Value (£)		Type of Contract	Procurement Process	Procurement Route Options	Min. No. Suppliers required to bid	Advertising Requirements Contract Opportunity	Advertising Contract Award	Restricted market testing permitted	Involve SPT	Reg 84 Report	Internal Contract Award Notice
From	To										
£0	£25,000	ALL	1st - IHS (In-house Supplier) 2nd - Corporate Contract or Framework Agreement 3rd – Direct Award or Informal Quotation (Doncaster company preferable ensuring best value)	Direct Award or Informal Quotation	1	NO	NO	YES	NO	NO	YES (above £5k)
<b>Any contract over £25,000 must be procured via the ProContract system</b>											
£25,000	£181,302	Goods Services Works Social & Other Specified Services (Light Touch Regime)	1st - IHS (In-house Supplier) 2nd - Corporate Contract or Framework Agreement 3rd – Third Party Framework Agreement or Procurement Exercise (ITQ or RFQ)	Third Party Framework		NO	Contracts Finder	YES	YES	NO	YES
				Open Quotation: (RFQ) Low Risk Contract or (ITQ) High Risk Contract	3	ProContract Contracts Finder (open quotation only)	Contracts Finder				
				Restricted Formal Quotation: (RFQ) Low Risk Contract or (ITQ) High Risk Contract							
£181,302	£615,278	Social & Other Specified Services (Light Touch Regime)	1st - IHS (In-house Supplier) 2nd - Corporate Contract or Framework Agreement 3rd – Third Party Framework Agreement or Invitation to Tender (ITT) (at least one from a Doncaster company)	Third Party Framework		NO	Contracts Finder	YES	YES	NO	YES
				Open or Restricted Invitation to Tender (ITT)	3	ProContract Contracts Finder (open tender only)	Contracts Finder				
£181,302	£4,551,413	Works	1st - IHS (In-house Supplier) 2nd - Corporate Contract or Framework Agreement 3rd – Third Party Framework Agreement or Invitation to Tender (ITT) (at least one from a Doncaster company)	Third Party Framework		NO	Contracts Finder	YES (Framework Suppliers)	YES	YES	YES
				Open or Restricted Invitation to Tender (ITT)	3	ProContract Contracts Finder (open tender only)	Contracts Finder	NO			
£615,278	+	Social & Other Specified Services (Light Touch Regime)	1st - IHS (In-house Supplier) 2nd - Corporate Contract or Framework Agreement 3rd – Third Party Framework Agreement or Invitation to Tender (ITT)	Third Party Framework		NO	Contracts Finder	YES (Framework Suppliers)	YES	YES	YES
				Open Restricted DPS Competitive Dialogue Competitive Procedure with Negotiation Innovation Partnership		ProContract OJEU Contracts Finder	OJEU Contracts Finder	NO			
£181,302	+	Goods Services	1st - IHS (In-house Supplier) 2nd - Corporate Contract or Framework Agreement 3rd – Third Party Framework Agreement or Invitation to Tender (ITT)	Third Party Framework		NO	Contracts Finder	YES (Framework Suppliers)	YES	YES	YES
				Open Restricted DPS Competitive Dialogue Competitive Procedure with Negotiation Innovation Partnership		ProContract OJEU Contracts Finder	OJEU Contracts Finder	NO			
£4,551,413	+	Works	1st - IHS (In-house Supplier) 2nd - Corporate Contract or Framework Agreement 3rd – Third Party Framework Agreement or Invitation to Tender (ITT)	Third Party Framework		NO	Contracts Finder	YES (Framework Suppliers)	YES	YES	YES
				Open Restricted DPS Competitive Dialogue Competitive Procedure with Negotiation Innovation Partnership		ProContract OJEU Contracts Finder	OJEU Contracts Finder	NO			

This page is intentionally left blank