



City of Doncaster Council

Agenda

To all Members of the

AUDIT COMMITTEE

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

Venue: Council Chamber, Civic Office, Waterdale, Doncaster, DN1 3BU

Date: Tuesday, 12th September, 2023

Time: 2.00 pm

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Damian Allen
Chief Executive

Issued on: Monday, 4 September 2023

Governance Services Officer for this meeting: Andrea Hedges
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City of Doncaster Council

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Items for Discussion:

Page No.

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.
4. Revisions to the Council's Contract Procedure Rules and Financial Procedure Rules. 1 - 112

Members of the Audit Committee

Chair – Councillor Austen White

Vice-Chair – Councillor Glenn Bluff

Councillor Sue Farmer, John Healy and Dave Shaw.

Co-opted Member: Dr Stuart Green



Report

Date: 12th September 2023

To: Members of the Audit Committee

REVISIONS TO THE COUNCILS CONTRACT PROCEDURE RULES AND FINANCIAL PROCEDURE RULES

EXECUTIVE SUMMARY

1. This report outlines proposed revisions to the Council's Contract Procedure Rules (CPRs) and the Financial Procedure Rules (FPRs). As these documents form part of the Constitution, they require the endorsement of the Audit Committee, prior to approval by full Council, anticipated on the 21st September. The proposed revisions are set out in detail at Appendices 1a and 2b and the aim is to:
 - a) To ensure the CPRs offer best practice contracting opportunities, deliver effective governance and are legislatively compliant.
 - b) To ensure the FPRs provide greater clarity to managers, are practical to use and ensure financial decision making is made at the appropriate level.

EXEMPT REPORT

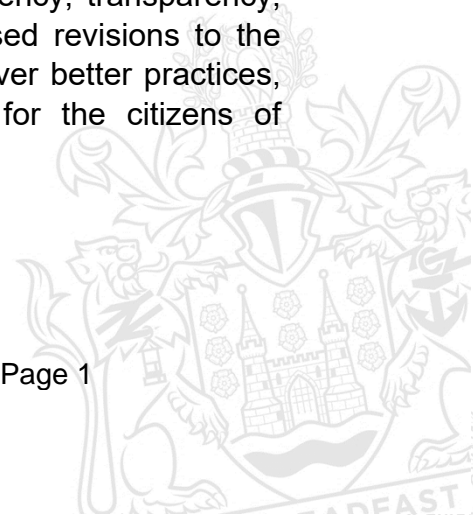
2. This report is not exempt.

RECOMMENDATIONS

3. The Audit Committee is requested to endorse the proposed revisions to Contract Procedure Rules (CPRs) and Financial Procedure Rules (FPRs), as outlined within Appendices 1 to 2 to the report prior to approval by full Council. Following approval of the revisions by full Council the revised documents be incorporated within the Council's Constitution.

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 to be followed that ensures efficiency, transparency, and accountability to the citizens of Doncaster. The proposed revisions to the Procedure Rules, outlined in this report, are intended to deliver better practices, and facilitate the Council in achieving value for money for the citizens of Doncaster.



BACKGROUND

Revisions to the Contract Procedure Rules (CPRs)

5. The CPRs are found in Part 4, Section 7 of the Council's Constitution. It is proposed that the CPRs are revised as per Appendix 1b. The changes are tracked in Appendix 1a.
6. Council last agreed changes to the CPRs in May 2019 and the CPR thresholds have remained unaltered since. The higher thresholds are determined by the Procurement Contract Regulations 2015 (PCR2015), these thresholds were changed in January 2022. Nationally Inflation is currently running exceedingly high (*May 2023 RPI 11.3% and CPI 8.7%*), meaning that relatively low value contracts, that would have traditionally been dealt with by way of an informal quotation or direct award process, must now be dealt with by formal quotations, this has reduced the ability for officers to demonstrate flexibility and mitigate rising costs and is having a negative impact upon resources. It is believed that increasing this threshold will have a positive impact upon the Council's contracting activity.
7. The Audit Committee receive six-monthly reports from the Head of Procurement on the Council's compliance to the CPRs. At the Audit Committee in April 2023 there was discussion on the thresholds that was a result of the report on waivers and breaches. An action was taken by the Head of Procurement to review the CPRs to ensure the threshold levels are appropriate considering the inflation situation and increasing number of contracts breaching the £25k threshold that would normally be below.
8. The changes being introduced will provide greater opportunity to encourage local suppliers to be awarded contracts through a more flexible approach.
9. Proposed changes will enhance procurement practices and allow greater flexibility in the letting of contracts. Currently officers can award via one verbal quotation contract valued up to £25,000, the proposal is to increase this to £50,000 but with protections in place for those contracts between £25,000 and £50,000. All contracts will still be registered above £5,000 in accordance with the Local Government Transparency Code and any that are awarded between £25,000 and £50,000 will have to have a Best Value Form accompanying the award to demonstrate that value for money has been sought and achieved in awarding the contract to a successful supplier. Officers will still be encouraged to obtain informal quotations below the £50,000 threshold but there will be no requirement to conduct a formal process. The benefits of this allow for:
 - a) Negotiations to take place on contracts below £50,000 as part of a process that is informal, currently a negotiated approach is difficult to implement via a formalised quotation process.
 - b) Increased flexibility for officers to award to local companies, currently officers must obtain quotations from a minimum of 3 suppliers, there may

not always be that number of local suppliers and they may need to seek quotations out of area which could lead to an award out of area.

- c) Inflation is currently running exceedingly high meaning that contracts that would have traditionally fallen below £25,000 are now tipping over into the next threshold. This will increase the number of contracts that must go through a formal process hence increasing the resource requirements that have remained static. In addition to this, allowing flexibility will allow for better mitigations where inflation threatens to significantly increase a contract cost as a competition can lead to increased contracting costs.
- d) Allowing contracts to continue that are demonstrating value for money and effective delivery, this would need to be proven via the Best Value Form. This form would give assurance that best value was achieved and challenged appropriately.
- e) In 22/23 **51** contracts out of a total of **653** awarded were between £25,000 and £50,000 which equates to **8%**.

10. CPR Waivers are a governance tool that allows officers to award a contract without competition if the award can demonstrate the permissible waiver rationale. There are currently four rationales, the proposal is to extend this to seven with more narrative to avoid ambiguity and give decision makers and the Audit Committee better data on awards via the waiver process. The existing four rationales are still within the proposed expanded seven. Examples of the changes include:

(c) an organisation which has won a contract for an earlier phase of work via a competitive process and where the work forms part of a serial programme that could not have been identified when the contract was let.

This has come about over recent years and is currently captured under one of the four rationales; 'Forms part of a wider strategic programme,' but the wording above gives more detail on the exact reason. This has been an issue on occasion, for example when the Council has received additional grant funding that was not known/offered at the time the original contract was awarded then it has been covered under the current rationale but is ambiguous, new wording would be more specific.

Another example of a new waiver rationale that will reduce ambiguity is;

(e) the use of time-limited grant funding from an external body, where the time limitations will not allow a competitive procurement process to be completed and where the grant conditions allow this.

This is an issue and again the current rationale used that is 'emergency situation' is ambiguous, so to be more specific the above narrative will cover this situation. This has become more of an issue over recent years, grant funding conditions do not always allow for a full procurement process and gives a specific date by which the funding must be spent and if the authority

fails to do this would result in clawback of funding. The authority would assure themselves that the grant funding conditions allow for a direct award.

11. In section 17.0, the threshold when Social Value is mandatory as a minimum of 10% in the evaluation criteria has been decreased from £177,898 to £100,000. The Council have a Social Value Procurement Policy and is delivering social value gains through contracting. This amendment will further these gains and ultimately benefit the citizens of Doncaster. In June 2023, the Council have £18,585,006 social value commitments in existing contracts awarded and £2,975,561 has been delivered. Based on 22/23 contract awards, this would have increased the number of contracts captured by 56.
12. The other amendments made are of a technical and operational nature i.e., Point 19.0 where there has been a movement of ICT to the Assistant Director of Finance resulting from the Functional Realignment programme.

Revisions to the Finance Procedure Rules (FPR's)

13. The FPRs are found in Part 4, Section 6 of the Council's constitution. It is proposed that the FPRs are revised as proposed in Appendix 2b. The changes are tracked in Appendix 2a.
14. The proposed changes to the FPRs fall broadly into two categories;
 - 14.a) Minor changes throughout the document to reduce ambiguity and/or to reinforce governance and ensure the procedures can be applied in practice, for example:
 - Changes to reflect that the onus is on Budget Holders to provide financial projections (FPR B.5);
 - Inserting the Key Decision definition to the glossary of the FPRs, so that the term referred to throughout is defined when the FPRs are used as a standalone document. The definition has been taken directly from the Constitution;
 - Explanation that a lease is considered to be a disposal Under Section 123 of the Local Government Act 1972 and the granting of a lease at less than best consideration is therefore dealt with as a disposal at less than best consideration, given these points may not be immediately obvious to the reader (FPR C.20 and FPR C.25);
 - Amendments to cover how additional resources for approved capital projects are dealt with (FPR B.9);
 - Clarity on approval routes for new fees and charges or changes to fees and charges, proposed in year (FPR B.16);
 - Streamlining the information required when granting funds to outside bodies to make the process more practical, with a general right for the Council to access records and financial information as and when required (FPR E.18).

14.b) Changes in respect of External Funding:

- Amended to clarify that acceptance and/or commitment for capital funds received are subject to the key decision threshold of £1m, if it is explicit in the grant determination that the funding is capital (FPR E.9);
- Acceptance and/or commitment to funds received in year that are used to replace funding on existing approved activity (i.e. a funding swap) can be approved by the CFO and will not be subject to key decision rules (FPR E.10). This addition will enable the CFO to perform 'funding swaps' to maximise the Council's resources. The governance around activity will remain unchanged, i.e. funds will only be used on existing approved activities and the nature of the funding will not change the scope of the activity from that approved;
- Acceptance and/or commitment relating to external funding from Government, where the Council has no choice but to accept the funds and where the Council must spend or passport the funds as directed by Government can be approved by the CFO and will not be subject to key decision rules (FPR E.11). This addition is in response to situations where Government have made funding available through local authorities, such as the £150 energy rebate, and will enable the Council to comply with Government directives in a timely manner.

15. The Council's Articles are included in Part 2 of the Constitution and set out the basic rules for governing the Council's business. Article 8 "Decision Making" provides a full definition of a key decision including at Article 8.03 (iii). those instances when a decision may appear to meet the required threshold but is not to be treated as a key decision. This section of the Constitution would need to be updated as a consequence of agreeing those aspects of FPR E10 and FPR E11 detailed at paragraph 14 b above, which identify occasions when key decision rules may not apply.

OPTIONS CONSIDERED






16. 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 the Constitution.




REASONS FOR RECOMMENDED OPTION

17. Amendments are recommended as outlined in the report with the associated benefits. The Council must react and be proactive to situations that present and affect contracting activity with third parties.

IMPACT ON THE COUNCIL'S KEY OUTCOMES

18.

Great 8 Priority	Positive Overall	Mix of Positive & Negative	Trade-offs to consider – Negative overall	Neutral or No implications
 Tackling Climate Change				✓
Comments:				
 Developing the skills to thrive in life and in work	✓			
Comments: Local spend can be enhanced through increasing flexibility in low value contracting opportunities.				
 Making Doncaster the best place to do business and create good jobs	✓			
Comments: Local spend can be enhanced through increasing flexibility in low value contracting opportunities.				
 Building opportunities for healthier, happier and longer lives for all	✓			
Comments: Local spend can be enhanced through increasing flexibility in low value contracting opportunities.				
 Creating safer, stronger, greener and cleaner communities where everyone belongs				✓
Comments:				

 Nurturing a child and family-friendly borough				✓
Comments:				
 Building Transport and digital connections fit for the future				✓
Comments:				
 Promoting the borough and its cultural, sporting, and heritage opportunities				✓
Comments:				
Fair & Inclusive				✓
Comments:				

19. Legal Implications [Officer Initials: SRF | Date:07.07.23]

It is considered prudent and a matter of best practice for a Council to have a strong set of both Financial Procedure Rules and Contract Procedure Rules. Legal advice has been provided on the content of the proposed documents presented to Council as part of this report. There are no specific legal implications arising from the proposed changes to Procedure Rules. In accordance with the Constitution, the proposed changes have been discussed with both the Council's Audit Committee and Elections and Democratic Structures Committee. As these are changes to the Council's Constitution, a decision of Full Council is required to agree the revisions.

20. Financial Implications [Officer Initials: CT | Date: 07/07/2023]

There are no financial implications as a direct result of this report.

In respect of proposed changes to the CPRs, removing the competitive element for contracts under £50k could arguably reduce value for money, albeit on a low number

of contracts, however this is expected to be mitigated by the improved ability to negotiate and greater social value through increased awards to local contractors.

In respect of the FPRs, the proposed changes will assist staff in the proper application of the procedure rules and in some cases will provide a timelier process for administering funding on behalf of Government.

21. Human Resources Implications [Officer Initials: __ | Date: _____]

N/A

22. Technology Implications [Officer Initials: __ | Date: _____]

N/A

RISKS AND ASSUMPTIONS

23. Failure to have robust governance that enhances practice and protects could have significant risks to the Council that could be financial, reputational and legal.

CONSULTATION

24. Senior leadership and key stakeholders have been consulted with on the proposed changes.

BACKGROUND PAPERS

25. N/A

GLOSSARY OF ACRONYMS AND ABBREVIATIONS

26.

Contract Procedure Rules (CPRs)

Finance Procedure Rules (FPRs)

Public Contract Regulations (PCR2015)

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PART 4 RULES OF PROCEDURE

7. CONTRACT PROCEDURE RULES

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25.0	Procurement by External Agents
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	Appendix A – Glossary of Terms

PART 4 RULES OF PROCEDURE

7. CONTRACT PROCEDURE RULES

SECTION 1 – SCOPE OF CONTRACT PROCEDURE RULES

1.0 Introduction

- 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.’¹
- 1.2 These Contract Procedure Rules outline the policy and procedures for the procurement activities across the Council that includes ordering for the purchase, commissioning, hire and lease of goods, services and works on behalf of the Council.
- 1.3 Compliance with the Contract Procedure Rules ensures that:
- All 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, providers 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.
 - The Council complies with Public Procurement Regulations (“the 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 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 on behalf of the Council and should be read and complied with for any procurement 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 other Procurement Guides in order for Council employees to discharge their responsibilities accordingly.

¹ Source – National Procurement Strategy for Local Government

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 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 Provider 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; **or**
- d. ~~carry out investigate conducting~~ a Council procurement process (c and d should be conducted simultaneously to ensure the best route to market is obtained)

3.0 Procedures for **Community Schools**

3.1 Governing bodies, in association with Head Teachers and Management Teams, are required to use the ~~Council's Contract Procedure Rules~~ Council's Schools Financial Rules – Contract Procedures 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
- 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 Public Procurement

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 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 to avoid any distortion of competition and to ensure equal treatment of all providers.
- 4.6 Any Officer, Member or other person acting on the Council's behalf in relation to a procurement or purchase 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 Procurement and recorded.

5.0 Procurement Plan and Contracts Register

- 5.1 The Council's Strategic Procurement Team (SPT), in conjunction with Directorates, may publish Prior Information Notice's using the Find a Tender Service (FTS) detailing the contracts for goods, services and works, which it expects to procure in the coming financial year.
- 5.2 Directors shall ensure that all contracts to be procured over the Public Procurement thresholds as stated in CPR 17.5 per annum are notified to SPT and are registered on the procurement forward plans.
- 5.3 Each Director shall ensure that they notify the SPT of any contracts awarded, extended or novated extended, novated, or materially varied linked to Regulation 72 of the PCR2015 (SPT will advise) so that SPT may update the Contracts Register and publish any required notices.

6.0 Contract Value

- 6.1 When contracting goods, services or works, a genuine assessment of the whole life value of the contract or framework agreement must be undertaken. (Refer to the **Contract Procedures Guide** for further guidance on how to calculate).
- 6.2 If the project can be demonstrated as truly, innovative and an estimate cannot be, provided approval to proceed must be obtained from the Monitoring Officer 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 goods, services or works shall not be 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**)
- 6.5 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 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 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 goods, services or works.

This includes arrangements for:

- The purchase, hire 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:

- Employment contracts (permanent, interim or casual). For the avoidance of doubt, the appointment of recruitment services is subject to the CPRs.
- Contracts relating to the disposal or acquisition of an interest in land (except those involving development agreements)
- 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 social care contracts where the recipient of care has a personal choice and directly contracts with the care provider including direct payment including under sections 31 – 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 provider whose use is a condition of a Grant funding approval.
- Where only one provider is able to supply for technical or artistic reasons or because of exclusive rights, for example the purchase of work of art, museum artefacts, manuscripts or archive collections items
- Grant funding in line with the Financial Procedure Rules part E15, E16, E17 and E18
- Licence agreements of private or public land
- Partnership Agreements made under Section 75 of the National Health Service Act 2006 and payment by and to NHS Bodies made under Section 76 and 256/257 of the NHS Act 2006
- Supplies purchased or sold in a public market or auction

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 or, written means (including by email) 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 All construction related contracts must be executed as a deed (under seal)

8.7 Letters of Intent will only be issued in very exceptional circumstances following consultation and approval of the Assistant Director of Legal and Democratic Services.

8.8 The Council may enter into nil (cash) value contracts and the Council's Contract Procedure Rules will still apply in this case.

8.9 Providers undertaking procurement activity on behalf of the Council must comply with the Council's Contract Procedure Rules.

8.10 Any lease, hire 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 Monitoring Officer (or nominated deputy), after considering a written report by the appropriate Director.

9.2 A register of all exemptions will be maintained by the Monitoring Officer.

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

10.0 Waivers to the Contract Procedure Rules

10.1 Waivers to the CPRs may be permitted when the CPRs cannot be practicality applied, and the award meets one of the following circumstances:

- a) ~~Where the Director is able to demonstrate that only one specialist firm is able to meet the requirement~~For works, goods or services which are either patented or unique that it is not possible to obtain competitive prices or are only available from one organisation
- b) ~~For the execution of works or services or the purchase of supplies involving specialist or unique knowledge or skills.~~
- a)c) ~~An organisation which has won a contract for an earlier phase of work via a competitive process and where further work is required that could not have been identified when the contract was let or to allow safe exit or decommission.~~
- d) ~~Reasons of urgency where it is otherwise not~~ Circumstances involving such urgent that it is not reasonably possible to comply with the appropriate CPR requirement (for example an emergency). Even in such circumstances as an emergency, but officers must continue to seek and obtain value for money everywhere possible. ~~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~~
- b)e) ~~The use of time-limited grant funding from an external body, where the time limitations will not allow a competitive process to be completed and where grant conditions allow this.~~
- e) ~~To allow for the safe exit from a contract or to decommission~~
- f) ~~Forms part of a wider strategic programme of works~~Where relevant UK or EU legislation not otherwise referred to in these CPR's prevent the usual procurement process as cited in the CPR's.
- d)g) ~~Is permissible under Regulation 72 of the PCR2015.~~
- e)h) ~~Constitutes a trial purchase in line with point 14.0~~

10.2 Only the Monitoring Officer (or nominated deputy) has the authority to waive Contract Procedure Rules or the Chief Financial Officer (CFO) in respect of waivers for ~~for~~ Legal and Democratic Services ~~waivers.~~

10.3 Waivers must be obtained in advance of the procurement action as a waiver cannot be authorised retrospectively unless in an emergency- (CPR 10.1 (d)) ~~situation.~~

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 to procure. Procurement projects should be planned well in advance.

~~10.5 Requirements of UK Public Procurement Law or any other relevant law or external regulatory framework cannot be waived unless in exceptional circumstances and in line with the law on direct awards i.e. Regulation 32, or contract variations.~~

~~10.6~~ 10.5 Waivers for goods & services contracts can only allowed up to the value, exclusive of VAT, of **£177,898 (£213,477 inc. VAT), £552,950 (inc. VAT £663,540)** for contracts under the Light Touch Regime (Social & Other Specified Services) and **£4,447,488 (£5,336,937 inc. VAT)** (or current Public Procurement thresholds) for works contracts unless in exceptional circumstances and in line with the law on direct awards i.e., Regulation 32, or Regulation 72.-

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

10.7 Waivers must demonstrate any risks to the Council associated with granting the waiver.

10.8 Waivers must be documented in a form approved by the Monitoring Officer; this is available on the Council's intranet and must be submitted to 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 Service Providers

11.2 Using Council Wide Contracts, Council Framework Agreements or Council Dynamic Purchasing Systems (DPS).

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

11.4 Council Framework Agreements and Dynamic Purchasing Systems (DPS) Perform a quotation or tender exercise to set up a new contract on behalf of the Council.

12.0 Approved Lists (below Public Procurement threshold only)

12.1 Approved lists may only be used in agreement with the Monitoring Officer (or nominated deputy) and in line with the **Contract Procedures Guide** on setting up approved lists.

13.0 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**.

14.0 Trial Purchases

14.1 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.

14.2 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.

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

14.4 The Monitoring Officer must approve proposed trial arrangements exceeding **£25,000** and this must be approved via a CPR Waiver Form.

15.0 Negotiated Contracts

- 15.1 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 Public Procurement thresholds. Refer to the **Contract Procedures Guide** for further information on when it is appropriate.
- 15.2 The use of a negotiated process must be approved in writing by the Monitoring Officer and the relevant Director via an Officer Decision Record 1 (ODR1) Form.
- 15.3 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 Monitoring Officer (or nominated deputy).
- 15.4 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 Public Procurement regulations and the advice of the SPT sought.

16.0 Concession Contracts

- 16.1 Concession contracts for services or works are a contract and the procurement of Concessions shall follow the competitive and contracting requirements in these CPRs.
- 16.2 Concession contracts for works or services with a value of **£4,447,447 (£5,336,937 inc. VAT)** or more are subject to the Concession Contracts 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, in relation to the services or works that are the object of the Concession contract. For further guidance, refer to the **Contract Procedures Guide**.

17.0 Contracting Rules based on value (exc. VAT) and commodity being procured

For further guidance on the below refer to the **Contract Procedures Guide**

17.1 Contracts valued up to **£2550,000 inclusive**

- Where the estimated value or amount of a proposed Contract does not exceed **£2550,000** then the Authorised officer should obtain at least **one** verbal quotation from suitable providers followed up by written confirmation (including email). Officers are encouraged to conduct an informal quotation exercise to ensure value for money.
- For contract awards between £25,000 to £50,000 officers must formally demonstrate value for money, are advised to seek quotations. A Best Value Form (available from SPT) must be completed on contract awards and sent with the Contract Award Notice to SPT. These will be audited to ensure best value was sought and achieved.
- A quotation ~~should~~ must be sought from a Doncaster based business unless in exceptional circumstances. Whilst there is only a requirement for

one quotation, the Authorised Officer must consider whether additional quotations are in the Councils best interest.

- [A written record must be kept of all quotations and procedures followed.](#)
- An internal Contract Award Notice must be completed for all contracts above £5,000 and submitted to SPT to meet the requirements of the Regulations and Transparency Agenda

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

17.2 Contracts ~~valued~~ [valued £25,000](#) to £177,898 – Quotation

- Between these values, the requirement is to obtain at least **three** written quotations from suitable providers. Wherever possible a minimum of one of the quotations must be sought from a Doncaster Business [unless in exceptional circumstances. \(such circumstances to be detailed on the internal Contract Award Notice\).](#)
- 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.](#)
- [Social value must form part of the evaluation criteria for all procurements above £100,000 and must be a minimum of 10% of the evaluation score.](#)
- An internal Contract Award Notice must be completed for all contracts above £5,000 and submitted to SPT to meet the requirements of the Regulations and Transparency Agenda

17.3 Contracts ~~valued~~ [valued £177,898](#) to £552,950 (Social & Other Specified Services)

- A minimum of **three** tenders should be sought from suitable providers. Wherever possible a minimum of one tender must be sought from a Doncaster Business [unless in exceptional circumstances.](#)
- 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 provider(s) and if above **£250,000** the decision to execute the direct award must be approved by the Monitoring Officer (or nominated deputy).
- Social value must form part of the evaluation criteria for all procurements above ~~£177,898~~ [£100,000](#) and must be a minimum of 10% of the evaluation score.
- An internal Contract Award Notice must be completed for all contracts above £5,000 and submitted to SPT to meet the requirements of the Regulations and Transparency Agenda

17.4 Contracts valued £177,898 to £4,447,448 (Works)

- A minimum of **three** tenders should be sought from suitable providers or providers. Wherever possible a minimum of one tender must be sought from a Doncaster Business unless in exceptional circumstances.
- 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 provider(s) and if above **£250,000** the decision to execute the direct award must be approved by the Monitoring Officer (or nominated deputy).
- Social value must form part of the evaluation criteria for all procurements above £177,898 and must be a minimum of 10% of the evaluation score.
- An internal Contract Award Notice must be completed for all contracts above £5,000 and submitted to SPT to meet the requirements of the Regulations and Transparency Agenda

17.5 Contracts valued over £177,898 (Goods & Services), £552,950 (Social & Other Specified Services) or £4,447,448 (Works)

- Over these values, the requirement is to tender all contracts in accordance with the Public Procurement 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 provider(s) and if above **£250,000** the decision to execute the direct award must be approved by the Monitoring Officer (or nominated deputy).
- Social value must form part of the evaluation criteria for all procurements above £177,898 and must be a minimum of **10%** of the evaluation score.
- An internal Contract Award Notice must be completed for all contracts above £5,000 and submitted to SPT to meet the requirements of the Regulations and Transparency Agenda

18.0 General Data Protection Regulation (GDPR)

18.1 Where any Provider 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**.

19.0 ICT Related Contracts

19.1 Any technology requirement, including hardware, software, accessories/peripherals, and consumables, must be procured and agreed by the ICT Department

19.2 Any requirement for new or replacement technology or major upgrade/enhancement to existing technology, or contract changes, must be considered and approved by the Technology Governance Board. The Assistant Director – Finance and Technology or nominated officer must be involved in all procurement activities for Council systems and specific advice taken into account in the contract award decision.

~~19.1 The Assistant Director – Customers, Digital & ICT Finance and Technology 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.~~

20.0 Contract Award Notice

20.1 All Contract awards above **£5,000** will be recorded on the Council's Contracts Register.

20.2 All contracts over **£250,000** shall be under seal, unless the Monitoring Officer approves other arrangements.

20.3 Contracts with a value up to **£177,898** (Public Procurement 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 Monitoring Officer (or nominated deputy).

20.4 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 provider(s).

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

20.6 Following the notification of award of contract, the Authorised Officer is required to submit a 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.

20.7 Where a contract has been tendered pursuant to Public Procurement Law, the Council shall publish a contract award notice to meet the relevant legislative requirements.

20.8 Authorised Officers are also required to prepare a report in accordance with Regulation 84 of the Public Contract Regulations and a copy stored.

21.0 Contract Terms and Conditions

21.1 The officer shall use their best efforts 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 provider has been asked to submit their own terms and conditions, where there are material changes to the Council's terms and conditions, they must be formally approved in writing by the Monitoring Officer (or nominated deputy) before they can be accepted.

22.0 Contract Extensions and Variations

Variations

- 22.1 **Variations** must be evidenced in writing.
- 22.2 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 unless approved by the Monitoring Officer. If a material change is accepted then notices must be published in accordance with the regulations.
- 22.3 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 provider 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.
- 22.4 All contract variations must be in writing and signed by both the Council and the provider except where different provisions are made within the contract documentation.
- 22.5 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.
- 22.6 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.
- 22.7 If the variation relates to a contract that has previously been waived then a CPR Waiver Report Addendum should be completed and signed by the Monitoring Officer (or the Chief Financial Officer if the waiver relates to Legal and Democratic Services contracts).

Extensions

- 22.8 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 – revenue budget, or £1,000,000 – capital budget), 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.

- 22.9 Only the Monitoring Officer may approve an extension to the term of a contract outside the rules through a CPR Waiver Report Form.
- 22.10 Contract extensions will not be permitted if the value of the extension is above the advertised value in the Contract Notice.
- 22.11 All variations and extensions to any Council contracts must be in writing and reported to the SPT in order that the Contracts Register for the Council can be updated accordingly. Material variations once agreed with the Monitoring Officer must be notified to SPT.

23.0 Transfer of Contracts – Novation and Assignment

- 23.1 Transfer, assignment, and novation of contracts can only be agreed by the Monitoring Officer (or nominated deputy) using an ODR. ~~file note ODR.~~

24.0 Termination of Contract(s)

- 24.1 Provision for the termination of a contract must be included within the terms and conditions of the contract. Only the Monitoring Officer has the authority to agree early termination of a contract where this is not built into the contract terms and conditions. This must be formalised via an ODR authorised by the Monitoring Officer.
- 24.2 The Monitoring Officer must be consulted where there are serious concerns over the performance of a contract.
- 24.3 The Monitoring Officer must be consulted if the performance of a contract is giving rise for concern and consideration is given to termination.
- 24.4 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, pre-planning process, and any re-procurement.

25.0 Procurement by External Agents

- 25.1 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.
- 25.2 No consultant shall make any decision on whether to award a Contract or who a Contract should be awarded to.
- 25.3 The Director shall ensure that the consultant's performance in relation to procurement is in accordance with these Contract Procedure Rules.
- 25.4 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.
- 25.5 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.

- 25.6 Before any self-employed provider is awarded a contract, the provider's details must be obtained and assessed through the Council's assessment tool to ensure our obligations under IR35 are adhered to. Further guidance can be found in the Contract Procedure Guide (CPG).

26.0 Member Involvement

- 26.1 Directors are responsible for ensuring appropriate consultation has taken place with members, this could include consultation on the evaluation criteria.
- 26.2 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.

27.0 Record and Document Retention and Control

- 27.1 A Contracts Register of all Contracts awarded with an aggregated value above **£5,000** shall be maintained by the SPT.
- 27.2 Each relevant Director shall maintain their own register of all other Contracts, under **£5,000** as a minimum, entered into by their directorate.
- 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
 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 the Providers;
 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 provider(s) during the Tender process and with the successful provider 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.

28.0 Council Purchase Cards

- 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 or in emergencies.
- 28.2 Purchasing cards must not be used as a way of bypassing CPRs. However, in some circumstances, where a contract exists and the provider 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 SPT.

29.0 Cost Control

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.

29.2 All contracts must have a clear review and approval mechanism for price increases i.e. be linked to the applicable index related to the contract category.

29.3 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).

30.0 Contract Claims and Disputes

30.1 To safeguard the Councils right to deduct liquidated damages, if the contract is over-running the officer must certify in writing that the provider 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.

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

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

30.4 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.

30.5 If the provider 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.

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

- 30.7 The Monitoring Officer (or nominated deputy) shall be kept informed at all times of all contractual claims whether by or against the Council.
- 30.8 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.

31.0 Review and Amendment of Contract Procedure Rules

- 31.1 The Monitoring Officer and Chief Financial Officer are authorised to make technical amendments as necessary to ensure these procedures are consistent with legal requirements, changes in Council structures, personnel and best practice.

GLOSSARY OF TERMS (including general procurement terms)

Added Value - Any benefits or services that 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 providers) are combined into one contract requirement

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

Approved List – List of providers 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 Providers – Providers included on approved lists

Assignment – The transfer of rights from one provider to another based on 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/provider/provider

Award Stage – Final stage of the tendering process, with notification of the successful provider 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 that 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 is the officer appointed by the Council to exercise the powers defined in Section 151 of the Local Government Act 1972.

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 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 Find a Tender (FTS) UK government portal and as required by Public Procurement Law.

Contract Extension – continuing with the contract after the initial period of the contract term

Contract Notice – published notice of tender opportunity or contract award on the Find a Tender Service (FTS)

Contract Procedure Rules – The section of the Councils Constitution that sets out the rules that 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 that 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 Public Procurement thresholds. This practice is a breach of Public Procurement Law.

Dispute - Disagreement between Council and provider or provider that may result in Court action

Doncaster Business – A company or other organisation that 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 providers can join at any time.

Electronic Tendering (E-Tendering) – Online tendering and contract management system

Evaluation – Detailed assessment and comparisons of bid submissions verifying how providers 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 the Monitoring Officer (or nominated deputy) or the CFO.

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 is not known. Can be with a single provider (sometimes referred to as a ‘call-off’ contract) or with a multiple number of providers. Once set up, there is no need to go to the open market as competition is held between those providers 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 likely to result in savings or expenditure of over £250,000 gross full-year effect in the case of the revenue budget, or in the case of the capital budget, £1,000,000 or more in respect of a single project or otherwise across one financial year. In addition, any decision that is likely to have a significant effect on two or more wards in the Borough.

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

Light Touch Regime – The 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 providers possibly able to meet requirements

Monitoring Officer – This is the Assistant Director of Legal and Democratic Services

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

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

Novation – Substitution of a provider with a new provider, or of a contract with a new contract

Open Tender Procedure – Tender process that is open to any provider 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.

Provider – 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.

Public Procurement Law – UK law known as the Public Contract Regulations 2015, detailing rules and regulations that must be complied with for all public sector procurement processes that exceed specified thresholds

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 provider on request

Remedies Directive – Public Procurement legislation that sets out the rules by which the procurement actions and decisions may be challenged.

Regulations –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.

Section 76 and 256/257 of the NHS Act 2006 – payments made between the NHS and local authorities.

Selection Questionnaire (SQ) – Set of questions used to establish the suitability of a provider 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 providers are invited to tender. This can only be used for above threshold procurements.

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 provider by the main provider

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

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 provider who submitted a bid in response to an invitation to tender or quote

Tender Documents – Set of documents provided to prospective tenderers that 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 providers 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 a 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 MO (or nominated deputy) or CFO, 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 available from the Strategic Procurement Team (SPT) and the **Contract Procedures Guide**.

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PART 4 RULES OF PROCEDURE

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PART 4 RULES OF PROCEDURE

7. CONTRACT PROCEDURE RULES

SECTION 1 – SCOPE OF CONTRACT PROCEDURE RULES

1.0 Introduction

- 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.’¹
- 1.2 These Contract Procedure Rules outline the policy and procedures for the procurement activities across the Council that includes ordering for the purchase, commissioning, hire and lease of goods, services and works on behalf of the Council.
- 1.3 Compliance with the Contract Procedure Rules ensures that:
- All 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, providers 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.
 - The Council complies with Public Procurement Regulations (“the 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 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 on behalf of the Council and should be read and complied with for any procurement 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 other Procurement Guides in order for Council employees to discharge their responsibilities accordingly.

¹ Source – National Procurement Strategy for Local Government

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 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 Provider 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; **or**
- d. carry out a Council procurement process (c and d should be conducted simultaneously to ensure the best route to market is obtained)

3.0 Procedures for Schools

3.1 Governing bodies, in association with Head Teachers and Management Teams, are required to use the Council's Schools Financial Rules – Contract Procedures Rules.

4.0 Compliance and Conduct

4.1 The Contract Procedure Rules must be adhered to by:

- All Members
- All Officers
- 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 Public Procurement

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 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 to avoid any distortion of competition and to ensure equal treatment of all providers.
- 4.6 Any Officer, Member or other person acting on the Council's behalf in relation to a procurement or purchase 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 Procurement and recorded.

5.0 Procurement Plan and Contracts Register

- 5.1 The Council's Strategic Procurement Team (SPT), in conjunction with Directorates, may publish Prior Information Notice's using the Find a Tender Service (FTS) detailing the contracts for goods, services and works, which it expects to procure in the coming financial year.
- 5.2 Directors shall ensure that all contracts to be procured over the Public Procurement thresholds as stated in CPR 17.5 are notified to SPT and are registered on the procurement forward plans.
- 5.3 Each Director shall ensure that they notify the SPT of any contracts awarded, extended, novated, or materially varied linked to Regulation 72 of the PCR2015 (SPT will advise) so that SPT may update the Contracts Register and publish any required notices.

6.0 Contract Value

- 6.1 When contracting goods, services or works, a genuine assessment of the whole life value of the contract or framework agreement must be undertaken. (Refer to the **Contract Procedures Guide** for further guidance on how to calculate).
- 6.2 If the project can be demonstrated as truly, innovative and an estimate cannot be, provided approval to proceed must be obtained from the Monitoring Officer 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 goods, services or works shall not be 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**)
- 6.5 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 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 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 goods, services or works.

This includes arrangements for:

- The purchase, hire 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:

- Employment contracts (permanent, interim or casual). For the avoidance of doubt, the appointment of recruitment services is subject to the CPRs.
- Contracts relating to the disposal or acquisition of an interest in land (except those involving development agreements)
- 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 social care contracts where the recipient of care has a personal choice and directly contracts with the care provider including direct payment including under sections 31 – 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 provider whose use is a condition of a Grant funding approval.
 - Where only one provider is able to supply for technical or artistic reasons or because of exclusive rights, for example the purchase of work of art, museum artefacts, manuscripts or archive collections items
 - Grant funding in line with the Financial Procedure Rules part E15, E16, E17 and E18
 - Licence agreements of private or public land
 - Partnership Agreements made under Section 75 of the National Health Service Act 2006 and payment by and to NHS Bodies made under Section 76 and 256/257 of the NHS Act 2006
 - Supplies purchased or sold in a public market or auction
- 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 or, written means (including by email) 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 All construction related contracts must be executed as a deed (under seal)
- 8.7 Letters of Intent will only be issued in very exceptional circumstances following consultation and approval of the Assistant Director of Legal and Democratic Services.
- 8.8 The Council may enter into nil (cash) value contracts and the Council's Contract Procedure Rules will still apply in this case.
- 8.9 Providers undertaking procurement activity on behalf of the Council must comply with the Council's Contract Procedure Rules.
- 8.10 Any lease, hire 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 Monitoring Officer (or nominated deputy), after considering a written report by the appropriate Director.
- 9.2 A register of all exemptions will be maintained by the Monitoring Officer.
- 9.3 Any breaches to the Contract Procedure Rules will be reported to the Audit Committee on a six-monthly basis.

10.0 Waivers to the Contract Procedure Rules

- 10.1 Waivers to the CPRs may be permitted when the CPRs cannot be practicality applied, and the award meets one of the following circumstances:
- a) For works, goods or services which are either patented or unique that it is not possible to obtain competitive prices or are only available from one organisation
 - b) For the execution of works or services or the purchase of supplies involving specialist or unique knowledge or skills.
 - c) An organisation which has won a contract for an earlier phase of work via a competitive process and where further work is required that could not have been identified when the contract was let or to allow safe exit or decommission.
 - d) Reasons of urgency where it is otherwise not reasonably possible to comply with the appropriate CPR requirement (for example an emergency). Even in such circumstances officers must continue to seek and obtain value for money wherever possible.
 - e) The use of time-limited grant funding from an external body, where the time limitations will not allow a competitive process to be completed and where grant conditions allow this.
 - f) Where relevant UK or EU legislation not otherwise referred to in these CPR's prevent the usual procurement process as cited in the CPR's.
 - g) Is permissible under Regulation 72 of the PCR2015.
 - h) Constitutes a trial purchase in line with point 14.0
- 10.2 Only the Monitoring Officer (or nominated deputy) has the authority to waive Contract Procedure Rules or the Chief Financial Officer (CFO) in respect of waivers for Legal and Democratic Services.
- 10.3 Waivers must be obtained in advance of the procurement action as a waiver cannot be authorised retrospectively unless in an emergency (CPR 10.1 (d)).
- 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 to procure. Procurement projects should be planned well in advance.
- 10.5 Waivers for goods & services contracts can only allowed up to the value, exclusive of VAT, of **£177,898 (£213,477 inc. VAT)**, **£552,950 (inc. VAT £663,540)** for contracts under the Light Touch Regime (Social & Other Specified Services) and **£4,447,488 (£5,336,937 inc. VAT)** (or current Public Procurement thresholds) for works contracts unless in exceptional circumstances and in line with the law on direct awards i.e., Regulation 32, or Regulation 72.
- 10.6 Waivers must demonstrate that value for money has been considered and there are clear benefits or advantages to the Council.
- 10.7 Waivers must demonstrate any risks to the Council associated with granting the waiver.
- 10.8 Waivers must be documented in a form approved by the Monitoring Officer; this is available on the Council's intranet and must be submitted to 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 Service Providers
- 11.2 Using Council Wide Contracts, Council Framework Agreements or Council Dynamic Purchasing Systems (DPS).
- 11.3 Using Dynamic Purchasing Systems (DPS) or Framework Contracts (Third Party Arrangements).
- 11.4 Perform a quotation or tender exercise to set up a new contract on behalf of the Council.

12.0 Approved Lists (below Public Procurement threshold only)

- 12.1 Approved lists may only be used in agreement with the Monitoring Officer (or nominated deputy) and in line with the **Contract Procedures Guide** on setting up approved lists.

13.0 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**.

14.0 Trial Purchases

- 14.1 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.
- 14.2 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.
- 14.3 Arrangements must be made to ensure the provider(s) involved in the trial has not obtained any advantage through that involvement when compared to alternative providers of a similar supply.
- 14.4 The Monitoring Officer must approve proposed trial arrangements exceeding **£25,000** and this must be approved via a CPR Waiver Form.

15.0 Negotiated Contracts

- 15.1 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 Public Procurement thresholds. Refer to the **Contract Procedures Guide** for further information on when it is appropriate.
- 15.2 The use of a negotiated process must be approved in writing by the Monitoring Officer and the relevant Director via an Officer Decision Record 1 (ODR1) Form.
- 15.3 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 Monitoring Officer (or nominated deputy).

15.4 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 Public Procurement regulations and the advice of the SPT sought.

16.0 Concession Contracts

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

16.2 Concession contracts for works or services with a value of **£4,447,447 (£5,336,937 inc. VAT)** or more are subject to the Concession Contracts 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, in relation to the services or works that are the object of the Concession contract. For further guidance, refer to the **Contract Procedures Guide**.

17.0 Contracting Rules based on value (exc. VAT) and commodity being procured

For further guidance on the below refer to the **Contract Procedures Guide**

17.1 Contracts valued up to £50,000 inclusive

- Where the estimated value or amount of a proposed Contract does not exceed £50,000 then the Authorised officer should obtain at least **one** verbal quotation from suitable providers followed up by written confirmation (including email). Officers are encouraged to conduct an informal quotation exercise to ensure value for money.
- For contract awards between £25,000 to £50,000 officers must formally demonstrate value for money, . A Best Value Form (available from SPT) must be completed and sent with the Contract Award Notice to SPT. These will be audited to ensure best value was sought and achieved.
- A quotation must be sought from a Doncaster based business unless in exceptional circumstances Whilst there is only a requirement for one quotation, the Authorised Officer must consider whether additional quotations are in the Councils best interest.
- A written record must be kept of all quotations and procedures followed.
- An internal Contract Award Notice must be completed for all contracts above £5,000 and submitted to SPT to meet the requirements of the Regulations and Transparency Agenda

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

17.2 Contracts valued £50,000 to £177,898 – Quotation

- Between these values, the requirement is to obtain at least **three** written quotations from suitable providers. Wherever possible a minimum of one of the quotations must be sought from a Doncaster Business unless in exceptional circumstances.
- 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.
- Social value must form part of the evaluation criteria for all procurements above £100,000 and must be a minimum of 10% of the evaluation score.
- An internal Contract Award Notice must be completed for all contracts above £5,000 and submitted to SPT to meet the requirements of the Regulations and Transparency Agenda

17.3 Contracts valued £177,898 to £552,950 (Social & Other Specified Services)

- A minimum of **three** tenders should be sought from suitable providers. Wherever possible a minimum of one tender must be sought from a Doncaster Business unless in exceptional circumstances.
- 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 provider(s) and if above **£250,000** the decision to execute the direct award must be approved by the Monitoring Officer (or nominated deputy).
- Social value must form part of the evaluation criteria for all procurements above £100,000 and must be a minimum of 10% of the evaluation score.
- An internal Contract Award Notice must be completed for all contracts above £5,000 and submitted to SPT to meet the requirements of the Regulations and Transparency Agenda

17.4 Contracts valued £177,898 to £4,447,448 (Works)

- A minimum of **three** tenders should be sought from suitable providers or providers. A minimum of one tender must be sought from a Doncaster Business unless in exceptional circumstances.
- 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 provider(s) and if above **£250,000** the decision to execute the direct award must be approved by the Monitoring Officer (or nominated deputy).
- Social value must form part of the evaluation criteria for all procurements above £177,898 and must be a minimum of 10% of the evaluation score.

- An internal Contract Award Notice must be completed for all contracts above £5,000 and submitted to SPT to meet the requirements of the Regulations and Transparency Agenda

17.5 **Contracts valued over £177,898 (Goods & Services), £552,950 (Social & Other Specified Services) or £4,447,448 (Works)**

- Over these values, the requirement is to tender all contracts in accordance with the Public Procurement 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 provider(s) and if above **£250,000** the decision to execute the direct award must be approved by the Monitoring Officer (or nominated deputy).
- Social value must form part of the evaluation criteria for all procurements above £100,000 and must be a minimum of **10%** of the evaluation score.
- An internal Contract Award Notice must be completed for all contracts above £5,000 and submitted to SPT to meet the requirements of the Regulations and Transparency Agenda

18.0 **General Data Protection Regulation (GDPR)**

18.1 Where any Provider 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**.

19.0 **ICT Related Contracts**

- 19.1 Any technology requirement, including hardware, software, accessories/peripherals, and consumables, must be procured and agreed by the ICT Department
- 19.2 Any requirement for new or replacement technology or major upgrade/enhancement to existing technology, or contract changes, must be considered and approved by the Technology Governance Board. The Assistant Director – Finance and Technology or nominated officer must be involved in all procurement activities for Council systems and specific advice taken into account in the contract award decision.

20.0 **Contract Award Notice**

- 20.1 All Contract awards above **£5,000** will be recorded on the Council's Contracts Register.
- 20.2 All contracts over **£250,000** shall be under seal, unless the Monitoring Officer approves other arrangements.
- 20.3 Contracts with a value up to **£177,898** (Public Procurement 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 Monitoring Officer (or nominated deputy).

- 20.4 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 provider(s).
- 20.5 Where the terms and conditions of Contract are not fully agreed no provider shall be allowed to commence delivery of goods, services or works until a full risk assessment has been carried out by the Authorised Officer as to the possible implications to the Council by the provider being allowed to commence work before the Contract terms and conditions have been finalised.
- 20.6 Following the notification of award of contract, the Authorised Officer is required to submit a 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.
- 20.7 Where a contract has been tendered pursuant to Public Procurement Law, the Council shall publish a contract award notice to meet the relevant legislative requirements.
- 20.8 Authorised Officers are also required to prepare a report in accordance with Regulation 84 of the Public Contract Regulations and a copy stored.

21.0 Contract Terms and Conditions

- 21.1 The officer shall use their best efforts 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 provider has been asked to submit their own terms and conditions, where there are material changes to the Council's terms and conditions, they must be formally approved in writing by the Monitoring Officer (or nominated deputy) before they can be accepted.

22.0 Contract Extensions and Variations

Variations

- 22.1 **Variations** must be evidenced in writing.
- 22.2 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 unless approved by the Monitoring Officer. If a material change is accepted then notices must be published in accordance with the regulations.
- 22.3 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 provider 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.

22.4 All contract variations must be in writing and signed by both the Council and the provider except where different provisions are made within the contract documentation.

22.5 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.

22.6 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.

22.7 If the variation relates to a contract that has previously been waived then a CPR Waiver Report Addendum should be completed and signed by the Monitoring Officer (or the Chief Financial Officer if the waiver relates to Legal and Democratic Services contracts).

Extensions

22.8 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 – revenue budget, or £1,000,000 – capital budget), 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.

22.9 Only the Monitoring Officer may approve an extension to the term of a contract outside the rules through a CPR Waiver Report Form.

22.10 Contract extensions will not be permitted if the value of the extension is above the advertised value in the Contract Notice.

22.11 All variations and extensions to any Council contracts must be in writing and reported to the SPT in order that the Contracts Register for the Council can be updated accordingly. Material variations once agreed with the Monitoring Officer must be notified to SPT.

23.0 Transfer of Contracts – Novation and Assignment

23.1 Transfer, assignment, and novation of contracts can only be agreed by the Monitoring Officer (or nominated deputy) using an ODR.

24.0 Termination of Contract(s)

- 24.1 Provision for the termination of a contract must be included within the terms and conditions of the contract. Only the Monitoring Officer has the authority to agree early termination of a contract where this is not built into the contract terms and conditions. This must be formalised via an ODR authorised by the Monitoring Officer.
- 24.2 The Monitoring Officer must be consulted where there are serious concerns over the performance of a contract.
- 24.3 The Monitoring Officer must be consulted if the performance of a contract is giving rise for concern and consideration is given to termination.
- 24.4 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 to allow for the approvals, pre-planning process, and any re-procurement.

25.0 Procurement by External Agents

- 25.1 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.
- 25.2 No consultant shall make any decision on whether to award a Contract or who a Contract should be awarded to.
- 25.3 The Director shall ensure that the consultant's performance in relation to procurement is in accordance with these Contract Procedure Rules.
- 25.4 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.
- 25.5 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.
- 25.6 Before any self-employed provider is awarded a contract, the provider's details must be obtained and assessed through the Council's assessment tool to ensure our obligations under IR35 are adhered to. Further guidance can be found in the Contract Procedure Guide (CPG).

26.0 Member Involvement

- 26.1 Directors are responsible for ensuring appropriate consultation has taken place with members, this could include consultation on the evaluation criteria.
- 26.2 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.

27.0 Record and Document Retention and Control

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

27.2 Each relevant Director shall maintain their own register of all other Contracts, under **£5,000** as a minimum, entered into by their directorate.

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
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 the Providers;
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 provider(s) during the Tender process and with the successful provider 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.

28.0 Council Purchase Cards

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 or in emergencies.

28.2 Purchasing cards must not be used as a way of bypassing CPRs. However, in some circumstances, where a contract exists and the provider 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 SPT.

29.0 Cost Control

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.

29.2 All contracts must have a clear review and approval mechanism for price increases i.e. be linked to the applicable index related to the contract category.

29.3 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).

30.0 Contract Claims and Disputes

- 30.1 To safeguard the Councils right to deduct liquidated damages, if the contract is over-running the officer must certify in writing that the provider 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.
- 30.2 Any events that may lead to claims for extension of time must immediately be brought to the attention of the officer.
- 30.3 Claims for extension of time must be assessed promptly and any extension award made in accordance with the conditions of contract.
- 30.4 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.
- 30.5 If the provider 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.
- 30.6 Before the final certificate is issued, the officer shall check that any necessary certificate has been issued in accordance with the relevant contract conditions.
- 30.7 The Monitoring Officer (or nominated deputy) shall be kept informed at all times of all contractual claims whether by or against the Council.
- 30.8 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.

31.0 Review and Amendment of Contract Procedure Rules

- 31.1 The Monitoring Officer and Chief Financial Officer are authorised to make technical amendments as necessary to ensure these procedures are consistent with legal requirements, changes in Council structures, personnel and best practice.

GLOSSARY OF TERMS (including general procurement terms)

Added Value - Any benefits or services that 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 providers) are combined into one contract requirement

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

Approved List – List of providers 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 Providers – Providers included on approved lists

Assignment – The transfer of rights from one provider to another based on 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/provider/provider

Award Stage – Final stage of the tendering process, with notification of the successful provider 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 that 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 is the officer appointed by the Council to exercise the powers defined in Section 151 of the Local Government Act 1972.

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 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 Find a Tender (FTS) UK government portal and as required by Public Procurement Law.

Contract Extension – continuing with the contract after the initial period of the contract term

Contract Notice – published notice of tender opportunity or contract award on the Find a Tender Service (FTS)

Contract Procedure Rules – The section of the Councils Constitution that sets out the rules that 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 that 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 Public Procurement thresholds. This practice is a breach of Public Procurement Law.

Dispute - Disagreement between Council and provider or provider that may result in Court action

Doncaster Business – A company or other organisation that 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 providers can join at any time.

Electronic Tendering (E-Tendering) – Online tendering and contract management system

Evaluation – Detailed assessment and comparisons of bid submissions verifying how providers 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 the Monitoring Officer (or nominated deputy) or the CFO.

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 is not known. Can be with a single provider (sometimes referred to as a ‘call-off’ contract) or with a multiple number of providers. Once set up, there is no need to go to the open market as competition is held between those providers 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 likely to result in savings or expenditure of over £250,000 gross full-year effect in the case of the revenue budget, or in the case of the capital budget, £1,000,000 or more in respect of a single project or otherwise across one financial year. In addition, any decision that is likely to have a significant effect on two or more wards in the Borough.

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

Light Touch Regime – The 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 providers possibly able to meet requirements

Monitoring Officer – This is the Assistant Director of Legal and Democratic Services

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

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

Novation – Substitution of a provider with a new provider, or of a contract with a new contract

Open Tender Procedure – Tender process that is open to any provider 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.

Provider – 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.

Public Procurement Law –UK law known as the Public Contract Regulations 2015, detailing rules and regulations that must be complied with for all public sector procurement processes that exceed specified thresholds

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 provider on request

Remedies Directive – Public Procurement legislation that sets out the rules by which the procurement actions and decisions may be challenged.

Regulations –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.

Section 76 and 256/257 of the NHS Act 2006 – payments made between the NHS and local authorities.

Selection Questionnaire (SQ) – Set of questions used to establish the suitability of a provider 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 providers are invited to tender. This can only be used for above threshold procurements.

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 provider by the main provider

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

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 provider who submitted a bid in response to an invitation to tender or quote

Tender Documents – Set of documents provided to prospective tenderers that 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 providers 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 a 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 MO (or nominated deputy) or CFO, 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 available from the Strategic Procurement Team (SPT) and the **Contract Procedures Guide**.

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Doncaster
Council

DONCASTER COUNCIL FINANCIAL PROCEDURE RULES

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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 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.

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 the CFO during the course of any financial year which 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.
- 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 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.

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 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 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.

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 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 Head of Internal 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 strategy.
- 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 their 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 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. The MO must also ensure that all Members are aware of key decisions made by those with Executive decision-making powers.
- A.22 Advising all 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').

Chief Financial Officer (CFO)

- A.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, 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;

- ensuring adherence to the CPR, promoting value for money through compliant and best practice procurement processes;
- 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.25 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.26 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.27 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.28 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 Head of Internal Audit (HIA)

- A.29 The HIA 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.
- A.30 The HIA 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.31 The HIA 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.32 Whilst the CFO has overall responsibility for the finances of the Council, Directors are responsible for ensuring the effective discharge of the day-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.33 Operating sound financial management of their allocated budget and only committing the Council to expenditure where there is sufficient funding available;
- A.34 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.35 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.36 Ensuring that Portfolio Holders are advised of the financial implications of all proposals and that these have been agreed by the CFO or their nominated representative;
- A.37 Reporting suspected fraud and irregularities to the Police or external agencies in consultation with the CFO;
- A.38 Safeguarding all assets and information used in their day-to-day activities within the Directorate.

FINANCIAL PROCEDURE RULE B: FINANCIAL PLANNING AND BUDGETING

Budget Preparation and Approval

- B.1 The annual revenue budget (including medium-term financial strategy) proposed by the Elected Mayor will be 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 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.

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 accurate and timely budget monitoring information to the CFO, as and when required. 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 will be reported regularly to Directors and Cabinet.
- B.8 The CFO is responsible for agreeing the system and methodology of all recharges.

- B.9 The CFO is responsible for agreeing any in-year additions to the capital programme, including any additional resources for approved projects. 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 The CFO will report any significant deviations from expectations for prudential indicators through regular reports to Cabinet. The key objectives of the prudential indicators are to ensure that capital investment plans are affordable, prudent and sustainable.

Virements

- B.11 Virement is the transfer of resources from one budget heading to another, including movement between any earmarked reserves.
- B.12 Virement is not permitted from certain budget heads, other than by the CFO, as 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: -
- Capital Charges and Financing;
 - Support Services Recharges;
 - Administration and Building Recharges.
- B.13 Directors are responsible for agreeing in-year virements within their Directorate budgets 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.15 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.16 Any new fees and charges proposed within the financial year or any changes to existing fees and charges, for which the estimated income is below the key decision threshold, 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. Any new fees and charges proposed within the financial year or any changes to existing fees and charges, for which the estimated income is above the key decision threshold, will be approved by Cabinet in a specific report. -
- B.17 Some fees and charges are set by legislation and therefore the above paragraphs (B.15 and B.16) do not apply.

Treatment of Year-End Under/Overspends

- B.18 Any under / overspend at the year-end on the Directorate revenue budget will not be carried forward to the following financial year.
- 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.

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 which must: -
- 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 for the management of risk.
- C.5 The HIA is responsible for completing an assessment and forming an opinion on the overall adequacy and effectiveness of the Council's governance, risk management and control arrangements via an annual report to Audit Committee.
- C.6 The CFO is responsible for annually preparing an Annual Governance Statement to the requirements of the Accounts and Audit Regulations 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 2015 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 United Kingdom Public Sector Internal Audit Standards (PSIAS). 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 the timescales determined by the HIA;
- that any agreed actions arising from audit recommendations are carried out 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.

Preventing Fraud and Corruption

C.11 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.

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.15 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.16 The Council holds tangible assets in the form of property, vehicles, equipment, 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.17 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.18 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.
- C.19 In the absence of any specific conditions or exemptions agreed by Cabinet and these 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.20 In respect of disposals of land and property (which includes the granting of a lease): -
- 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. Where the estimated disposal value of individual property assets is equal to or greater than £1,000,000, a key decision 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 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.21 The Property Officer is responsible for the negotiation of terms and conditions and authorising any leasing of land and property assets to or from the Council, and maintaining a complete register of land and property leases.
- C.22 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.24 Any assets subject to a leasing agreement must not be disposed of without the prior consent of the CFO who shall be responsible for terminating the lease.

C.25 A lease is considered to be a disposal Under Section 123 of the Local Government Act 1972 and the granting of a lease at less than best consideration is therefore dealt with as set out above in C.20.

Inventory

- C.25 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.26 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 £1,000 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.27 Directors shall provide the CFO with the information in relation to all inventories that is required for accounting, costing and financial records.

Treasury Management

C.28 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.29 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;
- 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.30 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.31 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 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.

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.16.

- D.8 In order to comply with the Money Laundering Regulations 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, e.g. electronic bank transfer.
- D.9 Only the CFO has the legal authority to write-off bad debts. 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;
 - The CFO will consult with the Elected Mayor before authorising the writing-off of 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 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.

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 Works, 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 procured in accordance with the Contract Procedure Rules (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;
 - 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 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.

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.
- 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 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.

- 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 HIA 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; acceptance and/or commitment to revenue funding above £250,000 will be approved by key decision and acceptance and/or commitment to capital funding above £1,000,000 will be approved by key decision. It must be explicit in the grant determination that the funding is capital grant, otherwise the threshold for approval by key decision will be £250,000.

- E.10 Grant acceptance and/or commitment relating to external funding opportunities arising after the budget has been set and which will be used to replace funding for existing approved activity (i.e. a funding swap), can be approved by the CFO and will not be subject to key decision rules, provided the terms and conditions of the funding do not change the scope of the existing approved activity.

- E.11 Grant acceptance and/or commitment relating to external funding from Government, where the Council has no choice but to accept the funds and where the Council must spend or passport the funds as directed by Government, can be approved by the CFO and will not be subject to key decision rules.

- E.120 Any external funding received by the Council after the budget for the year has been approved, outside of rule E.9, E.10 and E.11, will be classed as a corporate resource unless otherwise determined by the CFO.

- E.134 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.142 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 about such funding and of any subsequent modifications to timing and amounts of anticipated funding.

- E.153 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 appropriate.

Work for Third Parties

E.164 Current legislation enables the Council to provide a range of services to other bodies, e.g. shared services, joint ventures. 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, 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

E.175 Directors are authorised to approve grants and annual assistance to external bodies, subject to key decision rules and other requirements of these FPR and related guidance and this approval being formally recorded. Grants to Academies and Voluntary Aided schools for capital projects are exempt.

E.186 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;
- ~~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;

- ~~arrangements are set in place for the recipient to provide, including, for assistance over £5,000 in value, a copy of the annual accounts of the body, access to other~~ accounting records as ~~the Council 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.197 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.

E.2048 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 recovering grant sums or the value of assistance given and assets provided by the Council.

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 FPR.

Bad debt means any debt that is unable 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 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 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.

CIPFA is the Chartered Institute of Public Finance and Accountancy; the professional body for people in 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.

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 FPR.

FPR means these Financial Procedure Rules.

Head of Internal Audit (HIA) leads the Council's Internal Audit function.

Key Decision has the meaning as set out in the Council's constitution and is a decision that is likely to:

Result in the Council incurring expenditure which is, or the making of savings which are, significant having regard to the Council's budget for the service or function to which the decision relates; or

Be significant in terms of its effects on communities living or working in an area comprising two or more wards in the area of the Council.

The level of expenditure/savings which this Authority has adopted as being financially significant are: (a) in the case of the revenue budget, gross full-year effect of £250,000 or more. (b) in the case of the capital budget, £1,000,000 or more in respect of a single project or set of interdependent projects. ~~or otherwise across one financial year.~~

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.

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

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

Member is a Councillor generally or, in relation to a committee or sub-committee, a Member of that committee or sub-committee. The Elected Mayor will be treated as a Member of the Council unless the law or context requires otherwise.

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 a designation currently held by the Assistant Director of Development.

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.

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.



Doncaster
Council

DONCASTER COUNCIL FINANCIAL PROCEDURE RULES

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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 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.

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 the CFO during the course of any financial year which 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.
- 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 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.

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 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 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.

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 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 Head of Internal 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 strategy.
- 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 their 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 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. The MO must also ensure that all Members are aware of key decisions made by those with Executive decision-making powers.
- A.22 Advising all 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').

Chief Financial Officer (CFO)

- A.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, 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;

- ensuring adherence to the CPR, promoting value for money through compliant and best practice procurement processes;
- 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.25 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.26 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.27 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.28 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 Head of Internal Audit (HIA)

- A.29 The HIA 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.
- A.30 The HIA 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.31 The HIA 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.32 Whilst the CFO has overall responsibility for the finances of the Council, Directors are responsible for ensuring the effective discharge of the day-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.33 Operating sound financial management of their allocated budget and only committing the Council to expenditure where there is sufficient funding available;
- A.34 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.35 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.36 Ensuring that Portfolio Holders are advised of the financial implications of all proposals and that these have been agreed by the CFO or their nominated representative;
- A.37 Reporting suspected fraud and irregularities to the Police or external agencies in consultation with the CFO;
- A.38 Safeguarding all assets and information used in their day-to-day activities within the Directorate.

FINANCIAL PROCEDURE RULE B: FINANCIAL PLANNING AND BUDGETING

Budget Preparation and Approval

- B.1 The annual revenue budget (including medium-term financial strategy) proposed by the Elected Mayor will be 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 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.

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 accurate and timely budget monitoring information to the CFO, as and when required.
- 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 will be reported regularly to Directors and Cabinet.
- B.8 The CFO is responsible for agreeing the system and methodology of all recharges.

- B.9 The CFO is responsible for agreeing any in-year additions to the capital programme, including any additional resources for approved projects. 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 The CFO will report any significant deviations from expectations for prudential indicators through regular reports to Cabinet. The key objectives of the prudential indicators are to ensure that capital investment plans are affordable, prudent and sustainable.

Virements

- B.11 Virement is the transfer of resources from one budget heading to another, including movement between any earmarked reserves.
- B.12 Virement is not permitted from certain budget heads, other than by the CFO, as 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: -
- Capital Charges and Financing;
 - Support Services Recharges;
 - Administration and Building Recharges.
- B.13 Directors are responsible for agreeing in-year virements within their Directorate budgets 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. The value of the virement is defined as the gross annual budget.

Fees and Charges Approval

- B.15 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.16 Any new fees and charges proposed within the financial year or any changes to existing fees and charges, for which the estimated income is below the key decision threshold, will be approved by the CFO in consultation with the relevant Portfolio Holder and reported to Cabinet in the quarterly monitoring report. Any new fees and charges proposed within the financial year or any changes to existing fees and charges, for which the estimated income is above the key decision threshold, will be approved by Cabinet in a specific report.

- B.17 Some fees and charges are set by legislation and therefore the above paragraphs (B.15 and B.16) do not apply.

Treatment of Year-End Under/Overspends

- B.18 Any under / overspend at the year-end on the Directorate revenue budget will not be carried forward to the following financial year.
- 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.

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 which must: -
- 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 for the management of risk.
- C.5 The HIA is responsible for completing an assessment and forming an opinion on the overall adequacy and effectiveness of the Council's governance, risk management and control arrangements via an annual report to Audit Committee.
- C.6 The CFO is responsible for annually preparing an Annual Governance Statement to the requirements of the Accounts and Audit Regulations 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 2015 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 United Kingdom Public Sector Internal Audit Standards (PSIAS). 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 the timescales determined by the HIA;
- that any agreed actions arising from audit recommendations are carried out 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.

Preventing Fraud and Corruption

C.11 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.

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.15 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.16 The Council holds tangible assets in the form of property, vehicles, equipment, 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.17 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.18 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.
- C.19 In the absence of any specific conditions or exemptions agreed by Cabinet and these 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.20 In respect of disposals of land and property (which includes the granting of a lease): -
- 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. Where the estimated disposal value of individual property assets is equal to or greater than £1,000,000, a key decision 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 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.21 The Property Officer is responsible for the negotiation of terms and conditions and authorising any leasing of land and property assets to or from the Council, and maintaining a complete register of land and property leases.
- C.22 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.24 Any assets subject to a leasing agreement must not be disposed of without the prior consent of the CFO who shall be responsible for terminating the lease.
- C.25 A lease is considered to be a disposal Under Section 123 of the Local Government Act 1972 and the granting of a lease at less than best consideration is therefore dealt with as set out above in C.20.

Inventory

- C.25 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.26 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 £1,000 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.27 Directors shall provide the CFO with the information in relation to all inventories that is required for accounting, costing and financial records.

Treasury Management

C.28 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.29 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;
- 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.30 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.31 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 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.

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.16.

- D.8 In order to comply with the Money Laundering Regulations 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, e.g. electronic bank transfer.
- D.9 Only the CFO has the legal authority to write-off bad debts. 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;
 - The CFO will consult with the Elected Mayor before authorising the writing-off of 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 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.

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 Works, 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 procured in accordance with the Contract Procedure Rules (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;
 - 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 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.

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.
- 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 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.

- 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 HIA 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; acceptance and/or commitment to revenue funding above £250,000 will be approved by key decision and acceptance and/or commitment to capital funding above £1,000,000 will be approved by key decision. It must be explicit in the grant determination that the funding is capital grant, otherwise the threshold for approval by key decision will be £250,000.
- E.10 Grant acceptance and/or commitment relating to external funding opportunities arising after the budget has been set and which will be used to replace funding for existing approved activity (i.e. a funding swap), can be approved by the CFO and will not be subject to key decision rules, provided the terms and conditions of the funding do not change the scope of the existing approved activity.
- E.11 Grant acceptance and/or commitment relating to external funding from Government, where the Council has no choice but to accept the funds and where the Council must spend or passport the funds as directed by Government, can be approved by the CFO and will not be subject to key decision rules.
- E.12 Any external funding received by the Council after the budget for the year has been approved, outside of rule E.9, E.10 and E.11, will be classed as a corporate resource unless otherwise determined by the CFO.
- E.13 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.14 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 about such funding and of any subsequent modifications to timing and amounts of anticipated funding.
- E.15 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 appropriate.

Work for Third Parties

E.16 Current legislation enables the Council to provide a range of services to other bodies, e.g. shared services, joint ventures. 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, 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

E.17 Directors are authorised to approve grants and annual assistance to external bodies, subject to key decision rules and other requirements of these FPR and related guidance and this approval being formally recorded. Grants to Academies and Voluntary Aided schools for capital projects are exempt.

E.18 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;
- the recipient will provide evidence to the Council demonstrating the proper accounting for and use by the recipient of the assistance;
- arrangements are set in place for the recipient to provide accounting records as the Council deems 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.19 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.
- E.20 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 recovering grant sums or the value of assistance given and assets provided by the Council.

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 FPR.

Bad debt means any debt that is unable 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 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 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.

CIPFA is the Chartered Institute of Public Finance and Accountancy; the professional body for people in 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.

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 FPR.

FPR means these Financial Procedure Rules.

Head of Internal Audit (HIA) leads the Council's Internal Audit function.

Key Decision has the meaning as set out in the Council's constitution and is a decision that is likely to:

Result in the Council incurring expenditure which is, or the making of savings which are, significant having regard to the Council's budget for the service or function to which the decision relates; or

Be significant in terms of its effects on communities living or working in an area comprising two or more wards in the area of the Council.

The level of expenditure/savings which this Authority has adopted as being financially significant are: (a) in the case of the revenue budget, gross full-year effect of £250,000 or more. (b) in the case of the capital budget, £1,000,000 or more in respect of a single project or set of interdependent projects.

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.

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

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

Member is a Councillor generally or, in relation to a committee or sub-committee, a Member of that committee or sub-committee. The Elected Mayor will be treated as a Member of the Council unless the law or context requires otherwise.

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 a designation currently held by the Assistant Director of Development.

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.

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.