



Agenda for a meeting of the Governance and Audit Committee to be held on Thursday, 19 April 2018 at 10.00 am in Committee Room 3 - City Hall, Bradford

Members of the Committee – Councillors

CONSERVATIVE	LABOUR	LIBERAL DEMOCRAT AND INDEPENDENT
M Pollard	Johnson Thornton Swallow	Reid

Alternates:

CONSERVATIVE	LABOUR	LIBERAL DEMOCRAT AND INDEPENDENT
Ellis	Farley Watson	J Sunderland

Notes:

- This agenda can be made available in Braille, large print or tape format on request by contacting the Agenda contact shown below.
- The taking of photographs, filming and sound recording of the meeting is allowed except if Councillors vote to exclude the public to discuss confidential matters covered by Schedule 12A of the Local Government Act 1972. Recording activity should be respectful to the conduct of the meeting and behaviour that disrupts the meeting (such as oral commentary) will not be permitted. Anyone attending the meeting who wishes to record or film the meeting's proceedings is advised to liaise with the Agenda Contact who will provide guidance and ensure that any necessary arrangements are in place. Those present who are invited to make spoken contributions to the meeting should be aware that they may be filmed or sound recorded.
- If any further information is required about any item on this agenda, please contact the officer named at the foot of that agenda item.

From:

Michael Bowness
 Interim City Solicitor
 Agenda Contact: Fatima Butt
 Phone: 01274 432227
 E-Mail: fatima.butt@bradford.gov.uk

To:

A. PROCEDURAL ITEMS

1. ALTERNATE MEMBERS (Standing Order 34)

The City Solicitor will report the names of alternate Members who are attending the meeting in place of appointed Members.

2. DISCLOSURES OF INTEREST

(Members Code of Conduct - Part 4A of the Constitution)

To receive disclosures of interests from members and co-opted members on matters to be considered at the meeting. The disclosure must include the nature of the interest.

An interest must also be disclosed in the meeting when it becomes apparent to the member during the meeting.

Notes:

- (1) Members may remain in the meeting and take part fully in discussion and voting unless the interest is a disclosable pecuniary interest or an interest which the Member feels would call into question their compliance with the wider principles set out in the Code of Conduct. Disclosable pecuniary interests relate to the Member concerned or their spouse/partner.*
- (2) Members in arrears of Council Tax by more than two months must not vote in decisions on, or which might affect, budget calculations, and must disclose at the meeting that this restriction applies to them. A failure to comply with these requirements is a criminal offence under section 106 of the Local Government Finance Act 1992.*
- (3) Members are also welcome to disclose interests which are not disclosable pecuniary interests but which they consider should be made in the interest of clarity.*
- (4) Officers must disclose interests in accordance with Council Standing Order 44.*

3. INSPECTION OF REPORTS AND BACKGROUND PAPERS

(Access to Information Procedure Rules – Part 3B of the Constitution)

Reports and background papers for agenda items may be inspected by contacting the person shown after each agenda item. Certain reports and background papers may be restricted.

Any request to remove the restriction on a report or background paper should be made to the relevant Strategic Director or Assistant Director whose name is shown on the front page of the report.

If that request is refused, there is a right of appeal to this meeting.

Please contact the officer shown below in advance of the meeting if you wish to appeal.

(Fatima Butt - 01274 432227)

B. BUSINESS ITEMS

4. EXTERNAL AUDIT PROGRESS REPORT

The External Auditor will submit **Document “AI”** which updates the Committee on progress with the 2017/18 External Audit of the City of Bradford Metropolitan District Council and highlights key emerging national issues which may of interest.

Recommended-

That the External Audit Progress Report (Document “AI”) be considered.

(Mark Dalton – 0113 387 8735)

5. INTERNAL AUDIT PEER REVIEW REPORT

The Assistant Director Finance and Procurement will submit **Document “AJ”** which provides an update on the actions being taken to address the recommendations of the Internal Audit Peer Review reported to the Committee in March 2018.

Recommended-

That the latest update on progress against the key recommendations of the peer review be noted and that further written updates be submitted to the Committee in July, September and November 2018.

(Andrew Crookham – 01274 433656)

6. REVIEW OF THE COUNCILS FINANCIAL REGULATIONS/CONTRACTS STANDING ORDERS

The Interim Strategic Director, Corporate Resources (Monitoring Officer) will submit **Document “AK”** which provides Members with details of the annual review of the Financial Regulations and Contracts Standing Orders Section of the Council’s Constitution and makes recommendations for their amendment.

Recommended-

- (1) That the Committee consider the proposed amendments to the Constitution (Financial Regulations) listed in Table 1 and recommend to Council the Proposed Financial Regulations for 2018/19 contained in Appendix 1 for adoption and implementation.**
- (2) That the Committee consider the proposed amendments to the Constitution (Contract Standing Orders) and recommend to Council the Proposed Contract Standing Orders for 2018/19 contained in Appendix 2 for adoption and implementation.**
- (3) That the Interim Strategic Director Corporate Resources (Monitoring Officer) reports any recommendations to Council. That the Interim Strategic Director Corporate Resources (Monitoring Officer) be granted delegated authority to implement any recommendations approved by Council and to make consequential amendments to the Constitution as a result of the recommendations approved by Council.**

(Helen Keith – 01274 432730)
(Duncan Farr – 01274 434588)

7. REVIEW OF THE CONSTITUTION

The Interim City Solicitor will submit **Document “AL”** which provides Members with details of proposed amendments to the Constitution for recommendation to Council.

Recommended-

- (1) That the proposed amendments to the Constitution set out in Appendices 1 to 5 of Document “AL” be recommended to Council for adoption and implementation.**
- (2) That the Interim City Solicitor reports any recommendations to Council and ensures any agreed amendments are implemented.**

- (3) That the Interim City Solicitor be granted authority to make any consequential amendments to the Constitution as a result of any recommendations approved by Council.**

(Joanne Gleeson – 01274 432878)

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Report of the External Auditor to the meeting of Governance and Audit Committee to be held on 19 April 2018.

Subject:

AI

External Audit Progress Report.

Summary statement:

The report:

- updates the Committee on progress with the 2017/18 external audit; and
- highlights key emerging national issues which may be of interest.

Mark Kirkham
Partner
Mazars LLP
Report Contact: Mark Dalton
Phone: 0113 387 8735
e-mail: mark.dalton@mazars.co.uk

1. SUMMARY

We have completed our work on the Council's systems and controls (including general and application IT controls) and undertaken early substantive testing of transactions (including income and expenditure, journals and property, plant and equipment).

We have also updated our VFM risk assessment and undertaken early work in response to the significant VFM risk identified within our audit strategy memorandum i.e. delivery of a balanced budget and medium term financial planning.

Overall our work is on track and there are no significant issues arising from our work to date.

The report also highlights emerging issues and developments which may be of interest to Members of the Committee.

2. BACKGROUND

Not applicable

3. OTHER CONSIDERATIONS

None

4. FINANCIAL & RESOURCE APPRAISAL

Not applicable

5. RISK MANAGEMENT AND GOVERNANCE ISSUES

None

6. LEGAL APPRAISAL

Not applicable

7. OTHER IMPLICATIONS

7.1 EQUALITY & DIVERSITY

Not applicable

7.2 SUSTAINABILITY IMPLICATIONS

Not applicable

7.3 GREENHOUSE GAS EMISSIONS IMPACTS

Not applicable

7.4 COMMUNITY SAFETY IMPLICATIONS

Not applicable

7.5 HUMAN RIGHTS ACT

➤ Not applicable

7.6 TRADE UNION

Not applicable

7.7 WARD IMPLICATIONS

Not applicable

7.8 AREA COMMITTEE ACTION PLAN IMPLICATIONS (for reports to Area Committees only)

Not applicable

8. NOT FOR PUBLICATION DOCUMENTS

None

9. OPTIONS

Not applicable

10. RECOMMENDATIONS

That the Governance and Audit Committee considers:

- the External Audit Progress Report.

11. APPENDICES

External Audit Progress Report. + [Audit Fee Letter](#)

12. BACKGROUND DOCUMENTS

None

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Audit progress report

City of Bradford Metropolitan District

Council

March 2018





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2. National publications
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This document is to be regarded as confidential to the City of Bradford Metropolitan District Council. It has been prepared for the sole use of the Audit and Governance Committee. No responsibility is accepted to any other person in respect of the whole or part of its contents. Our written consent must first be obtained before this document, or any part of it, is disclosed to a third party.

1. AUDIT PROGRESS

Purpose of this report

This report provides the Governance and Audit Committee with an update on progress in delivering our responsibilities as your external auditors.

This paper also seeks to highlight key emerging national issues and developments which may be of interest to Members of the Committee.

If you require any additional information regarding the issues included within this briefing, please contact any member of your engagement team.

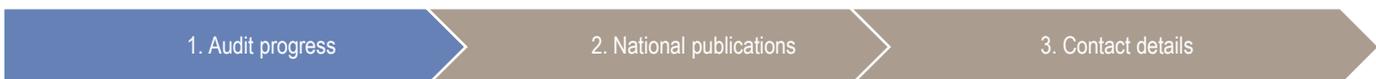
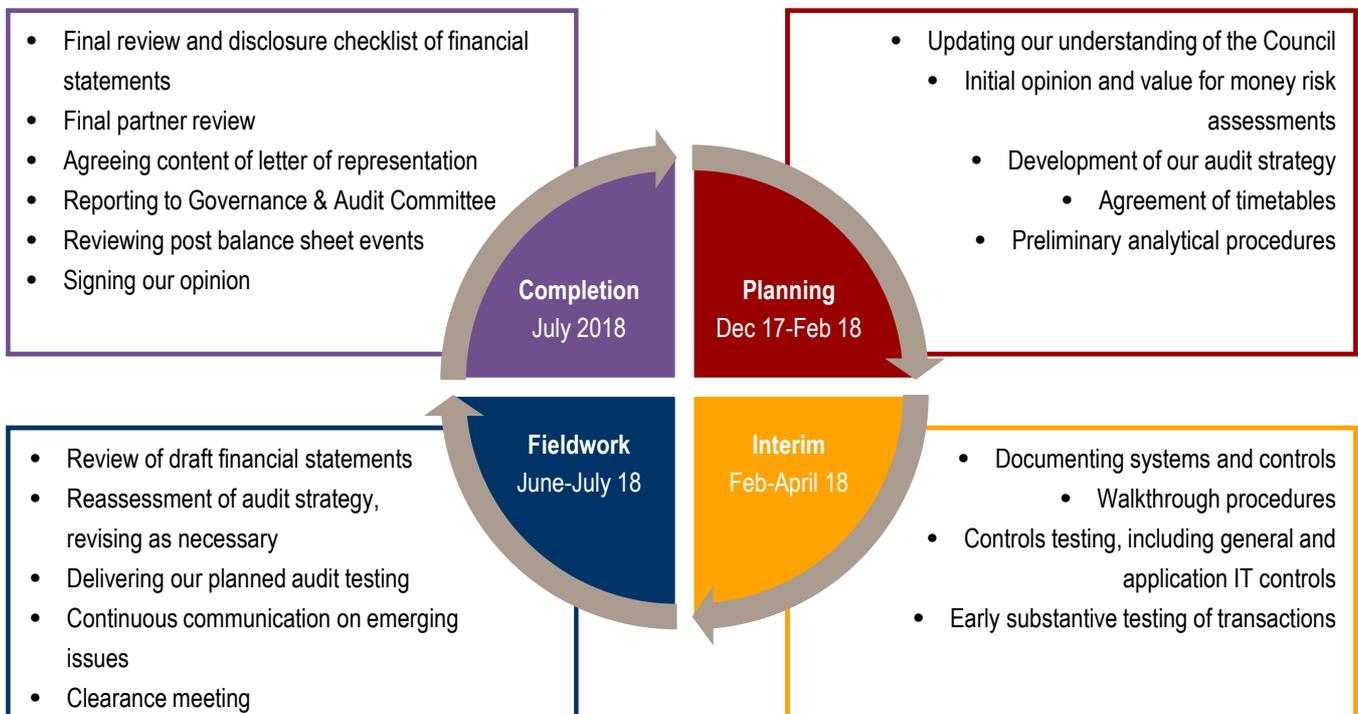
Finally, please note our website address www.mazars.co.uk which sets out the range of work Mazars carries out, both within the UK and abroad. It also details the work Mazars does in the public sector.

Audit progress

Our key audit stages are summarised in the diagram shown below. Overall work is on track and there are no significant issues arising.

Details of work completed and on-going are as follows:

- documenting systems and controls;
- walkthroughs of the key information systems;
- updating our IT risk assessment;
- controls testing, including general and application IT controls;
- early substantive testing of transactions (including income and expenditure, journals and property, plant and equipment); and
- updating our VFM risk assessment and early work in response to the significant VFM risk identified within our audit strategy memorandum i.e. delivery of a balanced budget and medium term financial planning



2. AUDIT PROGRESS (CONTINUED)

Other on-going work includes:

- continued liaison with senior officers and consideration of key agendas and papers; and
- liaising with your internal auditors to share knowledge and ensure no duplication.

At this stage of the audit, there are no issues arising or significant deficiencies in internal control that we are aware of from our work and planned work is on track for the year.

Housing benefits

Initial discussions have been held and an early planning meeting will be arranged with officers to discuss the approach for our work on the 2017/18 housing benefits subsidy return.

Although the current year's housing benefits work is covered by the PSAA contract, from 2018/19, the Council needs to make its own arrangements. DWP are producing guidance on the work required and the nature of the future engagement of a reporting accountant to carry out the required housing benefit assurance work. Although this assurance work is not due to be completed until November 2019, DWP are likely to require councils to identify their reporting accountant for this work much sooner, possibly by June 2018 (following the extension of an earlier deadline of 1 March 2018 as the guidance is still not complete).

Mazars will be happy to provide a competitive quotation for undertaking this work when the timescales and requirements are clarified.

3. NATIONAL PUBLICATIONS AND OTHER UPDATES

	Publication / update
1.	Financial difficulties experienced by Northamptonshire County Council
2.	Local authorities encouraged to consider local public accounts committees, February 2018
3.	Local audit quality forum, Public Sector Audit Appointments, January 2018
4.	Sustainability and Transformation in the NHS, National Audit Office, January 2018
5.	Preparing for full GDPR implementation by 25 May 2018
6.	Financial sustainability of local authorities 2018, National Audit Office, March 2018

1. Financial difficulties experienced by Northamptonshire County Council

There has been much media coverage of Northamptonshire County Council's financial problems, which led to the Council issuing a section 114 notice stopping all non-statutory spending (the first such notice issued anywhere for almost 20 years), and difficulties in setting a legal budget for 2018/19 which are still ongoing. These issues highlight the impact that austerity measures can have on local government services, and the importance of delivering any savings needed to balance the budget, however difficult and unpalatable such decisions might be.

The three Public Finance articles (links below) provide a good summary of these issues:

<http://www.publicfinance.co.uk/news/2018/02/northants-revised-budget-finds-further-ps99m-savings1>

<http://www.publicfinance.co.uk/news/2018/02/northamptonshire-review-budget-following-audit-warning>

<http://www.publicfinance.co.uk/news/2018/02/northamptonshire-sparks-warnings-other-councils-could-fail>

2. Local authorities encouraged to consider local public accounts committees, February 2018

Research published by Association for Public Service Excellence (APSE) and written and researched by the Local Governance Research Unit at De Montfort University explores how public services, and the decisions made about them by unelected bodies, should be held to account by local government as an elected governing body. Moreover, it seeks to understand the developing and expanding role of local government as both a vehicle for public accountability and in influencing and shaping the governance networks within which it exists.

The report '*Bringing Order to Chaos. How does local government hold to account agencies delivering public services?*' makes a series of recommendations, as set out below.

- A Local Public Accounts Committees should be formed by all councils and be given the same statutory powers over external agencies as has health scrutiny in relation to the NHS.
- Securing public accountability must be developed as a role for all councillors and not restricted to a functional overview and scrutiny committee process.
- Robust accountability processes need to be put in place for all arms-length bodies created by a council. Mechanisms must be put in place whereby all other councillors are able to challenge, question, seek justification from and influence the actions of arms-length bodies and scrutiny and full council should be engaged in such a process.
- Councils should produce a local 'governance framework' policy document which identifies all those organisations with which the council interacts and which creates a shared vision of the development of public services across the councils area.
- Councils should create a 'governance forum' where all those organisations with which the council interacts, can regularly meet to ensure a co-ordinated approach to public service delivery and long-term planning for service development and contribute to the 'governance framework'.
- There should be a legal requirement – through an extension of the principle of a 'duty to co-operate' - on all public service providers to engage with local government, at the earliest possible time, when developing policy and taking decisions about public services.

<http://www.apse.org.uk/apse/index.cfm/research/current-research-programme/bringing-order-to-chaos-how-does-local-government-hold-to-account-agencies-delivering-public-services/>

1. Audit progress

2. National publications

3. Contact details

3. NATIONAL PUBLICATIONS - CONTINUED

3. Local audit quality forum, Public Sector Audit Appointments, January 2018

Local bodies which have opted into Public Sector Audit Appointments' national scheme will be entitled to attend Local Audit Quality Forum (LAQF) events free of charge. The LAQF will be a forum within which representatives of relevant audit bodies can work together and collaborate with others to share good practice and strive to enable improvements in the quality, efficiency and effectiveness of audit arrangements and practices in principal local authorities and police bodies in England. Public Sector Audit Appointments (PSAA) want to develop a momentum and a passion for continuous improvement in audit arrangements throughout the entities and sectors for which PSAA has a mandate.

The inaugural meeting is a one-day event in London on 18 April 2018 and PSAA have set out they hope audit committee chairs and chief finance officers will welcome the initiative.

<https://www.psa.co.uk/local-audit-quality-forum/local-audit-quality-forum/>

4. Sustainability and Transformation in the NHS, National Audit Office, January 2018

Additional funding, aimed to help the NHS get on a financially sustainable footing, has instead been spent on coping with existing pressures, according to the National Audit Office's (NAO) report.

The NHS received an additional £1.8 billion Sustainability and Transformation Fund in 2016-17 to give it breathing space to set itself up to survive on significantly less funding growth from 2017-18 onwards. It was also intended to give it stability to improve performance and transform services, to achieve a sustainable health system.

The Fund has helped the NHS improve its financial position from a £1,848 million deficit in 2015-16 to a £111 million surplus in 2016-17. Within the overall position, the combined trust deficit reduced to £791 million in 2016-17 from £2,447 million in 2015-16. There has also been an improved underspend of £154 million across clinical commissioning groups, yet 62 groups reported a cumulative deficit in 2016-17, up from 32 in 2015-16.

Despite its overall financial position improving, the NHS is struggling to manage increased activity and demand within its budget and has not met NHS access targets. Furthermore, measures it took to rebalance its finances have restricted money available for longer-term transformation, which is essential for the NHS to meet demand, drive efficiencies and improve the service. For example, the Department transferred £1.2 billion of its £5.8 billion budget for capital projects to fund the day-to-day activities of NHS bodies.

Clinical commissioning groups and trusts are increasingly reliant on one-off measures to deliver savings, rather than recurrent savings that are realised each year. Between 2014-15 and 2016-17 the percentage of savings that were non-recurrent increased from 14% to 17% for commissioners, and from 14% to 22% for trusts. This poses a significant risk to the financial sustainability of the NHS in the future.

Progress has been made in setting up 44 new partnership arrangements across health and local government, which are laying the foundations for a more strategic approach to meeting the demand for health services within the resources available. In reality, partnerships' effectiveness varies and their tight financial positions make it difficult for them to shift focus from short-term day-to-day pressures to delivering transformation of services.

The NAO has made a number of recommendations to the Department, NHS England and NHS Improvement, which includes moving further and faster towards aligning nationwide incentives, regulation and processes, as well as reassessing how best to allocate the sustainability and transformation funding.

<https://www.nao.org.uk/report/sustainability-and-transformation-in-the-nhs/>

3. NATIONAL PUBLICATIONS - CONTINUED

5. Preparing for full GDPR implementation by 25 May 2018

The EU's General Data Protection Regulation (GDPR) is the result of four years of work by the EU to bring data protection legislation into line with new, previously unforeseen ways that data is now used. Currently, the UK relies on the Data Protection Act 1998, which was enacted following the 1995 EU Data Protection Directive, but this will be superseded by the new legislation. It introduces tougher fines for non-compliance and breaches, and gives people more say over what organisations can do with their data. It also makes data protection rules more or less identical throughout the EU.

This is the first comprehensive regulation dedicated to the European data protection rules in 20 years. It was adopted into law on 27 April 2016 and came into force on 25 May 2016. By 25 May 2018, all organisations are required to have implemented its principles, regardless of Brexit. The key principles of GDPR are summarised below.

- **Fair and lawful** – must have legitimate grounds for collecting and using the personal data. Use in accordance with the law and regulations. Transparency.
- **Purposes** should be specified, explicit and legitimate
- **Proportionality** – must hold personal data about an individual that is sufficient for the purpose it is held for. Do not hold more information than needed for that purpose.
- **Accuracy** - carefully consider any challenges to the accuracy of information. Consider whether it is necessary to update information.
- **Deletion** - personal data shall not be kept for longer than necessary. Only relevant data can therefore be kept.
- **Subject's access** - right of access, Right to object to processing, Right to prevent processing for direct marketing, Right to object to decisions being taken by automated means, Right to have inaccurate personal data rectified, blocked or destroyed.
- **Security measures** - take all necessary steps to ensure the data security.
- **Transfers limitation** - no transfer to a country or territory outside the EEA unless that country or territory ensures an adequate level of protection for the rights and freedoms of data subjects.

The GDPR requirements are particularly important to local government, given the nature of their activities, dealing directly with citizens and holding a range of personal and sensitive data. While there has been much focus on potential financial penalties, there is a need to see this more as an opportunity for enhanced accountability, to ensure that citizens' data is processed in a secure but transparent manner, and realise the benefits to be gained by building trust with citizens through the adoption of a fair and transparent approach to the collection and use of their data.

Recent high profile cases highlight the risks of what can happen if data is not adequately protected. Key actions for organisations include:

- organisational commitment;
- privacy assessment (understanding what data is held and for what purposes it will be used including contracts with third parties);
- compliance and monitoring;
- privacy training; and
- private governance (preparation of a strategy and plan to ensure full GDPR compliance).

6. Financial sustainability of local authorities 2018, National Audit Office, March 2018

On Thursday 8 March, the NAO published the *Financial sustainability of local authorities 2018*.

The study assesses financial and demand conditions in the sector and the implications for local authority financial and service sustainability. It also reviews the stewardship role of the Ministry of Housing, Communities and Local Government, and the role of other departments with local service responsibilities, in relation to the local government financial and service sustainability. Further details are available via the following link:

<https://www.nao.org.uk/report/financial-sustainability-of-local-authorities-2018/>

4. CONTACT DETAILS

Please let us know if you would like further information on any items in this report.

www.mazars.co.uk

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1. Audit progress

2. National publications

3. Contact details

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27 March 2018

Dear Andrew

City of Bradford Metropolitan District Council – External audit fees 2018/19

Public Sector Audit Appointments Ltd (PSAA) has consulted on its scale of fees for 2018/19. It has not made any changes to the work programme for 2018/19 but the results of the bulk-procurement for opted-in bodies has led to a reduction in fees from 2017/18 of 23%. The scale of fees is published online at <https://www.psa.co.uk/audit-fees/201819-work-programme-and-scales-of-fees/>

Fees

The table below includes our proposed fees, which are in line with the scale fee.

Audit area	Proposed fee (2018/19)	Provisional fee (2017/18)*
Audit of the accounts and VFM conclusion	£142,694 plus VAT	£185,317 plus VAT

**subject to completion of the 2017/18 work*

The scale fee assumes that you provide us with complete and materially accurate financial statements, with supporting working papers, within agreed timeframes. At this stage we have not agreed any non-audit work for 2018/19.

Outline of work programme

The proposed audit fee covers:

- the audit of your financial statements;
- work to conclude on your arrangements for securing value for money; and
- the assurance we are required to provide to the National Audit Office on the consistency of your Whole of Government Accounts return with the audited financial statements.

Previously, we have also carried out work as an agent of PSAA on the Council's Housing Benefit Subsidy return. This work now falls outside of the scope of our work as the Council's appointed auditor and PSAA no longer set an indicative fee for this work. We would be happy to continue to provide this assurance service and to provide an indicative fee for this work.

Mazars LLP – Salvus House - Aykley Heads - Durham - DH1 5TS
 Tel: +44 (0) 191 383 6300 – Fax: +44 (0) 191 383 6350 – www.mazars.co.uk

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We are registered to carry on audit work in the UK and Ireland by the Institute of Chartered Accountants in England and Wales. Details about our audit registration can be viewed at www.auditregister.org.uk under reference number C001139861.

VAT number: 839 8356 73



If required, we will address any legal challenge work prompted by local electors at the rate prescribed by PSAA.

At this stage we have yet to complete our risk assessment for 2018/19 and we will issue our Audit Strategy Memorandum in early 2019. This will communicate to you the risks that we identify in relation to the work programme outlined above and the action we plan to take in response.

If you have any queries, please don't hesitate to contact either myself or your engagement manager, Mark Dalton.

Yours sincerely

A handwritten signature in black ink, appearing to read 'MSK', followed by a horizontal flourish.

Mark Kirkham

Partner

cc Parveen Akhtar - Interim Strategic Director, Corporate Resources
Kersten England - Chief Executive



Report of the Assistant Director Finance and Procurement to the meeting of Governance and Audit Committee to be held on 19 April 2018

AJ

Subject:

Internal Audit Peer Review – April Update

Summary statement:

This report provides an update on the actions being taken to address the recommendations of the Internal Audit Peer Review reported at the March 2018 meeting.

Andrew Crookham
Assistant Director Finance and
Procurement

**Portfolio: Leader of Council and
Corporate**

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Procurement
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Overview & Scrutiny Area: Corporate



City of Bradford
Metropolitan District Council



1. SUMMARY

This report provides an update on the actions being taken to address the recommendations of the Internal Audit Peer Review reported at the March 2018 meeting.

2. BACKGROUND

During January 2018, the Council's Internal Audit function was peer reviewed by colleagues from Doncaster Council to assess compliance with the Public Sector Internal Audit Standards (PSIAS). The findings of this review were presented to Governance and Audit Committee on 22 March 2018.

The review found that the Internal Audit service was rated as 'partially conforms' against the standards and provided the Council with 15 recommended actions for improvement. The key reasons for the 'partially conforms' rating were:

- the low level of audit resource employed by the Council,
- the percentage completion of the Bradford Council element of the audit plan at the time of the review (46% at January 2018),
- the impact of other duties on the role of the Council's Head of Internal Audit (HoIA), and that safeguards to preserve audit objectivity and independence are not reported annually as expected by the Standards,
- that some audit documentation was in need of updating and some reporting requirements were not met,
- the annual audit opinion given by the HoIA does not explicitly include a conclusion on risk management or governance arrangements, as required by the Standards.

In agreeing to the recommendations of the report, Members of the Committee resolved that an update be provided to this meeting, with particular reference to Recommendation 1 around audit resources, with a further schedule of updates for future meetings to be agreed.

3. PROGRESS UPDATE

Audit Resources

The peer review cited *"notably limited resources and this will be exacerbated when an assistant manager leaves the service in the near future to take up a promotion gained elsewhere. There is an ongoing risk that the service could be unable to carry out sufficient work to enable the HoIA to give a full opinion required by the Standards."*

As at 31 March 2018, the Council's Internal Audit team comprises 9.12 Full Time Equivalent (FTE) posts, including the now vacant Assistant Audit Manager post (referenced above) at 0.93 FTE. This is broken down across the following job roles:

	FTE
Head of Internal Audit & Insurance	1.00
Audit Manager	1.70
Assistant Audit Manager	1.93
Senior Auditor	3.49
Auditor	1.00
Total Budgeted FTE's	9.12

The Assistant Director Finance & Procurement reported at the March Committee meeting that the service budget was being assessed for capacity that could be redirected to allow for an increase in staffing numbers and therefore the available audit days that the 2018/19 audit plan can be formulated on. The Committee were also advised that the reason the now vacant 0.93 FTE Assistant Audit Manager hadn't been recruited to immediately was that consideration was being given to whether a like for like replacement should be sought or if an increase in the number of Senior Auditor roles was more appropriate.

Since the peer review report was presented, a formal request for flexible retirement has been submitted by a Senior Auditor in the team, which would correspond to a 0.4 FTE reduction. Clearly this will place further strain on the resource position and will be held in abeyance pending developments on recruiting to new posts.

With these points in mind, funding has been identified that will allow the service to recruit 1.0 FTE Assistant Audit Manager (to replace the vacancy) and 3.0 FTE Senior Auditor posts. Recruiting to these posts requires internal consultation with the Trade Unions and following agreed vacancy management procedures. The recruitment to the new posts would lead to a net increase of approximately 500 extra audit days above the resources provided by the current establishment, the usage of which will be formalised as part of the Audit Plan report due at the next committee meeting.

Furthermore, work is ongoing as to whether the wider service can utilise the apprenticeship levy to support the introduction of accountancy traineeships which would create more audit resource as part of any training programme and whether provision can be made for one off audits where appropriate expertise isn't available in house.

Audit Plan Completion at 31 March 2018

Building on the finding reported above, the peer review also drew attention to the following in making conclusions on resourcing levels: *“Only 46% of the mainstream Bradford Council block of the overall audit programme was complete at January 2018. It is noted that other blocks of the overall audit programme – i.e. Schools, Grants, Pension Fund were much further progressed and, when taking these into account, the progress in completing the overall audit programme was 62%.”*

In terms of updating this position, it can be confirmed that 81% of the audit programme had been completed by 31 March 2018, including 60% of the Bradford Council block. By contrast, in 2016/17 89% of the audit programme had been completed by 31 March 2017, which included 67% of the Bradford Council block.

Safeguards

With regard to safeguards around objectivity and independence, the peer review reported

concern around some audit team members working on non audit activity and there being no formal reporting around the separation of duties of the HoIA and their other service management responsibilities.

Whilst the Annual Audit report by the HoIA in July will normalise these arrangements, it is appropriate to report these safeguards to the committee at this early opportunity:

- Auditors carrying out non audit work has ceased immediately.
- For other areas managed by the HoIA:
 - Audits to be planned are determined by the Audit Manager and agreed with the s151 Officer.
 - During 2017/18, risk and insurance audits have been carried out that were completed by an Assistant Audit manager, reviewed by the Audit Manager, and reported directly to the s151 Officer.
 - For each audit carried out, there is a potential conflict of interest declaration, which is used to allocate audits appropriately.

Reporting to Management

The peer review cited the lack of formal reporting to Corporate Management Team (CMT). There will be three regular audit reports submitted to the Committee during 2018/19 beyond any further subject specific items, including in relation to outcomes from the peer review. In line with our response to the review, arrangements will be put in place to ensure these are reported to CMT, including the provision of any comments form that forum for the consideration of the committee. The reports and anticipated reporting dates are:

	CMT	GAC
Audit Plan	4 July 2018	July 2018
Annual Audit Report	4 July 2018	July 2018
Mid Year Report	7 November 2018	November 2018

Future Updates

Future written updates to the committee, which will track progress against the peer review recommendations, will be supported by an appendix demonstrating this and any emerging risks/issues related to each. It is recommended that these written updates are reported to the committee at its July, September and November meetings throughout 2018.

4. FINANCIAL & RESOURCE APPRAISAL

The report refers to budgetary movements within the overall Finance & Procurement budget and the addition of employees to the establishment which are affordable within the approved cost envelope for 2018/19.

5. RISK MANAGEMENT AND GOVERNANCE ISSUES

The peer review report highlights where the Council’s Internal Audit function and practices can be improved. As a professional, independent and objective Internal Audit service is

one of the key elements of good governance in Local Government, it is clearly important that the recommendations are implemented to ensure the Council's governance environment remains strong.

6. LEGAL APPRAISAL

There are no legal implications.

7. OTHER IMPLICATIONS

There are no other implications.

8. RECOMMENDATIONS

That Members note the latest update on progress against the key recommendations of the peer review and agree that further written updates will be received by the committee in July, September and November.

9. APPENDICES

None.

10. BACKGROUND DOCUMENTS

- Internal Audit Peer Review – Governance and Audit Committee Report and Appendix, 22 March 2018 (Doc AH)

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Report of the Interim Strategic Director Corporate Resources (Monitoring Officer) to the meeting of the Governance and Audit Committee to be held on 19 April 2018

AK

Subject:

Amendments to the Constitution – Financial Regulations and Contract Standing Orders

Summary statement:

This report provides members with details of the annual review of the Financial Regulations and Contracts Standing Orders Sections of the Council's Constitution and makes recommendations for their amendment.

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1. Summary

- 1.1 This report provides members with details of the annual review of the Financial Regulations and Contracts Standing Orders Sections of the Council's Constitution and makes recommendations for their amendment.

2. Background

- 2.1. During the municipal year 2017/18, Finance Officers have undertaken their annual review of Financial Regulations and Contracts Standing Orders to ensure they properly reflect appropriate governance procedures for the Council. This report sets out the proposals for amendments to deliver those changes and improvements. The Committee is asked to consider the proposed amendments to the Constitution for recommendation to Council for formal approval on the 15 May 2018. The Committee is also asked to grant delegated authority to the Interim Strategic Director Corporate Resources (Monitoring Officer) to implement any recommendations approved by Council and to make consequential amendments to the Constitution as a result of the recommendations approved by Council.

3. Proposed Amendments to Financial Regulations

- 3.1 There are a number of proposed changes to Financial Regulations. The table below identifies the reason that the proposed change is recommended.

Financial Regulation	Reason for proposed change
Whole Document	Replaced "Strategic Director Corporate Services" with Chief Financial Officer so that any changes in job title of the officer designated to be the Chief Financial Officer will not result in Financial Regulations being amended.
1	Updated reference to Accounts and Audit Regulations 2015. Updated to ensure that Chief Financial Officer is an Appropriate Officer irrespective of whether the substantive post is an Appropriate Officer role. Updated to reflect that G&AC annually review a report regarding proposed changes to Financial Regulations but that Council approves any changes.
2	No change
3	Added a requirement relating to taking into account public sector internal audit standards and guidance.
4	No change
5	Updated reference to IR35.
6 & 7	No change
8	Updated to include reference to new Investment Advisory Group agreed by Executive on 09/01/18. Updated to include reference to obtaining state aid advice.
9	Updated to reflect revised document names.
10 - 14	No change
15	Updated wording on advice from P2P Team. Updated to ensure approved feeder systems are included in the requirements of the financial regulation.

16	Minor change in title to ensure consistency.
17	No change
18	Updated to enable WYPF to write off debts in accordance with WYPF procedures and no longer involve Accounts Receivable. These debts relate solely to WYPF.
19	Updated to reflect change in £/Euro exchange rate.
20 - 27	No change
28	Minor change from "buildings" to "property" to ensure consistency with the Land and Property Disposal Policy. Updated to have 2 separate regulations; one relating to acquiring and the other relating to disposing.
29	Removed reference to annual asset disposal plan as this does not exist.
30	Updated to refer to appropriate guidance.
31 & 32	Updated to reflect new Code of Practice and Information Security Policy.
33	No change
33	Updated to directly reflect the wording in the WYPF Governance Compliance Statement to ensure consistency.
34	No change

3.2 Proposed Amendments to Contracts Standing Orders

General amendments are proposed to improve clarity on the policy and procedures for the procurement of public contracts, and also to reflect changes in organisational structure. Specific amendments are also proposed as part of an on-going process of continuous improvement in the Council's planning and approach to procurement along with some further specific changes taking account of legislative requirements. The main changes are summarised as follows in Table 2:

Standing Order	Reason for proposed change
Contracts Standing Orders	Replaced "Strategic Director Corporate Services" with Chief Financial Officer so that any changes in job title of the officer designated to be the Chief Financial Officer will not result in Contracts Standing Orders being amended.
Definitions	Simplified or improved definitions for 'Aggregation', 'Appropriate Officer', 'Call Off', 'Contract', 'EU Thresholds', 'Light Touch Regime', and 'Local Supplier', and definitions added for 'Purchasing Card', and 'Supplier'
2.3	Officers must follow the Council's Employee Code of Conduct when engaged in procurement activity.
2.5	To improve accountability Appropriate Officers are required to submit an annual list of Authorised Officers to the Assistant Director Finance and Procurement. (Authorised Officers can enter the Council into a contract in their own name).
2.7 & 2.8	Reference to 'Exemption' removed to limit the opportunity for confusion with 'Exceptions to Requirements for Competition' (section 9)
3.1	Social, Economic, Environmental and Ethical considerations must follow requirements set out in the Council's Social Value and Inclusive Growth Policy (with clause 4.6.9 deleted).
4.1	Authorised Officers are to prepare annual procurement plans for all contracts with an estimated value greater than £100k to improve the proactive planning of the Council's procurement activity and the use of resources.

4.7.1	Increased explanation for when contracts with an estimated value greater than £2m should be reported to the relevant Overview and Scrutiny Committee.
4.7.5 & 4.8.3	Adjustments in the requirements for assessing risk.
6.1.1	For contracts with an estimated value between £25k and £100k that the Authorised Officer must seek a minimum of four quotes from local suppliers.
13.7	Amendments to the requirements for keeping written records of procurements (with clause 15.5 deleted).
14.1	Requirements for the processing of personal data by Suppliers in accordance with the General Data Protection Regulation (effective from the 25 th of May 2018).
20	Section expanded to cover all payments outside of standard processes
20.2	The introduction of rules for the use of Purchasing Cards by Officers.
20.3	That the Appropriate Officer must be consulted before payments are made in advance for low risk and low value contracts.
22.1	There should be no appointment of suppliers where a Member's interest has not been disclosed in accordance with the Members' Code of Conduct.

The aim is to improve overall control of procurement so that the law is followed, value for money obtained and exceptions are properly authorised. The proposed changes to Contracts Standing Orders are shown as tracked changes in Appendix 2.

4. Financial and Resource Appraisal

4.1 The resources required to amend the Constitution can be met from existing provision.

5. Legal Appraisal

5.1 Article 17 of the Constitution requires the Monitoring Officer to take steps to make himself/herself aware of the strengths and weaknesses of the Constitution and make recommendations for improvement.

5.2 The review and development of the Constitution is undertaken in compliance with the provisions of the Local Government Act 2000, regulations and guidance made and issued under the Act.

6. Other implications

6.1 There are no equal rights, sustainability, community safety, Human Rights Act or trade union implications of this report.

7. Not for publication documents

7.1 None

8. Recommendations

8.1 That the Governance and Audit Committee consider the proposed amendments to the Constitution (Financial Regulations) listed in Table 1 and recommend to Council

the Proposed Financial Regulations for 2018/19 contained in Appendix 1 for adoption and implementation.

- 8.2 That the Governance and Audit Committee consider the proposed amendments to the Constitution (Contract Standing Orders) and recommend to Council the Proposed Contract Standing Orders for 2018/19 contained in Appendix 2 for adoption and implementation.
- 8.2 That the Interim Strategic Director Corporate Resources (Monitoring Officer) reports any recommendations to Council. That the Interim Strategic Director Corporate Resources (Monitoring Officer) be granted delegated authority to implement any recommendations approved by Council and to make consequential amendments to the Constitution as a result of the recommendations approved by Full Council.

9. Appendices

Appendix 1 - Proposed Financial Regulations for 2018/19.

Appendix 2 - Proposed Contract Standing Orders for 2018/19.

Appendix 1

PART 3F Financial Regulations

GENERAL

1 Application

- 1.1 These Financial Regulations are made in accordance with the provisions of section 151 of the Local Government Act 1972 and the Accounts and Audit Regulations 2015 and subsequent amendments to provide for the proper administration of the Council's financial affairs. The Chief Financial Officer (S151 Officer) has overall responsibility for this administration. More detailed guidance is contained in Financial Advice Notes and other procedures issued by the Chief Financial Officer.
- 1.2 In these Financial Regulations "Appropriate Officer" means the Chief Executive, Strategic Directors, Directors, City Solicitor, the Chief Financial Officer (S151 Officer) or any other officer designated by resolution of the Executive.
- 1.3 In these Financial Regulations "Appropriate Member" for the purposes of paragraph 16.4.2 means the portfolio holder for the service area required to comply with the Financial Regulations and the Ward members where the proposed expenditure has implications for a specific Ward.
- 1.4 These Regulations state the principles of financial control and administration, which must be followed by all officers of the Council. Failure to comply with these Financial Regulations may result in disciplinary action against the officer(s) concerned. Appropriate Officers must certify annually their compliance with internal controls.
- 1.5 In applying these Financial Regulations, all officers shall have regard to the duty of Best Value under the Local Government Act 1999.
- 1.6 Annually, the Chief Financial Officer will review these Financial Regulations and report any proposed alterations to the Governance and Audit Committee for consideration. The report will then be presented to Council for approval as part of the annual review of the Constitution.
- 1.7 The Chief Financial Officer may allow specific exceptions to these Financial Regulations where in his/her opinion it is in the Council's interest. The Chief Financial Officer must keep a record of these exceptions and report these to the Governance and Audit Committee on an annual basis.
- 1.8 The Chief Financial Officer can alter the financial limits in these regulations because of changes in the value of money. S/he must report any alterations to the next meeting of the Governance and Audit Committee.

- 1.9 All amounts quoted in these Financial Regulations refer to values excluding Value Added Tax.
- 1.10 In applying these Financial Regulations, all officers shall comply with the Budget and Policy Framework Procedure Rules set out in Part 3C of the Constitution and implement the specific further requirements and best practice advice provided by the Chief Financial Officer.

FINANCIAL CONTROLS AND PROCEDURES

2 Accounting Control

- 2.1 The Chief Financial Officer is responsible for approving and controlling the Council-wide accounting and financial systems. Appropriate Officers must comply with these accounting and financial systems.

3 Audit Arrangements

- 3.1 The Chief Financial Officer must monitor, review and report on:
 - 3.1.1 The soundness and adequacy of financial management control systems and how they are implemented.
 - 3.1.2 How far established policies, plans and procedures are complied with and the financial effect.
 - 3.1.3 How far assets, resources and interests are accounted for and safeguarded from losses due to fraudulent offences, waste, extravagance and inefficiency.
 - 3.1.4 The effectiveness of risk management, control and governance processes taking into account public sector internal audit standards and guidance.
- 3.2 S/he can visit all premises to see cash, stores and other property. S/he has access to any documents and all other data sources s/he thinks necessary. S/he can ask any officer for any information and explanations s/he thinks necessary and may produce a report. The officer concerned then has two months to respond to the report detailing the intended action to be taken on the report's recommendations. The Appropriate Officers are responsible for appropriate procedures being in place to ensure that the intended action has been implemented. The Chief Financial Officer must take to the Governance and Audit Committee the Annual Internal Audit Plan, the Annual Internal Audit Report and any other report relevant to Internal Audit. The Chief Financial Officer must inform the Governance and Audit Committee every year about any replies to reports which are still outstanding.
- 3.3 If any officer suspects or knows of any losses or irregularities concerning cash, property, stores or other financial matters s/he must inform the Corporate Fraud Unit at once and discuss action to take. The Chief Financial Officer must report serious losses and irregularities to the Governance and Audit Committee.

4 Statement of Accounts

- 4.1 Each year the Chief Financial Officer must produce to the Executive an outturn report for the previous financial year showing income and expenditure on both capital and revenue account compared against estimates.
- 4.2 Each year the Chief Financial Officer must produce the Council's Statement of Accounts (which shall include the Annual Governance Statement) and submit them to the Governance and Audit Committee.

5 Payments to Staff

- 5.1 Appropriate Officers are responsible for arrangements for paying employees in accordance with rules issued and systems established by the Chief Financial Officer. Payments to workers must comply with IR35 Regulations.
- 5.2 The Appropriate Officer is responsible for the accuracy of all information passed to the Chief Financial Officer that is used for making payments to staff and the Chief Financial Officer is responsible for the accuracy of payments made in accordance with information received.
- 5.3 Appropriate Officers or their nominees should maintain an up to date signatory list of all officers approved by them to manually authorise all payroll and related documents.
- 5.4 Appropriate Officers or their nominees should authorise staff who can have Chief Position status on MSS. Only staff with Chief Position status can authorise electronic payroll and related documents including starters and leavers for their staff.

6 Banking Arrangements

- 6.1 The Chief Financial Officer controls the Council's bank and giro accounts and is responsible for all procedures.
- 6.2 All cheques, giros, promissory notes and any other financial instruments and other orders for payment can be signed only by the Chief Financial Officer or other officers authorised by her/him.

7 Borrowing and Credit Arrangements

- 7.1 The Chief Executive and Chief Financial Officer exclusively can negotiate loans to the Council.
- 7.2 Appropriate Officers must consult the Chief Financial Officer before entering into any property lease, finance lease or other contract for the use of an asset which may be deemed a credit arrangement and controlled under Sections 7 and 8 of the Local Government Act 2003.

8 Investments

- 8.1 The Investment Advisory Group (IAG) will make investment recommendations to the Strategic Director Corporate Resources and oversee a strategy for generating income from investment in other assets, taking into account sources of funds, objectives/purpose, scope of investment (geography, sector, exclusions), risk appetite, duration, return requirements and the economic and regulatory environment.
- 8.2 The Strategic Director Corporate Resources and Chief Financial Officer exclusively can make investments. S/he must put them under the name of the Council and/or the appropriate Trust Fund. Investments can include loans made, to for profit and not for profit organisations providing the purpose of the loan is consistent with the Council's priorities and advice relating to State Aid has been obtained.

9 Treasury Management

- 9.1 The Treasury Management function shall be carried out by the Chief Financial Officer in accordance with the Code of Practice on Treasury Management in the Public Service produced by CIPFA and in accordance with the Treasury Management Policy Statement and Treasury Management Practices/Schedules approved by the Governance and Audit Committee.
- 9.2 All Council money (excluding cash controlled by schools under delegated budgets) shall be under the control of the Chief Financial Officer.
- 9.3 All operational decisions on borrowing, investment or financing (except for schools under delegated budgets) shall be made by the Chief Financial Officer or officers nominated under the Scheme of Delegation contained in the Treasury Management Practices/Schedules.
- 9.4 Each year the Chief Financial Officer shall present to Governance and Audit Committee the following reports on Treasury:
- 9.4.1 A Treasury Management Policy Statement , Minimum Revenue Provision Strategy and Annual Investment Strategy
 - 9.4.2 An Annual Treasury Management report
 - 9.4.3 and a Mid Year Treasury update report.

All above reports subsequently will be presented to full Council.

10 Value Added Tax

- 10.1 Appropriate Officers must fully consider and take into account the VAT implications of all policy decisions.
- 10.2 Where a capital project is proposed which involves expenditure in any of the VAT exempt activity areas Appropriate Officers must:
- 10.2.1 Ensure that the VAT implications are taken into account during the planning stage.

10.2.2 Liaise with the Chief Financial Officer on any capital proposals which may have exempt implications; and

10.2.3 Ensure that any report to members states that the VAT exempt implications have been considered within the financial implications section of the report.

10.3 Any proposal to change the method by which a service is provided should be notified to the Chief Financial Officer.

11 Partnerships, Joint Ventures and Companies in which the Council is a Guarantor or has a Share Holding Interest

11.1 Where it is proposed that the Council be involved in a partnership arrangement or a joint venture or where the Council is to be a guarantor of a company limited by guarantee or a shareholder of a company, the Appropriate Officer shall first consult with the Chief Financial Officer and City Solicitor on the proposals, and shall agree arrangements to provide for the effective monitoring in each case of the arrangement, Joint Venture or company operation.

11.2 All proposals for the transfer of in house services to an external provider must be considered by the Alternative Delivery Model Steering Group to ensure adequate safeguards are in place.

11.3 This Regulation does not apply to investments under Regulation 8 or pension fund investments under Regulation 33.

PROCUREMENT OF GOODS, WORKS AND SERVICES

12 Contract Standing Orders

12.1 Any officer of the Council who is either responsible for, or undertakes, procurement of goods, works and services on behalf of the Council, or behalf of any other body for whom the Council acts, must follow the Council's Contract Standing Orders.

EXPENDITURE REQUIREMENTS

13 Expenditure Limits

13.1 Appropriate Officers may spend up to the total budgeted resources for their services in the most efficient and cost effective manner and deploy those resources flexibly in order to meet the objectives and policies for those services as approved in the Council's budget and policy framework, provided that:

13.1.1 Budget for capital charges and/or statutory charges may not be vired for other purposes.

- 13.1.2 Portfolio holders are consulted before the Appropriate Officer transfers resources under their delegated control but between Portfolio Holders' remits.
- 13.1.3 Requests for virement of revenue over £100,000 from the control of one Appropriate Officer to another are to be approved by Council unless agreed by all three leaders of the three largest political groups represented on the Council.
- 13.2 Where a request for virement of revenue over £100,000 is approved in accordance with Standing Order 13.1.3 above the officer seeking approval will notify all elected members of Council of that approval within 5 working days.
- 13.3 The Chief Financial Officer will report all approvals given under Standing Order 13.1.3 to the Executive, as part of the Quarterly Financial Report.
- 13.4 Appropriate Officers are responsible for all expenditure incurred.
- 13.5 Appropriate Officers may make variations within their total budget but where any such variations will have a financial impact on another Council department they must consult with the department concerned.
- 13.6 Appropriate Officers shall not incur expenditure beyond the total budgeted provision, nor make commitments or variations in staffing levels which would lead to increases in expenditure in future years beyond approved limits. Appropriate Officers must inform the Chief Financial Officer immediately if it appears to them that the total expenditure incurred by their services (including expenditure they propose to incur) is likely to exceed the approved budget.

14 Better Use of Budget

- 14.1 In order for Appropriate Officers to manage their budgets more effectively, they may:
 - 14.1.1 Underspend their allocation and carry the balance forward to the following year, or,
 - 14.1.2 Overspend their allocation and deduct the amount overspent from the following year's budget, provided that by carrying a balance forward this would not create an overspending in the following year.
- 14.2 Any action taken under paragraph 14.1.1 or 14.1.2 above must be agreed with the Chief Financial Officer.

15 Procure to Pay and Miscellaneous Payments

- 15.1 Appropriate Officers, or their nominees, are responsible for authorising purchases or making miscellaneous payments. Officers should ensure that the expenditure is necessary and appropriate and that there is a budget on the correct financial code to cover such expenditure, before giving approval.

- 15.2 Appropriate Officers should ensure that staff are properly trained to follow the procure to pay process, use an approved feeder system and to use SAP Procure to Pay.
- 15.3 Appropriate Officers should review and document staff access to the SAP Procure to Pay system and any approved feeder system at least on an annual basis to ensure it is up to date and appropriate.

CAPITAL EXPENDITURE

16 Expenditure Arrangements

- 16.1 Appropriate Officers shall ensure that the potential effects of capital expenditure on the Council's VAT position are properly considered in accordance with Regulation 10.
- 16.2 All Capital Investment proposals must be supported by a business case approved by both the Project Appraisal Group and the Portfolio Holder. These proposals must be evaluated in terms of value for money risk, deliverability and fit within the overall Capital Programme. Only proposals with approved business cases can be included in the Capital Plan.
- 16.3 Appropriate Officers shall ensure that every scheme involving capital expenditure is approved for inclusion in the Capital Investment Plan before any commitment is made, and in this respect:
 - 16.3.1 Schemes to be financed from an approved revenue budget or to be fully financed from capital grant may be approved by the Chief Financial Officer, and
 - 16.3.2 All schemes other than those approved by the Chief Financial Officer in accordance with 16.3.1 must be agreed by the Project Appraisal Group before submission to the Executive for approval.
- 16.4 Appropriate Officers shall ensure that:
 - 16.4.1 The scheme is designed and specified within the approved costs in the Capital Investment Plan (which will be shown at outturn prices) in consultation with the Chief Financial Officer where appropriate.
 - 16.4.2 Appropriate Members are consulted on plans and detailed estimates for schemes over £75,000.
 - 16.4.3 Where appropriate, Government or any other source of external funding approvals have been received.
 - 16.4.4 The tender to be accepted does not exceed the technical officer's estimate of the tender price (as reflected in the Capital Investment Plan) by more than:

16.4.4.1 10% or £100,000, whichever is the lesser, for schemes costing over £75,000.

16.4.4.2 15% or £7,500, whichever is the lesser for schemes costing £75,000 and below.

16.5 Appropriate Officers shall ensure compliance with all current policies on capital expenditure including the requirement to refer schemes (excluding schemes that are entirely funded by external grants) to the Executive immediately prior to entering into any completely new commitments. In addition, Appropriate Officers shall be responsible for keeping both the appropriate Portfolio Holder and the Chief Financial Officer advised of schemes; and shall ensure that the resultant revenue consequences of a capital scheme can be financed within their approved revenue budget.

17 Monitoring the Capital Investment Plan

17.1 Each Appropriate Officer must ensure that annual spending on capital schemes does not exceed the approved cost.

17.2 Once a scheme has started, an Appropriate Officer must report to the Executive at the point at which it becomes apparent that the cost of a capital scheme will exceed the approved figure in the Capital Investment Plan by more than the amounts referred to in 16.4.4.1 and 16.4.4.2.

17.3 Additional works to an approved scheme beyond the original scheme proposals exceeding the approved figure in the Capital Investment Plan may only be authorised by the Executive.

17.4 Where the approved cost of schemes is reliant on funding from specific resources such as supplementary credit approvals and grants, Appropriate Officers must secure the funding before entering into commitments.

17.5 Capital expenditure and funding form part of the financial monitoring reports prepared for the Executive which must include the benefits of investment. Each Appropriate Officer will monitor capital spending and resources and provide information in accordance with the timetable and guidelines issued by the Chief Financial Officer.

INCOME REQUIREMENTS

18 Income Arrangements

18.1 When the authority provides goods or discretionary services to bodies or individuals external to the Council, Appropriate Officers must ensure

18.1.1 A sound business case is established

18.1.2 The Council has legal authority to carry out the service

- 18.1.3 All relevant financial, employment and legal aspects have been properly considered and
- 18.1.4 The Council is not exposed to unreasonable or disproportionate financial or other risk
- 18.2 Appropriate Officers are responsible for arrangements for the collection, receipt, recording, banking and safe-keeping of all Council income in accordance with rules issued by the Chief Financial Officer.
- 18.3 Appropriate Officers are responsible for all arrangements for credit facilities and accounting for doubtful debts in accordance with rules issued by the Chief Financial Officer. The Council's Accounts Receivable System must be used for the recording and collection of credit income due and the recovery of all outstanding debt unless other arrangements have been agreed with the Chief Financial Officer. Arrangements whereby customers self-bill should not be entered into.
- 18.4 All contracts where the Council agrees to provide a service for a fee must be in writing and state the services to be provided, the price to be paid, the payment agreement and the time within which the contract is to be performed.
- 18.5 Credit notes must only be issued to correct a factual inaccuracy or administrative error in the calculation and/or billing of the original debt and once it is confirmed that the debt is not payable. Credit notes must be approved by the relevant Appropriate Officer or their nominated Senior Officers before they are raised.
- 18.6 The Chief Financial Officer must approve the writing-off of debts and other losses except where s/he has specified the level of small value debts below £100 for which Appropriate Officers can give approval. S/he may also nominate senior officers within his/her department to approve write-offs.
- 18.7 As an Appropriate Officer, the Director – West Yorkshire Pension Fund (WYPF) must approve the writing-off of debts and other losses relating to WYPF debts only. He may also nominate senior officers within WYPF to approve WYPF debt write-offs in accordance with the WYPF documented procedures.

19 Prevention of Money Laundering

- 19.1 In accordance with the Money Laundering Regulations 2007, the Council will not accept cash payments in excess of €15,000. For practical purposes, this limit is set at £13,000 subject to Financial Regulation 1.8.
- 19.2 All officers must adhere to guidance issued by the Chief Financial Officer on compliance with Money Laundering Regulations.

20 Review of Fees, Charges and Concessions

- 20.1 The introduction of any fee, charge or concession, or removal of any subsidy must be approved by the Executive unless it is required by legislation or is in accordance with approved policy or strategy.

- 20.2 The Appropriate Officer must review fees charges and concessions annually; including circumstances where there is a legal power to charge but no charge is currently applied.
- 20.3 The annual review must have regard to relevant policies and strategies, cost of service and budget implications and inflation. In particular where there is a requirement for a service to break even or to generate a surplus, the review must have regard to this requirement.
- 20.4 Appropriate Officers may vary fees charges and concessions in line with inflation forecasts stated by the Chief Financial Officer.
- 20.5 Proposed variations to fees, charges and concessions other than in line with inflation forecasts must be referred to the Executive, except that minor variations may be made by the Appropriate Officer after consultation with the appropriate Executive portfolio holder subject to any budgetary consequences being managed within existing service revenue budgets.

21 Grant Applications and Claims

- 21.1 Appropriate Officers are responsible for arrangements for the submission of grant applications to outside agencies, the certification of claims and the proper management of monies received in accordance with the Corporate Standard 3.
- 21.2 The Chief Financial Officer must be informed of all grant applications in excess of £100,000 at the time of application; and the result of all such grant applications as soon as this is known.

MANAGEMENT OF ASSETS

22 Asset Register

- 22.1 The Chief Financial Officer will keep the asset register of the Council and will issue procedures for its maintenance and valuation.
- 22.2 Appropriate Officers must ensure that all assets which are used by or are the responsibility of their services are recorded in accordance with rules laid down by the Chief Financial Officer. Appropriate Officers must supply such information to the Chief Financial Officer as may be required by her/him from time to time.

23 Keeping Inventories and Stock Control

- 23.1 Appropriate Officers must keep inventories of equipment, plant and machinery in accordance with rules issued by the Chief Financial Officer. Inventories must be regularly reviewed and all items physically checked at least annually.
- 23.2 Stock held for re-sale must be valued at the lower of cost or net realisable value. Where valuation on this basis would result in a reduction in the overall carrying value of the range of stock held at a particular establishment of more than 10%, the

Chief Financial Officer must be consulted as to the appropriateness of the valuation. Any stock losses should be dealt with under Financial Regulation 3.3.

24 Property Marking

- 24.1 Wherever possible, all portable and/or attractive equipment, plant and machinery that belongs to the Council must be visibly and permanently marked to show that it is the property of Bradford Council. In the case of new equipment the Appropriate Officer must first check to ensure that marking will not invalidate the warranty. Leased items will be marked as such where marking is acceptable to the Lessor.

25 Control of Assets

- 25.1 Appropriate Officers are responsible for the safekeeping and proper use of all Council assets and other resources under their control.

26 Private Property

- 26.1 When an Appropriate Officer has to look after private property s/he must make a complete inventory of the property under her/his custody and make arrangement for its safekeeping.

27 Private Funds

- 27.1 Appropriate Officers must ensure that when an employee because of her/his job has to look after money that does not belong to the Council s/he must keep it separate from the Council's money and make arrangements for its recording and safekeeping.
- 27.2 A private fund can only be set up with the approval of an Appropriate Officer.
- 27.3 Private funds must be audited every year by two independent individuals or one CCAB qualified accountant. Copies of the audited accounts must be sent to the Appropriate Officer.
- 27.4 The Chief Financial Officer can see all records and vouchers for private funds. S/he must be told of any funds which do not comply with all these requirements.

28 Land and Property

- 28.1 Appropriate Officers must consult with the Chief Financial Officer before acquiring land or property by whatever means (including purchase, sale, lease, tenancy, licence or option). The Chief Financial Officer shall ensure compliance with all relevant current legislation, policies and protocols.
- 28.2 Appropriate Officers must consult with the Chief Financial Officer before disposing of land or property by whatever means. All disposals of Council land or property must be carried out in accordance with the Land and Property Disposal Policy and, if appropriate, the Community Assets Transfer Policy.

28.3 The Chief Financial Officer shall be consulted on and will approve all asset disposals before contract exchange.

29 Disposal of Other Assets

29.1 When disposing of any other asset, Appropriate Officers must ensure the Council's Financial Advice Note on Disposal of Assets is followed.

INFORMATION MANAGEMENT

30 Computer and Information Management

30.1 Appropriate Officers shall make adequate arrangements for the protection, identification, security, recording and proper use of all:

30.1.1 Computer hardware/software and associated technologies owned by or accessible to the Council.

30.1.2 Council information systems, manual and electronic, including the control of access to premises where information is processed.

30.2 Appropriate Officers shall have regard to the provisions of the British Standard Code of Practice for Information Security Management ISO/IEC 27001 or any replacement thereof for the time being in force when considering the protection and security of personal, financial, sensitive and confidential information.

30.3 All officers must comply with the Council's Information Security Policy and guidelines relating to the use of computer hardware, software, related technologies, E-mail and the Internet. All Officers must undertake Information Governance training annually.

INSURANCE ARRANGEMENTS

31 Insurance Cover

31.1 The Chief Financial Officer will arrange all insurance cover and keep a record of details.

31.2 Appropriate Officers must immediately tell the Chief Financial Officer about:

31.2.1 New risks to be insured.

31.2.2 Alterations to existing insurance cover required.

31.2.3 Insured Assets which have been disposed of.

31.3 Each year Appropriate Officers must check that insurance cover is adequate.

32 Insurance Claims

32.1 The Appropriate Officer, immediately s/he is aware of any loss, liability or damage which may involve a claim, must notify the Chief Financial Officer who will negotiate and/or arrange settlement in accordance with any insurance arrangements made.

WEST YORKSHIRE PENSION FUND

33 Pension Arrangements

33.1 City of Bradford Metropolitan District Council, as administering authority for West Yorkshire Pension Fund (WYPF), has delegated legal and strategic responsibility for WYPF to the Governance and Audit Committee. The Council has established three bodies to assist and support the Governance and Audit Committee in overseeing the Fund, namely the WYPF Pension Board, WYPF Investment Advisory Panel and the WYPF Joint Advisory Group. Under the Council's Financial Regulations, the Director – West Yorkshire Pension Fund has day to day responsibility for the management of the Fund. The Chief Financial Officer at Bradford Council, as the Council's Section 151 Officer, has responsibility for signing the Fund's year-end accounts. A copy of WYPF Governance Compliance Statement can be found on WYPF website.

PUBLIC ACCOUNTABILITY REQUIREMENTS

34 Rules for Officers

34.1 An officer of the Council must not, in connection with her/his office of employment, accept any fee or reward whatsoever other than his/her proper remuneration.

34.2 An officer must not receive or give or offer any gift or bribe or personal inducements in connection with the Council's business.

34.3 An officer must not use Council property, assets or materials for other than the purposes of the Council. Permission of the Appropriate Officer must be sought for use of Council property, assets and materials for other purposes and such permission may only be given if it can be shown that such use is in the Council's interests.

34.4 An officer must not subordinate his/her duty to the Council to his/her private interests or put herself/himself in a position where her/his duty and private interests conflict.

34.5 If any officer suspects or knows of any financial loss or irregularity they must inform the Corporate Fraud Unit immediately.

34.6 An officer must comply with the Employee Code of Conduct.

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PART 3G Contracts Standing Orders 2018/19

Definitions

- 'Aggregation' is the combining together of the total contract valuespend from separate contracts where they meet a single requirement for works, goods or services, ~~or where a series of contracts within a twelve month period are for the same type of goods or services.~~
 - 'Appropriate Officer' is the Chief Executive, Strategic Directors, Director, City Solicitor, the Chief Financial Officer (S151 Officer) or any other officer designated by resolution of the Executive.
 - 'Authorised Officer' is any officer permitted by an Appropriate Officer to authorise orders and contracts as per clause 2.5.
 - 'Best Value for Money' is the optimum combination of whole life costs, quality and benefits, including economic, environmental and social value to meet the customer's requirement.
 - 'Bradford District' is the geographical area administered by the Council.
 - 'Call Off' is a separate purchase from an existing framework agreement that creates a binding contract. ~~The framework agreement sets out: terms and conditions, standards and prices although further competition may be permitted. The full EU procurement rules do not apply provided the rules were followed in the setting up of the framework agreement and the contractor(s) on the framework have already met the required technical capability and financial standing to perform the contract.~~
 - 'Contract' means a formal agreement between the Council and any Contractor ~~made by issue of a letter of acceptance or official order~~ for:
 - the supply of works, goods or services including consultants
 - a call-off from a framework agreement
 - an arrangement where no payment is made but there is financial value to the Contractor e.g. a catering concession
- For the purposes of these contracts standing orders this definition does not include employment and property contracts or grant agreements.
- 'Contracts Finder' is the government portal for information on public sector contracts
 - 'Contract Value' is the total monetary value over its full duration, including any extension options (not the annual value).
 - 'Contract and Grant Register' the Council's database of all contracts, commissioned activity, purchase orders, framework agreements, and other

legally enforceable agreements with a value exceeding £5,000 and grants of any value.

- ‘Contractor’ an individual or organisation that contracts with the Council to provide works, goods or services.
- ‘Controlled Entities’ a subsidiary company of the Council where the Council exercises control similar to that over its own departments, the subsidiary carries out at least 80% of its activity for the Council and there is no direct participation of private capital.
- ‘Corporate Contract’ is an agreement procured in consultation and for the benefit of more than one Council department. More details can be found on Bradnet <http://intranet.bradford.gov.uk/working-day/corporate-contracts>.
- ‘Council’ means the City of Bradford Metropolitan District Council.
- ‘DPS or Dynamic Purchasing System’ is an electronic process for commonly used purchases that are generally available and is open throughout the contract period to any new supplier that meets the selection criteria.
- ‘Electronic Auction’ is a process whereby suppliers who have submitted admissible tenders can revise their original prices or values during the period of the auction.
- ‘EU Procurement Rules’ are the Directives and Regulations implemented in the UK to set out the law on public procurement.
- ‘EU Thresholds’ the financial threshold at which the EU Procurement rules are applicable.
 - As of 1st January ~~2016-2018~~ these are: Works (maintenance and construction) £4,551,413 ~~€5,186,000 (£4,104,394)~~ and Services and Supplies £181,302 ~~€207,000 (£164,176)~~.
 - Social, Health and some other services ~~will~~ have a threshold of €750,000 ~~£615,278 (£589,148)~~ and a new light touch regime has been introduced.
- ‘Exception to Competition Log’ a record held by the Assistant Director Finance and Procurement of all contracts awarded without competition because the contract meets one or more of the requirements listed in CSO 9.1.
- ‘Framework Agreement’ an agreement which sets out the terms and conditions under which the Council can make specific purchases (“call-off”) from a Contractor(s) to provide services, goods or works at agreed standards and prices. If the Council calls off services, goods or works from the Contractor then a binding contract comes into place.
- ‘Grant’ for the purposes of these contract standing orders means a formal agreement giving financial assistance to an individual or organisation to assist in

meeting its general purpose or objectives but where the specific supply of goods, works or services is not required in return. There may be award criteria, performance targets and conditions on how the money is spent and Officers should monitor these in accordance with the terms of the grant agreement.

- 'Light touch regime' applies to social, health and some other services as listed in Schedule 3 of the Public Contracts Regulations ~~where a higher threshold applies below which the Council has more freedom on the procurement procedures to apply providing they are sufficient to comply with the principles of transparency and equal treatment of suppliers.~~
- 'Local Supplier' is any supplier that provides works, goods or services ~~from a location within the Bradford District or where a substantial number of any employees working directly on the contract are resident in the~~ for which payment is made to an address in the Bradford District.
- 'Officer' means employee(s) of the Council.
- 'OJEU' is the Official Journal of the European Union which is the publication in which all tenders from the public sector above relevant financial thresholds must be published.
- 'Public Service Mutual' an organisation which has left the Council parent body but continues to deliver public services. Mutuals are organisations in which employee control plays a significant role in their operation.
- 'Purchasing Card' the business equivalent of personal credit card that can be used for in store, on line or over the phone for legitimate Council purchases. Purchasing Cards are issued to and registered to individual Officers.
- 'Quotation' a formal written offer to execute works, purchase supplies, or provide services at a stated price of a value less than £100k.
- 'Sheltered workshop' an organisation that employs a proportion of disadvantaged or disabled workers which allows the supplier to be eligible to bid for certain types of contracts which can be specifically reserved to organisations meeting the criteria.
- 'SIRO' Senior Information Risk Owner is the person with overall accountability and responsibility for information governance.
- 'Supplier' an individual or organisation that contracts with the Council to provide works, goods or services.
- 'Tender' a written offer to supply or purchase goods, execute works or provide services at a stated price of a value more than £100k.
- 'TUPE' means the Transfer of Undertakings (Protection of Employment) Regulations 2006.

- 'Whole Life-Cycle Costs' is an estimate of the total costs of works, goods or services over their life. It is a combination of the purchase price, implementation and operating costs, procurement and contract management costs, disposal costs less any residual value.
- 'YORtender' is the procurement portal used by the Council (www.yortender.co.uk)

1 Introduction

- 1.1 The purpose of Contract Standing Orders is to set clear rules by which the Council spends money on works, goods and services. The rules apply to any contract or grant that results in payment being made by the Council.
- 1.2 Public procurement must be undertaken in accordance with principles enshrined in EU and national legislation. The Council must always act to promote competition and to ensure that each procurement is conducted as an open, transparent and fair competition. The Council must avoid practices which may restrict or distort competition.
- 1.3 All amounts quoted in these Standing Orders are exclusive of recoverable VAT.
- 1.4 Any dispute or difference as to the interpretation of these Standing Orders shall be resolved by the City Solicitor.
- 1.5 The Assistant Director Finance and Procurement shall undertake a formal review of Contract Standing Orders on an annual basis which will be reported to the Governance and Audit Committee.

2 Compliance

- 2.1 Failure to comply with these Contract Standing Orders can result in disciplinary action against the officers concerned.
- 2.2 Every contract made by or on behalf of the Council for works, goods and services and all Council employees engaged to act in any capacity to manage or supervise a contract must comply with;-
 - EU Procurement Directives
 - All relevant statutory provisions including the Public Contracts Regulations 2015, competition law and Public Services Acts (e.g. Social Value, Care Act 2014)
 - The Council's Constitution including these Standing Orders, the Council's Financial Regulations and the Council's Procurement policies
 - The Council's strategic objectives and policies
- 2.3 All Council employees and organisations engaged on the Council's behalf shall ensure that all procurement activity is undertaken with regard to high

standards of probity and in a manner which avoids any conflicts of interest. ~~Any conflicts of interest that do arise shall be dealt with in accordance with the Council's 'Code of Practice in relation to Conflicts of interest and Registration of interests' available from the Human Resources intranet pages. The Council's Employee Code of Conduct must be followed at all times.~~

2.4 In applying these Standing Orders, all officers shall have regard to the duty of Best Value under the Local Government Act 1999.

2.5 Within limits specified by him/her, an Appropriate Officer may permit other officers to authorise orders and contracts in their own names on behalf of the Council. Any orders or contracts made shall remain the responsibility of an Appropriate Officer. Appropriate Officers must maintain an up to date record of authorised officers and submit a copy of the list of the Assistant Director Finance and Procurement on an annual basis.

2.6 All orders for works, goods or services must be placed using the Council's approved systems in advance of the invoice being received and coded to the appropriate account codes. Miscellaneous payments must only be used where the payments is not as a result of a purchase. For example, a refund, grant payment or third party payment

2.7 ~~Exemption from t~~These Standing Orders ~~shall only~~must be used, other than in exceptional circumstances and following authorisation by either:

2.7.1 The Executive after considering a report by an Appropriate Officer; or

2.7.2 An Appropriate Officer obtains the agreement of the ~~Strategic Director Corporate Services~~ Chief Financial Officer and the City Solicitor. The Appropriate Officer must retain written reasons of the decision.

2.8 ~~Exemptions authorised~~Authorisation under Standing Order 2.7.2 will be reported to Governance and Audit Committee on a quarterly basis.

2.9 All Appropriate Officers are responsible for ensuring compliance by their staff and shall report all breaches to the Assistant Director Finance and Procurement.

3 Social, Economic, Environmental and Ethical Considerations

3.1 In formulating proposals for a ~~services~~ contract, the Authorised Officer must consider the Public Services (Social Value) Act ~~implications and whether and to what extent any ethical, social or environmental aspects of procurement should be taken into account. These would include: the Council's Fair Trade Policy, sustainability, equality and diversity, living wage, means of production and community benefit (including maximising employment and training opportunities within the District).~~ and follow requirements set out in the Council's Social Value and Inclusive Growth Policy.

- 3.2 Where appropriate and always subject to EU law and Public Contract Regulations, the Authorised Officer should ensure tenders or quotes are framed in such a way to encourage local suppliers, small and medium sized companies (SME's) and third sector organisations such as social enterprises to bid. This may include dividing the contract into lots.

4 Pre-Contract Requirements for all Contracts

- 4.1 Following the conclusion of the Council's budget setting process the Authorised Officer must prepare and maintain an annual procurement plan for all contracts with an estimated value greater than £100k and then consult the Assistant Director Finance and Procurement.

- 4.2 The procurement of works, goods or services should be done through existing approved arrangements where they exist. These include:

- In-house provision
- Corporate contracts, framework agreements or DPS

- 4.3 Other arrangements should be considered and used where it can be evidenced that they provide best value for money:

- Contracts, framework agreements or DPS established by central purchasing bodies (Crown Commercial Services, YPO etc.) or other public body
- Collaborative or shared service arrangements with another public body
- Alternative delivery vehicles such as Controlled Entities (Teckal) or Public Service Mutuals
- Sheltered workshops
- Other approved e-procurement solutions (e.g. purchasing cards)

- 4.4 Where the Council has an in-house provision and the estimated contract value is less than £100,000, external suppliers can only be used when the Appropriate Officer providing such in-house provision confirms that they are unable to meet the requirements on that occasion due to insufficient resources, skills or capacity.

- 4.5 If the estimated contract value is more than £100,000, the Appropriate Officer providing such in-house service may also be required to clearly demonstrate that they provide best value for money.

- 4.6 All procurement processes will be proportionate to the total value of the contract (see Table 1), the nature of the works, goods or services and the Council will produce clear accessible documentation which must be available in electronic format.

- 4.7 Before inviting tenders or quotations, the Authorised Officer must:

- 4.7.1 for contracts with a total estimated contract value in excess of £2m report details to the relevant Overview and Scrutiny Committee using

the standard Committee report template. Reports are to be taken at an early stage once officers have a draft procurement strategy and specification to allow members to consider the matters in 4.7.2, 4.7.6, 4.7.7 and 4.7.9. For clarity, details of call-off contracts from a framework or DPS do not need to be separately reported providing the original framework has been reported except where the relevant Overview and Scrutiny Committee request a separate report.

- 4.7.2 have carried out, where appropriate pre-procurement engagement with the market (including talking to suppliers, clients and other stakeholders) to understand the availability, strengths and weaknesses of markets and to develop the specification and the best value for money procurement and contractual approach. Pre-engagement with the market must be done in such a way that ensures the subsequent procurement process remains open, fair and transparent with no supplier gaining an unfair advantage which would distort competition.
- 4.7.3 consider whether a framework agreement, DPS or electronic auction is appropriate and would deliver best value for money seeking advice from the Assistant Director of Finance and Procurement where necessary
- 4.7.4 be satisfied that a written and clear specification has been prepared which will form the basis of the contract.
- 4.7.5 ~~where there is a significant supply risk and~~ for all contracts valued overwith an estimated annual cost of more than £100,000pa or £100,000 for the procurement of goods or works, or where there is a significant supply risk and complete-identified using a procurement risk assessment form (available on Bradnet) ~~and produce and maintain~~ a documented risk log must be maintained.
- 4.7.6 consider at the outset any equality and diversity implications that may require an equality impact assessment to be undertaken
- 4.7.7 consider at the outset any TUPE implications
- 4.7.8 consider at the outset any data protection, information security or data processing implications that may require additional schedules or terms and conditions and need the SIRO to be notified
- 4.7.9 consider at the outset any implications from the Social Value Act
- 4.7.10 prepare and document an estimate of the whole life-cycle costs including where appropriate any on-going costs and/or disposal costs and ensure that the cost is within the approved current and future budget provision for both capital and revenue expenditure

- 4.7.11 ensure that all evaluation criteria including sub-criteria have been determined in advance, put in order of relative importance or weighting and published in the tender documentation. Selection criteria must be relative and proportionate following statutory guidance issued by the Secretary of State.
- 4.7.12 ensure that electronic versions of all the appropriate and approved forms of procurement documentation is available through an internet portal immediately on publication of any advert
- 4.8 Before entering into any contract, the Authorised Officer must
- 4.8.1 be sure that they have the necessary authority to enter into the contract and that these Standing Orders, the Council's Financial Regulations and procurement advice have been complied with, and that the proposed contract represents best value for money
- 4.8.2 be satisfied about the technical capability of such proposed contractor; and
- 4.8.3 where there is a significant supply risk has been identified (in accordance with CSO 4.7.5 and for all contracts which exceed £100,000pa, or £100,000 (if the contract is for less than 1 year) for the procurement of works or goods consult with the Chief Financial Officer and the Strategic Director Corporate Services and the Assistant Director Finance and Procurement to agree appropriate checks on the financial and resource capacity of the contractor to perform the contract and to agree what, if any, security should be provided for performing the contract. Forms of security include such as: parent company guarantee, Director's guarantee and performance bonds.
- 4.9 Authorised Officers are responsible for arrangements to ensure the proper control and use of Council ordering and contracting procedures, in accordance with guidance issued by the Chief Financial Officer and the City Solicitor.
- 4.10 All quotations and tenders must be undertaken using the Council's standard template documentation unless prior approval has been obtained from the Assistant Director Finance and Procurement.
- 5 Contracts under £25,000**
- 5.1 The Authorised Officer must be able to demonstrate best value for money and must invite quotes using local suppliers where the supply base is available. All quotations must be in writing.
- 5.2 Officers shall retain a written record of actions taken and the reasons.

5.3 Invitations to quote of £5,000 or above must use the Council's procurement portal, YORtender and all contracts of £5,000 or above must be recorded on the Contract and Grant Register.

6 Contracts between £25,000 and £100,000

6.1 The Authorised Officer must either:

6.1.1 seek at least 4 written quotations by selecting suppliers registered on YORtender and inviting ~~a minimum of two~~ local suppliers where there is a local supply base available, or

6.1.2 advertise an open invitation to tender using both YORtender and Contracts Finder

6.2 If 4 quotations or tenders cannot be obtained owing to insufficient suitable suppliers prepared to quote or provide tenders, then the Authorised Officer must keep a record of this.

6.3 No pre-qualification questionnaire is permitted during the procurement stage. Suitable assessment questions to assess eligibility are part of the Council's template procurement documents. Only the winning bidder(s) will be required to submit certificates and documents as evidence of their legal and financial standing and technical or professional ability in addition to specific requirements relating to insurance, health and safety, equality, environmental management etc.

7 Contracts over £100,000

7.1 Where the contract value is likely to exceed the EU threshold, taking account of the rules of aggregation, it must be tendered in accordance with the relevant EU procurement rules, unless this rule is through an existing framework or DPS agreement that has been established via a compliant EU procurement process.

7.2. Before commencing any process for the procurement of works, goods or services with an estimated contract value in excess of £100,000 or any process which involves a proposed service transfer or the development of a strategic partnership, the Authorised Officer must consult the Assistant Director Finance and Procurement.

7.3 For contract values of £100,000 or more, contractors must be appointed by one of the procedures under Contract Standing Order 8.

7.4 All tenders shall be advertised and available for download on the YORtender system and Contracts Finder. Standard template documentation must be used

7.5 All tenders above the relevant EU threshold must be advertised in the OJEU.

8 Procurement Procedures

- 8.1 The **open procedure** under which all those interested may respond to the advertisement by submitting a tender. This is often the most expedient system and enables all of the suppliers in the market that wish to engage in the process to submit a tender. There is no pre-qualification questionnaire (PQQ) or short-listing stage prior to invitation to tender (ITT).
- 8.2 The **restricted procedure** under which a selection is made of those who respond to the advertisement and only they are invited to submit a tender. This procedure can only be used for tenders above the EU threshold for goods and services.
- 8.3 The following procedures apply to more strategic, complex or high value projects and must be done in consultation with the Assistant Director Finance and Procurement as there are limited circumstances under which this process can be used.
- 8.4 The **competitive dialogue procedure** under which a selection is made of those who respond to the advertisement and the Council enters into dialogue with potential bidders to develop one or more suitable solutions on which the chosen bidders submit a tender. This can be used where the contract is complex and cannot be purchased “off the shelf”.
- 8.5 The **competitive procedure with negotiation** under which a selection is made of those who respond to the advertisement and only they are invited to submit a tender. The Council may then open negotiations to seek improved offers.
- 8.6 The **innovation partnership procedure** under which a selection is made of those who respond to the advertisement and the Council uses a negotiated approach to invite suppliers to submit innovative ideas to meet a need where there is no suitable existing “product” on the market. The partnership can be awarded to more than one supplier.

9 Exceptions to Requirements of Competition

- 9.1 Subject to the statutory requirements for procurement processes above EU thresholds and provided that the market for a proposed contract has been investigated and it can be demonstrated that departure from these Rules is justifiable and provides overall value for money, no procurement process is required where one or more of the following exceptions apply:
- 9.1.1 the purchase of proprietary or patented goods or materials or services which, in the opinion of the Authorised Officer in consultation with the Assistant Director Finance and Procurement, are obtainable only from one supplier, and where no reasonably satisfactory alternative is available;

- 9.1.2 the execution of works or the supply of goods or services are controlled by a statutory body
- 9.1.3 the execution of works or supply of goods or services are of a specialised nature which, in the opinion of the Authorised Officer in consultation with the Assistant Director Finance and Procurement, are carried out by only one supplier, and where no reasonably satisfactory alternative is available;
- 9.1.4 the execution of works or supply of goods or services for which the Authorised Officer in consultation with the Assistant Director Finance and Procurement can demonstrate that no genuine competition can be obtained;
- 9.1.5 the purchase of a named product required to be compatible with an existing installation as approved by the Authorised Officer in consultation with the Assistant Director Finance and Procurement;
- 9.1.6 procurements made through or on behalf of any consortium, local authority, statutory or similar body provided that tenders or quotations are invited and contracts placed in accordance with national or EU legislation;
- 9.1.7 obtaining work or supplies from the Industrial Services Group or other in-house service provider;
- 9.1.8 special education, health or social care contracts, if in the opinion of the Authorised Officer and following consultation with the Assistant Director Finance and Procurement, it is considered in the Council's interests and to meet its obligations under relevant legislation;
- 9.1.9 the execution of works or the supply of goods and services that are required so urgently as not to permit compliance with the requirements of competition. However these should be immediately reported to the Assistant Director Finance and Procurement.
- 9.1.10 carrying out, with the approval of the Chief Financial Officer, security works where the publication of documents or details in the tendering process could prejudice the security of the works to be done.
- 9.2 The Authorised Officer must retain written reasons justifying the decision to use Standing Order 9.1 and be able to demonstrate that best value for money has been obtained.
- 9.3 Any contract awarded using an exception to competition shall be notified to the Assistant Director Finance and Procurement who will record the contract in the "Exceptions to Competition Log".

10 Submitting and Opening Tenders and Quotations

- 10.1 Every invitation to tender or request for a quotation must state that a tender or quotation will only be considered if it is received by the specified closing date and time via YORtender, or for quotes below £5,000 at the specified date and time.
- 10.2 All tenders or quotations for each contract must be opened by officers appointed by the Authorised Officer at a prescribed time.
- 10.3 The Authorised Officer must keep a record of all tenders and quotations.
- 10.4 The Authorised Officer shall after consultation with the Assistant Director Finance and Procurement disqualify a tender or quotation which fails to comply with the requirements of this Standing Order and must return the tender or quotation to the tenderer or quotation provider stating the reason for the disqualification.

11 Errors in Tenders and Quotations

- 11.1 Prior to acceptance of any tender or quotation received, any arithmetic error or other minor discrepancy made in good faith can be corrected by the City Solicitor after consultation with the Authorised Officer in one of the following two ways:
 - 11.1.1 The tenderer shall be given details of the error(s) found during the examination of the tender and shall also be given the opportunity of confirming without amendment or withdrawing the tender; or
 - 11.1.2 Amending the tender to correct genuine arithmetic error(s) provided that in this case, apart from these genuine arithmetic errors, no other adjustment, revision or qualification is permitted.
- 11.2 A written record must be kept of all such amendments.

12 Post Tender and Quotation Negotiations

- 12.1 In the interests of ensuring an open, fair and transparent process, negotiation following receipt of tenders is only permissible in limited circumstances.
- 12.2 No negotiation is permitted following receipt of final tenders where the tender was subject to EU procurement rules.
- 12.3 The Authorised Officer may, after consulting with the Assistant Director Finance and Procurement, and where it is intended to obtain better value for money, authorise negotiations with one or more tenderers or quotation providers where s/he considers that none of the tenders or quotations are acceptable and it is in the Council's interests to do so.

- 12.4 Negotiation on behalf of the Council should be conducted by two or more Authorised Officers and a written record kept of the negotiation.

13 Accepting Tenders and Quotations

- 13.1 Prior to accepting a tender or quotation the Authorised Officer must evaluate all tenders and quotations received in accordance with the evaluation criteria issued with the tender documentation.
- 13.2 The Authorised Officer can only accept the most economically advantageous tender or quotation and must record the reasons for acceptance.
- 13.3 The Authorised Officer must investigate any tender considered to be abnormally low.
- 13.4 All suppliers who submit a tender or quotation should be notified in writing of their success or failure in a timely manner using the standard documents and offered feedback.
- 13.5 For all tenders covered by the EU procurement rules, the minimum statutory standstill period is required between notification of the award decision and final contract award.
- 13.6 All contracts over £5,000 must be awarded on the YORtender system and all contracts over £25,000 must also be awarded on Contracts Finder. All contracts above the EU threshold must also be published in OJEU.
- 13.7 For every contract, contract extension, framework or DPS agreement over the EU threshold £100k in total value, then the Authorised Officer must submit a written report ~~must be retained~~ to the Assistant Director Finance and Procurement which includes details of:
- the winning bid,
 - the suppliers involved,
 - results of any selection process,
 - the value and subject matter of the contract,
 - justification for using any negotiated type procedure,
 - any decision not to award,
 - reasons for not using electronic communications,
 - any conflict of interest,
 - reasons for rejecting abnormally low bids.

14 Contract Extensions, Variations or Novation

- 14.1 The Authorised Officer must identify all contracts involving the processing of personal data and notify Suppliers and make suitable due diligence checks of their technical and organisational measures to fulfil their obligations as Data Processors under the General Data Protection Regulation (effective from the 25th of May 2018).

- 14.2 The Authorised Officer can extend a contract by any value subject to the extension being permitted within the scope and terms of the original procurement and contract and before the expiry date.
- 14.3 An options appraisal must be undertaken to determine if it represents best value for money to extend the contract and any approval required must be sought in a timely manner
- 14.4 The Authorised Officer must make every effort to negotiate improved terms with regard to the cost and quality of the goods or services.
- 14.5 No extension shall be made until funding has been secured in accordance with the Council's Financial Regulations or any other similar requirement.
- 14.6 All contract variations must be carried out within the scope of the original contract and must not materially affect or change the contract.
- 14.7 A new procurement will be required if the proposed variation has a material change where one or more of the following are met;
 - 14.7.1 the variation introduces new conditions which had they been part of the original procurement procedure would have allowed other candidates to be selected to bid or the contract to be awarded to another tenderer
 - 14.7.2 the variation changes the economic balance in favour of the contractor
 - 14.7.3 the variation extends the scope of the contract considerably
- 14.8 Contract variations which are not within the scope of the original contract must be reported to:
 - 14.8.1 the Assistant Director of the Service if the value of the variation is less than 25%,
 - 14.8.2 the Strategic Director of the Department if the value of the variation is greater than 25%, and
 - 14.8.3 the Chief Financial Officer if the value of the variation is greater than 50% and the total value of the contract then exceeds £100k.
- 14.9 In the event that a Supplier ceases to provide the work, goods or services whether as a result of insolvency, company restructuring, company purchase, termination of the contract or any other reason then the Authorised Officer must consult with the Assistant Director Finance and Procurement before novating or assigning the contract to a new Supplier.

15 Written Contracts

15.1 The Authorised Officer must ensure every contract is in writing.

15.2 Every contract with a contract value of £100,000 or more must be executed under seal as a Deed with the common seal of the Council by the City Solicitor where:

- the Council wishes to enforce the Contract for more than 6 years after its end (e.g. for land or construction works); or
- it is required by parties to the Contract; or
- the price paid or received under the Contract is a nominal price and does not reflect the value of the goods/services; or
- the City Solicitor deems it necessary taking into account the nature of the contract

15.3 Otherwise the following rules for signature apply:

- any contract with a total value over £2 million must be signed by an Appropriate Officer
- any contract with a total value less than £2 million must be signed by a 3rd tier Manager or above, except
- where the total contract value is less than £100,000 and more than £25,000 in which case an Authorised Officer can sign within the limits specified by an Appropriate Officer as per contract standing order 2.4.

15.4 All contracts with the exception of one-off purchases below £5,000 shall be recorded on the Contract and Grant Register.

~~15.5 A briefing note should be submitted to the Assistant Director Finance and Procurement using the prescribed document for all new contracts or extensions to contracts where the total contract value is over £100,000~~

16 Professional Services, Consultants and Intermediary Employment

16.1 An Authorised Officer may only appoint external consultants providing professional or consulting services if such services are not available within the Council or if Council officers providing them do not have the resources to meet the needs of the Authorised Officer.

16.2 Inline with HMRC IR35 and CIS rules the Authorised Officer must identify the employment status of workers providing works or services in instances including the following:

- Consultancy work
- Self employed contractors

- The engagement of a worker through a limited company or other body
- The use of a Personal Services Company
- The engagement of a CIS registered contractor

16.3 The Authorised Officer must consult the Assistant Director Finance and Procurement for all Construction Industry Scheme (CIS) contractor appointments and payments.

17 Contract Conditions

17.1 The Council's Standard terms and conditions should be entered for all contracts. Any exception must be agreed in consultation with the City Solicitor and the Assistant Director Finance and Procurement.

17.2 The above rule shall not apply to:

- UK government standard documentation or government sponsored schemes such as Academies and amendments may be made for best value for money or project specific reasons.
- Construction and/or engineering contracts where bespoke conditions based on accepted industry practice are used e.g. JCT, NEC3 or ICE

18 Leases and Other Credit Agreements

18.1 The Authorised Officer must ensure that prior to entering into any lease or credit arrangement which has a capital cost, the cost must first be approved for inclusion in the Capital Investment Plan in accordance with Financial Regulations relating to capital expenditure.

19 Grants

19.1 The Authorised Officer must follow the Council's principles, processes and template documents as appropriate for awarding grants prior to entering into any grant arrangements

19.2 Before awarding any grant with an estimated value in excess of £100,000, the Authorised Officer must consult the Assistant Director Finance and Procurement.

19.3 All grant agreements shall be recorded in the Contract and Grant Register.

20 Payment Outside of Standard Procure to Pay Procedures

20.1 The Assistant Director Finance and Procurement will make payments on account only on certificates (or other forms approved by the Chief Financial Officer) which have been issued by the Authorised Officer, or the Architect/Engineer/Supervising Officer appointed to deal with a particular contract.

20.2 An Authorised Officer may where there has been written agreement with the Assistant Director Finance and Procurement (setting out the parameters) make purchases and payments via a Purchasing Card. All of the following limitations on the use of Purchasing Cards must be adhered to:

- Purchases must only be for legitimate Council purposes,
- Value for Money must be demonstrated,
- There is no Corporate Contract in place,
- Purchases are for specialist products or services that are not easily obtainable from other sources,
- Purchasing Cards must not be used for any work related expenses, and
- The purchase value is within financial limits set by the Assistant Director Finance and Procurement

The Assistant Director Finance and Procurement will withdraw the use of Purchasing Cards should the above not be complied with. Instances of non-compliance can result in disciplinary action in accordance with CSO 2.1.

20.3 Payment for goods, works and services are not to be made in advance of delivery other than in a low contract value and low risk situation that has been agreed in writing with the Appropriate Officer-

21 Claims

21.1 The Authorised Officer must inform the City Solicitor of all claims by or against suppliers which are the subject of formal dispute resolution or litigation between the Council and the supplier.

22 Contracts Where Members Have an Interest

22.1 ~~Where no competitive tendering process has been undertaken, n~~No supplier or organisation in which a member has an interest, may be chosen or appointed unless the member's interest has been disclosed in accordance with the Members' Code of Conduct.

TABLE 1

Value Band	Total Contract Value	Procurement Options	Additional procedures
1	£0 - £24,999	<ul style="list-style-type: none"> • Must demonstrate value for money • Must use in-house or corporate contract • Must use local supplier if available • Consider using purchasing card for low value, low risk purchases • Invite one or more quotes if appropriate 	<ul style="list-style-type: none"> • All quotes in writing • Use Yortender for quotes over £5,000 • All contracts over £5,000 to be entered in the Contract & Grant Register
2	£25,000 - £99,999	<ul style="list-style-type: none"> • Must use in-house or corporate contract • Consider availability of an existing suitable framework or DPS arrangement (call-off) • Consider if exception to competition applies • Minimum of four quotes inviting local suppliers if available • Formal tender process 	<ul style="list-style-type: none"> • All quotes in writing • Use Yortender for quotes or formal tender • All contracts to be entered in the Contract & Grant Register
3	£100,000 – EU threshold	<ul style="list-style-type: none"> • Must use in-house or corporate contract • Consider availability of an existing suitable framework or DPS arrangement (call-off) • Consider if exception to competition applies • Formal tender process 	<ul style="list-style-type: none"> • All proposed contracts must be referred to Finance and Procurement • Complete Procurement Risk Assessment Form • Use Yortender for formal tender • Complete briefing note for contract award and extensions • All contracts to be entered in the Contract & Grant Register
4	Above EU threshold	<ul style="list-style-type: none"> • Must use in-house or corporate contract • Consider availability of an existing suitable framework or DPS arrangement (call-off) • Full EU tender process with advert published in OJEU 	<ul style="list-style-type: none"> • All proposed contracts must be referred to Finance and Procurement for consultation and advice • Complete Procurement Risk Assessment Form • Use Yortender for formal tender • Complete briefing note for contract award and extensions • Report to Overview & Scrutiny for contracts over £2million • All contracts to be entered in the Contract & Grant Register



Report of the City Solicitor to the meeting of Governance and Audit Committee to be held on 19 April 2018.

AL

Subject:

Review of the Constitution

Summary statement:

This Report provides Members with details of proposed amendments to the Constitution for recommendation to Council.

Michael Bowness
Interim City Solicitor

Portfolio: Corporate

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1. SUMMARY

- 1.1 This Report provides Members with details of proposed amendments to the Constitution for recommendation to Council.

2. BACKGROUND

- 2.1 Article 14 of the Constitution requires the Monitoring Officer to maintain an up-to-date version of the Constitution and is authorised to make such amendments to the Constitution and related documents as may be necessary, but not including any changes of substance, to reflect and take account of changes in legislation, guidance, Council policy, decision of the Council and the Executive, and drafting changes and/or improvements.
- 2.2 Article 17 of the Constitution requires the Monitoring Officer to take steps to make himself/herself aware of the strengths and weaknesses of the Constitution and make recommendations for improvement. Changes to the Constitution can only be made following approval by the full Council or by the Monitoring Officer, as at 2.1 above.
- 2.3 This report concerns proposals for amendments to the Constitution.

3. PROPOSED AMENDMENTS TO THE CONSTITUTION

- 3.1 Appendix 1 to this report sets out a proposed amendment to paragraph 4.3 of Part 4B Member and Officer Planning Code of Conduct to clarify the position for planning members regarding making representations to either Regulatory and Appeals Committee or any planning panel.
- 3.2 Appendix 2 to this report sets out a proposed amendment to paragraph 4.6.1 of Part 3G of Contract Standing Orders to make clear that reports are to be submitted at an early stage to enable Members to take into account social value and other relevant considerations set out in paragraph 4 of Contract Standing Orders.
- 3.3 Appendix 3 to this report sets out proposed amendments to Part 2 Article 6 regarding the Council's Scrutiny Committees to restrict the membership of the Committees so that ex Executive members do not sit on the Committee within a 12 month period of having been involved with the Executive, to clarify the powers of the Committees in relation to Social and Best Value duties and to up date and clarify the quorum of the Children's Services Overview and Scrutiny Committee.
- 3.4 Appendix 4 to this report sets out proposed amendments to the rules of procedure to enable the implementation of digital voting at Council meetings.
- 3.5 Appendix 5 to this report sets out the proposed amendments to Articles 11A Health and Wellbeing Board. The Board is meeting on 17 April 2018 and is expected to approve the changes indicated in bold.

4. FINANCIAL & RESOURCE APPRAISAL

4.1 The resources required to amend the Constitution can be met from existing provision.

5. LEGAL APPRAISAL

5.1 Legal implications are reflected in the Appendices to this report.

6. OTHER IMPLICATIONS

6.1 There are no equal rights, sustainability, community safety, Human Rights Act or trade union implications of this report.

7. NOT FOR PUBLICATION DOCUMENTS

7.1 None.

8. RECOMMENDATIONS

8.1 That the proposed amendments to the Constitution set out in Appendices 1 to 5 of this report be recommended to Council for adoption and implementation.

8.2 That the Interim City Solicitor reports any recommendations to Council and ensures any agreed amendments are implemented.

8.3 That the Interim City Solicitor be granted authority to make any consequential amendments to the Constitution as a result of any recommendations approved by full Council.

9. APPENDICES

Appendix 1 Proposed amendment to paragraph 4.3 of Part 4B Member and Officer Planning Code of Conduct

Appendix 2 Proposed amendment to paragraph 4.6.1 of Part 3G of Contract Standing Orders

Appendix 3 Proposed amendments to Part 2 Article 6 Overview and Scrutiny Committees.

Appendix 4 Proposed amendments to Part 3 Rules of Procedure to enable members to use digital voting

Appendix 5 Proposed amendments to Article 11A (Health and Wellbeing Board)

10. BACKGROUND DOCUMENTS Page 61

None

PART 4B MEMBER AND OFFICER PLANNING CODE OF CONDUCT

1. An issue has been raised again in respect of the Member and Officer Planning Code of Conduct relating to predetermination and bias and membership of a relevant panel (Para 4.3 precludes Members of the Regulatory and Appeals Committee or relevant panel from speaking at a meeting in objection or support to any particular item, whether sitting on the body concerned or being an alternate member).
2. **Current wording in the Constitution is as follows**
 - 4.3 Having disclosed that they could be considered or perceived to have predetermined the outcome of a planning decision then having stood down from the Regulatory and Appeals Committee or **relevant** panel during discussion of an item it is not appropriate for that member to seek to speak as an objector or supporter of the application or planning proposal in question. Equally, where a Committee or panel member does not sit on the Committee or panel at the meeting in question, but would have had to disclose that they had predetermined the outcome of a planning decision and not participate in that item on the Agenda had such a member been officially in attendance, then it is inappropriate for that member still to attend the meeting to support or oppose the application in question.
3. Members will be aware that there is considerable overlap between the membership of the Regulatory and Appeals Committee and the Panels. Where there is membership of both either as a full member or alternate the Code is clear that members are not able to make representations to either. However where they are not members of the “ relevant “ area planning panel or the Regulatory and Appeals Committee the Code is less clear. Advice to a planning member in these circumstances, where they do not sit on the Committee or Panel which is going to consider that application is that owing to the perception of influence that may arise , the member should not make representations.
4. To clarify the position it is proposed that the reference to “relevant” in the Code at para 4.3 be removed to make clear that no planning member may make representations. Members are requested to recommend to Council the amendment of para 4.3 of the Member and Officer Planning Code of Conduct.

PART 3G CONTRACTS STANDING ORDERS 2017/18

1. The current wording of paragraph 4.6.1 of Contract Standing Orders does not provide an indication of when reports should be made to Overview and Scrutiny Committees so that Members can comment on social value and other relevant considerations set out in paragraph 4 of Contract Standing Orders.

2. **Current wording in the Constitution is as follows**

4.6 Before inviting tenders or quotations, the Authorised Officer must:

- 4.6.1 for contracts with a total estimated contract value in excess of £2m, report details to the relevant Overview and Scrutiny Committee using the standard Committee report template. For clarity, details of call-off contracts from a framework or DPS do not need to be separately reported providing the original framework has been reported except where the relevant Overview and Scrutiny Committee request a separate report.

3. Members are asked to consider the following proposed amendments to make clear that reports are to be submitted at an early stage and to recommend to Council the amendment. (CSO 4.6.2 refers to market engagement, 4.6.6 equality and diversity, 4.6.7 TUPE and 4.6.9 Social Value).

4. **Proposed amendments in bold**

- 4.6.1 for contracts with a total estimated contract value in excess of £2m, report details to the relevant Overview and Scrutiny Committee using the standard Committee report template. **Reports are to be taken at an early stage once officers have a draft procurement strategy and specification to allow members to consider the matters in 4.6.2, 4.6.6, 4.6.7, and 4.6.9.** For clarity, details of call-off contracts from a framework or DPS do not need to be separately reported providing the original framework has been reported except where the relevant Overview and Scrutiny Committee request a separate report.

PART 2 ARTICLE 6 OVERVIEW AND SCRUTINY COMMITTEES

Composition of the Committees

1. The work of the Executive is monitored by various Overview and Scrutiny Committees, which can check recent decisions, advise on policy development and review service performance. They can also call the Executive to account where it is felt that their decisions have not been as effective as they should be.
2. To ensure that Overview and Scrutiny Committees take an independent view and to avoid situations where ex-Executive members become involved in scrutinising a decision in which s/he has been directly involved, it is proposed that Executive members who come off the Executive are not allowed to be members of any Scrutiny Committees for a period of 12 months. Although the Committees can require Executive members and officers of the Council to attend to give evidence about issues under review.
3. Members are asked to consider the addition of a new paragraph at 6.7.1 to Article 6, to read

Proposed new wording

6.7.1 The composition of any Overview and Scrutiny Committee will not include any member who has in the previous 12 month period been a member of the Council's Executive.

6. The current paragraph 6.7 would then require re numbering as follows

6.7.2 The Corporate Overview and Scrutiny Committee shall comprise ten members of Council and shall be chaired by a member of the political group that forms the Executive.

6.7.3 The Children's Services Overview and Scrutiny Committee shall comprise:

Nine members of Council
Two voting co-opted church representatives
Two voting co-opted representatives of parent governors
Non-voting members appointed by the Council on the recommendation of the Committee.

6.7.4 The Health and Social Care Overview and Scrutiny Committee, Regeneration and Economy Overview and Scrutiny Committee and the Environment and Waste Management Overview and Scrutiny Committee shall comprise:

Nine members of Council
Non-voting members appointed by the Council on the recommendation of
the committees

Quorum of the Committee

4. The current wording of paragraph 6.8.2 in relation to the quorum of the Children's Services Overview and Scrutiny Committee refers to five voting members in relation to the functions of the local education authority. This wording is outdated and leads to uncertainty around the quorum of the Committee. Legislation has reduced the role of the Local Authority and strengthened that of schools and central government departments. Previously the LA managed all state schools in its area and controlled what schools did. The LA held the budget for all schools. The LA appointed the staff, set the curriculum and inspected the schools. This is no longer the case and therefore the statutory education functions of the LA are significantly reduced and the responsibilities of the Children's Services Overview and Scrutiny Committee cover wider matters relating to the strategies, plans, policies, functions and services relevant to the corporate priority about services to children and young people. Its composition therefore includes co-opted church representatives and parent governors as well as non voting members appointed by the Council.

Current wording in the Constitution is as follows

6.8.2 The quorum of the Children's Services Overview and Scrutiny Committee shall be five voting members in relation to the functions of the local education authority

5. To clarify the position it is proposed that the reference to "in relation to the functions of the local education authority" in paragraph 6.8.2 be removed to make clear that the quorum for the Committee shall be five voting members.

6. Proposed revised wording for the Quorum of the Committee

6.8.2 The quorum of the Children's Services Overview and Scrutiny Committee shall be five voting members.

7. Members are asked to consider the revised wording to paragraph 6.8.2 to clarify the quorum of the Committee and to recommend to Council the amendment.

Powers of the Committee

8. The current wording of paragraph 6.10 regarding the powers of the Committees requires clarification. Revised statutory guidance on the Best Value Duty setting out some reasonable expectations of the way authorities should work with voluntary and community groups and small businesses was published in 2015. This no longer refers to Best Value principles and councils should consider overall value including social value when considering service provision.

9. Current wording in the Constitution is as follows

6.10.6 Monitor the performance of Council functions against the policy framework recognised performance indicators and Best Value

principles.

6.10.10 Monitor the performance of external organisations against recognised performance indicators and Best Value principles and make recommendations to the appropriate body.

10. **Proposed revised wording for the Powers of the Committee**

6.10.6 Monitor the performance of Council functions against the policy framework, recognised performance indicators **and Social** and Best Value **duties**.

6.10.10 Monitor the performance of external organisations against recognised performance indicators, **Social** and Best Value **duties** and make recommendations to the appropriate body.

11. Members are asked to consider the revised wording to paragraph 6.10.6 and 6.10.10 to clarify the powers of the Committees and to recommend to Council the amendments.

PART 3 RULES OF PROCEDURE

1. Members will be aware that the Council is in the process of refreshing the technology required to support digital voting in Council meetings. Before implementation of the digital voting system the Constitution will require amending.

Current wording in the Constitution regarding voting at Council and at committee and sub-committee meetings is set as follows

25 Voting (in relation to Council)

25.1 Members will vote by a show of hands. A member's vote will only be counted if s/he is sitting in a seat reserved for members.

42 Voting (in relation to committees and sub- committees)

42.1 Voting is by show of hands, unless the majority of members decide to vote by ballot on a particular item.

2. Members are asked to consider the revised wording to paragraph 25.1 and 42.1 below to enable members to use digital voting at meetings but to keep the alternative method of a show of hands in cases where the technology is not available.

25 Voting (in relation to Council)

25.1 Members will vote in one of the following ways

25.1.1 Digital voting or

25.1.2 by a show of hands.

A member's vote will only be counted if s/he is sitting in a seat reserved for members.

42.1 Members will vote in one of the following ways

42.1.1 Digital voting or

42.1.2 by a show of hands.

A member's vote will only be counted if s/he is sitting in a seat reserved for members.

Article 11 A Health and Wellbeing Board

1. S.194 of the Health and Social Care Act 2012 Act lists the persons to comprise the Board and also provides “for such other persons, or representatives of such persons, as the local authority thinks appropriate”. The Council has added various persons listed in the Constitution at Article 11A.2. These matters were considered by Committee on 25 April 2017.
2. The Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013, Regulation 6 provides that- **“Modification of section 13 of the 1989 Act**

Section 13 of the 1989 Act (voting rights of members of certain committees: England and Wales) applies in relation to a Health and Wellbeing Board with the modification that after subsection (1) there were inserted—

“(1A) A person who is a member of a Health and Wellbeing Board, a sub-committee of such a Board, or a joint sub-committee of two or more such Boards, shall not be treated as a non-voting member of that Board or sub-committee by virtue of subsection (1), unless the local authority which established the Board otherwise directs.

(1B) Before making a direction under subsection (1A), the local authority must consult the Health and Wellbeing Board.”

3. The Council has approved Article 11A.2, Composition of the board. The current wording is set out below, these persons are therefore voting members of the Board as the Council did not direct otherwise. The Board now intends to co-opt further members, (see wording for revised composition below, new members are shown in bold) and for those new co-opted members to also have voting rights. Therefore the Council must be given an opportunity to direct otherwise if it chooses. The representation on the Board by members from the NHS and Clinical Commissioning Groups has also been clarified and those amendments are underlined in the revised composition shown below. Members are asked to consider the amendments to the Composition and recommend to Council the additional members as voting members

Current wording in the Constitution is as follows

11A.2 The Health and Wellbeing Board shall comprise of the following

- a) The Leader of the Council
- b) The Chief Executive of the Council
- c) The Elected Member portfolio holder for Health and Wellbeing
- d) One opposition Elected Member
- e) The Accountable Officer for the District's Clinical Commissioning Groups and a clinician from each CCG if the Accountable Officer is not a clinician
- f) The NHS Area Team Director
- g) The Director of Public Health
- h) The Strategic Director of Health and Wellbeing.
- i) The Strategic Director of Children's Services.
- j) One member from Bradford HealthWatch
- k) One member from the Voluntary, Community and Faith Sector, elected through Bradford Assembly.
- l) One full and two co-opted representatives of the three main NHS providers.
- m) One co-opted representative of the Community Interest Companies (representing primary care).

11A2.1 The Board may co-opt further members, as required, from provider organisations

11A2.3 Named alternates can be provided for the members of the Health and Wellbeing Board except the representatives of the Clinical Commissioning Groups who are able to ask any clinician on the CCGs to alternate for them.

The co-opted representatives indicated are non-voting unless the Council decides otherwise.

11A2.4 The Board shall report to the Bradford District Partnership as required.

11A2.5 Sub-groups that report directly to the Board shall include the Bradford Health and Care Commissioners and the Integration and Change Board.

Revised wording in the Constitution recommended to be as follows

Composition

- a) The Leader of the Council, CBMDC
- b) The Chief Executive of the Council, CBMDC
- c) The Elected Member portfolio holder for Health and Wellbeing, CBMDC
- d) One opposition Elected Member, CBMDC
- e) The Accountable Officer for the District's Clinical Commissioning Groups and a clinician from each of Airedale, Wharfedale, Craven CCG, Bradford City CCG and Bradford District CCG if the Accountable Officer is not a clinician

- f) One member from the NHS England Area Team
- g) The Director of Public Health, CBMDC
- h) The Strategic Director of Health and Wellbeing, CBMDC.
- i) The Strategic Director of Children’s Services, CBMDC.
- j) The Strategic Director of Place, CBMDC**
- k) One member from Bradford HealthWatch
- l) One member from the Voluntary, Community and Faith Sector, elected through Bradford Assembly.
- m) The Chief Executive of Bradford Teaching Hospitals NHS Foundation Trust
- n) The Chief Executive of Airedale NHS Foundation Trust
- o) The Chief Executive of Bradford District Partnership NHS Foundation Trust
- p) One member from the GP Community Interest Companies (CICs). Representative role to rotate between the GP CICs on a 2 year cycle.
- q) The District Commander West Yorkshire Fire and Rescue Service**
- r) The Chief Superintendent Bradford District, West Yorkshire Police**
- s) The Group Chief Executive, InCommunities Group Ltd**

Additions to the role and functions of the Health and Wellbeing Board

11A4.8 shall read: “The Board is the senior strategic partnership in Bradford District, leading the family of linked strategic partnerships through which the Council collectively deliver the five outcomes of the Bradford District Plan.”

“The Board shall oversee the development and delivery of the outcomes within the Bradford District Plan 2016 – 2020, via the District’s strategic delivery partnerships”

“The strategic delivery partnerships (Economic Partnership, Children’s Trust, Safer Stronger Communities) will take direction from and are responsible to the Health and Wellbeing Board for delivering the District Plan outcomes and other strategic priorities. They will be expected to report their progress against these outcomes to the Health and Wellbeing Board on an annual basis.”

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