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Members of Audit and Governance Committee

Date: 22 June 2018

Our Ref:

Your Ref:

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Dear Councillor

AUDIT AND GOVERNANCE COMMITTEE - WEDNESDAY 27TH JUNE, 2018

I refer to the agenda for the above meeting and now enclose the following report which was unavailable when the agenda was printed.

Agenda No.

Item

5. **Financial Procedure Rules & Contract Procedure Rules** (Pages 3 - 110)
Joint Report of the Head of Corporate Resources and the Head of
Commissioning Support and Business Intelligence

Appendix Page Nos:

- Appendix 1 – Revised Financial Procedure Rules (Pages 11-54)
- Appendix 2 - Summary of Proposed Revision to
Contract Procedure Rules (Pages 55-56)
- Appendix 3 – Revised Contract Procedure Rules (Pages 57-110)

Yours sincerely,

J COULE

Head of Regulation and Compliance

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Report to:	Audit and Governance Committee	Date of Meeting:	27th June 2018
Subject:	Financial Procedure Rules and Contract Procedure Rules Update		
Report of:	Head of Corporate Resources and Head of Commissioning Support and Business Intelligence	Wards Affected:	All Wards
Cabinet Portfolio:	Regulatory, Compliance & Corporate Services		
Is this a Key Decision:	No	Included in Forward Plan:	No
Exempt / Confidential Report:	No		

Summary:

This report seeks the Committee's approval for revisions to the Financial Procedure Rules and Contract Procedure Rules and referral of both to Council for Council approval.

Recommendation(s):

That the Committee:

- (1) Consider and approve the revision to the Financial Procedure Rules set out in Appendix 1 to this report.
- (2) Consider and approve the revision to the Contract Procedure Rules set out in Appendix 3 to this report.
- (3) Refer the duly amended Financial Procedure Rules and Contract Procedure Rules to Council for approval.

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Reasons for the Recommendation(s):

To enable the Council to adopt the recommended revisions to Financial Procedure Rules and Contract Procedure Rules.

Alternative Options Considered and Rejected: (including any Risk Implications)

As part of the annual review of the Councils constitution, the Council's Financial Procedure Rules (FPR) and Contract Procedure Rules (CPR) have been the subject of review. This has resulted in a number of proposed revisions, which are now presented for consideration by Audit & Governance Committee and referral to Council for their consideration and approval. No alternative options have been considered.

What will it cost and how will it be financed?

(A) Revenue Costs

There are no additional costs arising directly from this report.

(B) Capital Costs

N/A

Implications of the Proposals:

Resource Implications (Financial, IT, Staffing and Assets):

There are no additional resource implications associated with this report. Existing staffing resources will be involved in procurement, contract management and financial management and will be required to comply with the FPR and CPR.

Legal Implications:

The revised contract procedure rules fully reflect the Public Contract Regulations 2015//102. Production of this report has also been considered in line with Sections 5 and 5A of the Local Government and Housing Act 1989 and Sections 114, 114A 115 and 115B of the Local Government Finance Act 1988.

Equality Implications:

There are no equality implications.

Contribution to the Council's Core Purpose:

Protect the most vulnerable: The proposed amendment to the Contract Procedure Rules relating to Adult's or Children's Social Care support packages and placements enables the Council to protect the most vulnerable by timely approval of care support and treatment packages and placements whilst ensuring appropriate oversight.

Facilitate confident and resilient communities: Not applicable

Commission, broker and provide core services: Effective, efficient and legally compliant financial management, procurement and contract management processes are key components of the effective commissioning, procurement and provision of services.
Place – leadership and influencer: Not applicable
Drivers of change and reform: Improved financial management and procurement processes, rules, and guidance are key enabling components of delivering change and reform.
Facilitate sustainable economic prosperity: Effective procurement of goods, works and services from the external market supports economic prosperity. Increased local supply chain development and social value from procurement will improve the contribution to local sustainable economic prosperity.
Greater income for social investment: Enabling efficient, effective and timely decision making in relation to identified Commercial Activities will support the operation of such activity and maximise financial performance.

What consultations have taken place on the proposals and when?

(A) Internal Consultations

The review of the Financial Procedure Rules has been led by a multi-disciplinary team including officers from financial management, internal audit and senior officers within the Council. The final document as included within this report has also been the subject of review and initial approval by the Council's Monitoring Officer, prior to presentation to members.

The current CPR were similarly developed by a multi-disciplinary team that included officers from Procurement, Commissioning Support, Legal, Finance, Strategic Support and Learning & Development. Consultation was also undertaken across the Council, through the Strategic Leadership Board and nominated representatives of Heads of Service.

The majority of proposed amendments to CPR are relatively minor and intended to improve their effectiveness, in light of practical application in the past 12 months and revision of EU Spend Threshold values. The most significant changes relate to the raising of the threshold below which procurement can be undertaken on the basis of a minimum of two written quotations and there is no explicit requirement to involve the Corporate Procurement Team, and the implementation of specific provisions relating to defined "commercial activities".

The Head of Corporate Resources (FD 5196/18) and Head of Regulation and Compliance (LD 4420/18) have been consulted and any comments have been incorporated into the report.

(B) External Consultations

Not applicable.

Implementation Date for the Decision

Immediately following the Committee meeting

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Appendices:

The following appendices are attached to this report:

Appendix 1 – Revised Financial Procedure Rules

Appendix 2 - Summary of Proposed Revision to Contract Procedure Rules

Appendix 3 – Revised Contract Procedure Rules

Background Papers:

There are no background papers available for inspection.

Financial Procedure Rules

1. As part of the annual review of the Councils constitution, the Council's Financial Procedure Rules have been the subject of review.
2. This review has been led by a multi-disciplinary team including officers from financial management, internal audit and senior officers within the Council. The final document as included within this report has also been the subject of review and initial approval by the Council's Monitoring Officer, prior to presentation to members.
3. As would be expected, large elements of the previous version of the Financial Procedure Rules remain as previously approved, however certain changes are proposed and are discussed below. These changes align with the Councils structure, Framework for Change programme and the aims of the Financial Procedure Rules that:-
 - They provide the framework for managing the financial affairs of the Council;
 - They define the roles and responsibilities of members and officers;
 - They facilitate the effective operation of council activity; and
 - They provide a framework for the delivery of an effective internal control environment.
4. Having reviewed the Financial Procedure Rules there are four areas that are reflected in the updated schedule

Changes as a result of Organisational redesign

5. The Financial Procedure Rules have been updated to take account of changes to roles and responsibilities and job titles within the Council

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Roles and Responsibilities (paragraphs 19-40)

6. The roles and responsibilities of statutory officers, the Senior Leadership Board and Heads of Service have been updated to provide clear guidance on their respective roles, further define accountability and also reflect best practice.

Management of Income and Expenditure (paragraphs 49-55)

7. The request for, or commitment of additional Council resources to either the revenue budget or capital programme are at present and will remain the responsibility of Council.
8. There are occasions however when the Council receives external income or other financial contributions to support specific council activity that do not commit the council's own resources. Revised delegations to support these 'supplementary revenue and capital estimates' are included at paragraphs 49-55 and are shown below. It should be noted that those externally funded proposals that are more significant in financial value will still require Cabinet and Council approval. This will support the control and risk in this area.

Supplementary Revenue Estimate

Supplementary Revenue Estimate Amount	Approval Level
Up to and including £100,000	The relevant Head of Service
In excess of £100,000 up to and including £250,000	The relevant Head of Service in consultation with the Cabinet Member and the Section 151 Officer
In excess of £250,000 up to and including £500,000	The relevant Cabinet Member in consultation with Cabinet Member for Regulatory, Compliance and Corporate Service (or the Leader of the Council if the matter concerns the Cabinet Member Regulatory, Compliance and Corporate Services) and the Section 151 Officer
In excess of £500,000 up to and including £1,000,000	Cabinet
Over £1,000,000	Council with recommendation from Cabinet

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Supplementary Capital Estimate

Supplementary Capital Estimate Amount	Approval Level
Up to and including £100,000	Section 151 Officer in consultation with the Chief Executive
In excess of £100,000 up to and including £250,000	Section 151 Officer in consultation with Cabinet Member for Regulatory Compliance and Corporate Services
In excess of £250,000 up to and £1,000,000	Cabinet
Over £1,000,000	Council with recommendation from Cabinet

Commercial Activity (paragraphs 100-102)

9. Within the Council's Framework for Change programme the Council has a stated objective to develop its commercial activity. As part of this programme there will be specific business plans that are developed and approved by Members that provide the strategic direction and financial parameters within which these activities will operate.
10. As would be expected with such activities, there is a need for decisions to be made in an efficient, effective and timely manner in order to support the operation of the activity and maximise financial performance.
11. For such activities, Cabinet have approved the implementation of an Investment Board to provide operational management and guidance to these activities. This Board includes the Chief Executive, Executive Director, Head of Commercial Development and Head of Corporate Resources (s151 Officer).
12. This Board provides Business Plans to Cabinet on Commercial Activity that set out income and expenditure assumptions and impact on the Councils overall financial performance. Reporting against business plan is included within the council's outturn process alongside all traditional service expenditure and income.
13. As a result of this, a section has been included within the Financial Procedure Rules to reflect this, to clearly define the role of Members in developing and approving the strategic direction and financial assumptions for such activity and receiving appropriate information on which to evaluate financial performance and also the role of the Investment Board and Officers in delivering the objectives of such business plans.

Contract Procedure Rules

14. On 28th June 2017, Audit and Governance Committee considered and approved updated Contract Procedure Rules (CPR), developed as part of a corporate review of procurement processes, rules and guidance, and referred them for Council approval. The report to the Committee also noted that the CPR would be subject to regular review with any subsequent amendments being brought back to Audit and Governance Committee for consideration in due course. The CPR were subsequently approved by Council on 13th July 2017 and duly implemented.

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15. The recommended amendments to CPR, together with an explanation for those amendments are presented at Appendix 1.
16. The majority of proposed amendments to CPR are relatively minor and intended to improve their effectiveness, in light of practical application in the past 12 months and revision of EU Spend Threshold values.
17. The most significant changes relate to:
 - Raising the threshold below which procurement can be undertaken on the basis of a minimum of two written quotations, without explicit requirement to involve the Corporate Procurement Team, from £5,000 to £20,000; and
 - Introduction of specific provisions relating to defined “commercial activities”.

Both changes are intended to ensure that procurement processes are as streamlined as possible, whilst ensuring an appropriate level of control and oversight. These changes do not prevent the involvement of the Procurement Team or the deployment of a more substantial procurement process where that is appropriate and is felt most likely to secure best value. In line with national transparency requirements, the requirement to include resultant contracts above £5,000 on the Council’s Contract Register and the requirement to advertise all openly published procurement opportunities values at £25000, or more, on the national Contracts Finder portal will continue to apply.

18. The raising of the threshold in relation to general Council procurement delivers on an intention previously expressed and follows the successful implementation of improved processes and compulsory staff training over the past 18 months, both verified by internal and external audit activity.
19. The introduction of specific provisions relating to “commercial activities” is in support of the Council’s stated objective to develop its commercial activity and recognises the particular need for decisions to be made in an efficient, effective and timely manner in order to support the operation of such activity and maximise financial performance. It relates solely to “commercial activities” as defined in the Financial Procedure Rules, i.e. specific business plans that are developed and approved by Cabinet and then overseen by the Council’s Investment Board, which includes the Chief Executive, Executive Director, Head of Commercial Development and Head of Corporate Resources (s151 Officer).
20. The Council’s Constitution delegates to Audit and Governance Committee the responsibility to “*maintain an overview of the Council’s constitution of contract procedure rules, financial regulations and codes of conduct and behaviour*” (Chapter 7, paragraph 84). The Constitution further requires that “*Contract Procedure Rules shall be reviewed and updated as appropriate in line with review of the Constitution and shall be presented to Council, at least annually, for approval*” (Chapter 11, paragraph 131). It is therefore timely for the amended CPR to be presented to Council for formal approval and the Committee is requested to agree this.

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Chapter 11

Finance Procedure Rules

A INTRODUCTION

- 1 Finance and Contract Procedure Rules provide the framework for managing the Council's financial affairs. They apply to every Member and Officer of the Council and anyone acting on its behalf, including School Governors operating under local delegation arrangements. All decision makers need to ensure that they are not only empowered under the Constitution to make every decision that they propose to make, but that they are also authorised under these Rules to incur the financial consequences of every decision that they make.
- 2 The Rules identify the financial responsibilities of the full Council, Cabinet, Overview and Scrutiny Members, statutory officers and the Heads of Service. A written record shall be kept of all decisions taken under these Rules which are taken using delegated powers
- 3 All Members and staff have a general responsibility for taking reasonable action to provide for the security of the assets under their control, and for ensuring that the use of these resources is legal, is warranted, properly authorised, provides value for money and achieves best value and is in the interest of the Council's citizens.
- 4 The Section 151 Officer is responsible for maintaining a regular review of the Finance Procedure Rules and submitting any additions or changes necessary to the full Council for approval. The Head of Commissioning Support and Business Intelligence is responsible for maintaining a regular review of the Contract Procedure Rules and submitting any additions or changes necessary to the full Council for approval. The Section 151 Officer is also responsible for reporting, where appropriate, breaches of the Finance and Contract Procedure Rules to Audit and Governance Committee.
- 5 Heads of Service are responsible for ensuring that all staff in their Services are aware of the existence and content of the Council's Finance and Contract Procedure Rules and other internal regulatory documents and that they comply with them, as required by the Council's Code of Conduct for Employees and this Constitution. Failure to comply with the Code of Conduct will be dealt with in accordance with the Council's Disciplinary Policy and Procedure. These documents will be located on the Sefton intranet for reference. Where staff do not have access to the intranet, Heads of Service must ensure that an adequate number of copies of the relevant policies are available for reference within their Services.
- 6 The Section 151 Officer, is responsible for issuing advice and guidance to underpin the Finance and Contract Procedure Rules that Members, officers and others acting on behalf of the Council are required to follow.

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- 7 The Rules are not intended to cover every eventuality, but the spirit of the Rules must always be followed. Where there is any uncertainty in matters of interpretation, advice should be sought from the Section 151 Officer before decisions or actions are taken.

B. FINANCIAL MANAGEMENT

WHY IS THIS IMPORTANT?

- 8 Financial Management covers all financial accountabilities in relation to the running of the Council, including the policy framework and budget.

WHAT'S COVERED IN THIS SECTION?

- 9 The roles and responsibilities of:
- The full Council
 - The Cabinet
 - The committees delegated by Cabinet
 - Statutory officers; and
 - Heads of Service
- 10 Other financial accountabilities:
- Virement
 - Supplementary estimates
 - Treatment of year end balances
 - Accounting policies
 - Accounting records and returns
 - The Annual Statement of Accounts

THE FULL COUNCIL

- 11 The responsibilities of the full Council are set out in Chapter 4 of the Constitution. In respect of financial matters, this includes approving the Budget within which the Cabinet operates.
- 12 The Budget comprises the allocation of financial resources to different services and projects, proposed contingency funds, the Council Tax base and Council Tax rate, and decisions relating to the control of the Council's borrowing requirement, and the allocation and control of capital expenditure.

THE CABINET

- 13 The Cabinet's responsibilities, in respect of financial matters include:
- a. developing and reviewing the Council's plans and policies
 - b. advising on budget setting
 - c. ensuring proper arrangements exist for the effective and efficient management of the Council's executive affairs
 - d. monitoring and auditing the lawful, proper and efficient conduct of the Council's financial affairs, including the extent to which budgets and financial policies are being met and any appropriate remedial action; and
 - e. ensuring officers exerPage 12gated powers on behalf of the Cabinet discharge their responsibilities efficiently and effectively.

CABINET MEMBERS

- 14 Individual Cabinet Members have specific decision making powers which are set out in Chapter 5 of the Council's Constitution. Cabinet Members responsibilities in respect of financial matters include:
 - a. the proper administration of the Council's services
 - b. ensuring adequate staffing, premises and other resources are in place to secure agreed standard and target outcomes within the scope of their portfolio
 - c. ensuring budget control and financial monitoring within the scope of their portfolio
 - d. making recommendations to the Cabinet in respect of strategic policy concerning matters within their portfolio.
- 15 Cabinet Members must consult with relevant officers before exercising their delegated decision making powers. In doing so, the individual Member must take account of legal and financial liabilities and risk management issues that may arise from the decision and that they have authority to incur the financial consequences of that decision.

COMMITTEES

OVERVIEW AND SCRUTINY COMMITTEES

- 16 Overview and Scrutiny Committees are responsible for discharging the Council's functions under Section 9F to 9FU of the Local Government Act 2000, including:
 - a. scrutinising Cabinet decisions before or after they have been implemented; and
 - b. establishing task and finish reviews as they see fit.

AUDIT AND GOVERNANCE COMMITTEE

- 17 The Audit and Governance Committee has right of access to all of the information necessary to effectively discharge its responsibilities and can consult directly with internal and external auditors.
- 18 The committee responsibilities are detailed in Chapter 7 of the Constitution.

STATUTORY OFFICERS

CHIEF OFFICERS

- 19 Chief Officers are the Chief Executive, Executive Directors or any Head of Service to whom there has been specific delegation in writing by the Council or the Chief Executive.
- 20 In accordance with the management structure of the Council, Chief Officers will be referred to as follows:
 - a. Chief Executive (Head of Paid Service)
 - b. Executive Directors, Director of Social Care and Health and Heads of Service report to the Chief Executive
 - c. Heads of Service
- 21 The Chief Executive is the Head of the Council's Paid Service. The responsibilities of the Chief Executive are set out in full in Chapter 10 of the Council's Constitution :**Page 13**ude:
 - a. leading and directing the strategic management of the Council

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- b. ensuring the effective pursuit and achievement of the Council's objectives
 - c. ensuring the Council's activities are carried out with maximum effectiveness and efficiency.
- 22 The Chief Executive must report to and provide information for full Council, the Cabinet, the Overview and Scrutiny Committees and other committees.

MONITORING OFFICER

- 23 The Council's Monitoring Officer pursuant to Section 5 and 5A of the Local Government and Housing Act 1989 (as amended) is responsible for exercising the functions of that role. This includes reporting, in consultation with the Chief Executive and Section 151 Officer to the full Council (or to the Executive in relation to an Executive function), if he or she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to a finding of maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered by Cabinet.
- 24 The Monitoring Officer must ensure that Cabinet decisions and the reasons for them are made public. He or she must also ensure that Council Members are aware of decisions made by the Cabinet and of those made by officers who have delegated responsibility.
- 25 The Monitoring Officer is responsible for advising all Members and officers about who has authority to take a particular decision.
- 26 The Monitoring Officer is responsible for advising the Cabinet or full Council about whether a decision is likely to be considered contrary or not wholly in accordance with the Policy Framework.
- 27 The Monitoring Officer (together with the Section 151 Officer) is responsible for advising the Cabinet or full Council about whether a decision is likely to be considered contrary to or not wholly in accordance with the budget. Actions that may be 'contrary to the budget' include:
- a. initiating a new policy which may have financial implications that cannot be contained within existing budgets
 - b. committing expenditure in future years that exceeds Medium Term Financial Plan assumptions
 - c. agreeing budget transfers that exceed approved virement limits
 - d. causing the total expenditure financed from Council tax, grants and corporately held reserves to increase, or to increase by more than a significant amount ("Significant" to be defined by the Section 151 Officer or their representative).
- 28 The Monitoring Officer is responsible for maintaining an up-to-date Constitution.

RESPONSIBLE FINANCIAL OFFICER (SECTION 151 OFFICER)

- 29 The Section 151 Officer is the financial adviser to the Council, the Cabinet and officers and is the Council's 'responsible financial officer' under the Accounts and Audits Regulations. He or she is responsible for the proper administration of the Council's affairs as specified in, and undertaking the duties required by, Section 151 of the Local

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Government Act 1972, Section 114 of the Local Government Finance Act 1988, the Local Government and Housing Act 1989, the Local Government Act 2003 and all other relevant legislation.

- 30 The Section 151 Officer is responsible generally, for discharging, on behalf of the Council, the responsibilities set out in the Chartered Institute of Public Finance and Accountancy (CIPFA) Statement on the Role of the Chief Financial Officer in Local Government, including:
- a. in conjunction with the other Heads of Service, the proper administration of the Council's financial affairs
 - b. setting and monitoring compliance with financial management standards
 - c. advising on the corporate financial position and on the key financial controls necessary to secure sound financial management
 - d. providing financial information
 - e. preparing the revenue budget and capital programme
 - f. treasury management.
- 31 Section 114 of the Local Government Finance Act 1988 includes a requirement for the Section 151 Officer to report to the full Council, Cabinet and external auditor if the Council or one of its officers:
- a. has made, or is about to make, a decision which involves incurring unlawful expenditure
 - b. has taken, or is about to take, an unlawful action which has resulted or would result in a loss or deficiency to the Council
 - c. is about to make an unlawful entry in the Council's accounts
- 32 Section 114 of the 1988 Act also requires:
- a. the Section 151 Officer to nominate a properly qualified Member of staff to deputise should he or she be unable to perform the duties under section 114 personally. The designated deputy for this purpose is the Strategic Manager, Finance (Corporate).
 - b. the Authority to provide the Section 151 Officer with sufficient staff, accommodation and other resources – including legal advice where this is necessary – to carry out the duties under section 114 of the Local Government Finance Act 1988.

MONEY LAUNDERING REPORTING OFFICER

- 33 The Section 151 Officer is appointed as the Council's Money Laundering Reporting Officer and will maintain and advise on Anti-Money Laundering procedures.
- 34 They will be responsible for notifying the National Crime Agency (NCA) of any suspected cases of money laundering committed within the accounts of the Council as soon as possible and fulfil other duties as defined by legislation or regulation related to the post. Simultaneously, the Cabinet Member for Regulatory Compliance and Corporate Services will be kept informed of any notifications to NCA and of any issues arising from them.

EXECUTIVE LEADERSHIP TEAM AND STRATEGIC LEADERSHIP BOARD

- 35 The officer management arrangements for the Council are overseen by an Executive Leadership team comprising the Chief Executive, Executive Directors, Director of Social Care and Health and the

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Section 151 Officer. Each member of the Executive Leadership Team is accountable to the Chief Executive for ensuring that Council Services are managed in accordance with the objectives, plans, policies, programmes, budgets and processes of the Council.

- 36 The Strategic Leadership Board includes the Executive Leadership Team and all of the Heads of Service. The Strategic Leadership Board is responsible for ensuring that the Council's Services are managed in accordance with the Council's strategic objectives and within the agreed policy and budget framework.

HEADS OF SERVICE

- 37 Powers are delegated to Heads of Service, who will establish, operate and keep under review Local Schemes of Delegation, to cascade powers and responsibilities to Service Managers and other subordinate officers. Every such sub-delegation will be recorded in writing within a Local Scheme of Delegation. The sub-delegation of functions shall not in any way diminish the overall responsibility and accountability of the delegator. Heads of Service and their managers should provide leadership, act with integrity, be open and transparent as possible, regarding financial performance and risks.
- 38 Heads of Service are responsible for and accountable for the financial management arrangements within their service area. They shall manage the development of budget policy options with a detailed assessment of financial implications within the budget process and resource framework agreed by the Council.
- 39 Heads of Service will establish, operate and annually review Local Schemes of Delegation, in consultation with the Section 151 Officer, to ensure that:
- a. the day to day financial management of services within their directorate is carried out in a secure, efficient and effective manner, and in accordance with the Finance Procedure Rules and associated relevant guidance.
 - b. expenditure is contained within the service's overall approved budget and that individual budget heads are not overspent, by monitoring the budget and taking appropriate and timely corrective action where significant variances are forecast and if necessary, seeking specific in year approval for the transfer of resources between budgets.
 - c. regular reports in an approved format are made to Cabinet on projected expenditure against budget and performance against service outcome targets.
 - d. prior approval is sought at the appropriate level for new proposals that create financial commitments in future years, change existing policies, initiate new policies or materially extend or reduce the Council's services.
 - e. resources are only used for the purposes for which they were intended.
 - f. compliance with the scheme of virement set out at paragraphs 41 - 48 below.
 - g. risks are appropriately assessed, reviewed and managed.
 - h. all members of staff are fully trained, aware of and comply with the requirements of Finance Procedure Rules, including the Contract Procedure Rules.

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- i. all allegations of suspected fraud, corruption and financial irregularity are promptly reported to the Section 151 Officer and Chief Internal Auditor and that any local investigations are undertaken thoroughly, consistently and impartially.
- 40 Schemes of Financial Delegation will set out all financial responsibilities and approval limits as delegated by the Heads of Service to Service Managers, and any sub-delegations within services. Authorised Officers are those officers given specific delegated authority by their Head of Service as documented in that service's Scheme of Financial Delegation. The financial limits specified in the Scheme of Financial Delegation will be used to control access to financial systems and on- line transaction approvals. The Section 151 Officer will provide advice and prescribed format to Heads of Services to facilitate the completion of the Schemes of Financial Delegation. The Section 151 Officer to review and approve all Schemes of Financial Delegation on an annual basis.

MANAGING EXPENDITURE

SCHEME OF VIREMENT

- 41 A virement constitutes the movement of existing approved budgets from one area to another and is not an increase in overall budgets through the addition of new monies.
- 42 The Scheme of Virement is intended to enable the Cabinet, Executive Leadership Team and Strategic Leadership Board and their staff to manage budgets with a degree of flexibility within the overall policy framework determined by the full Council, and therefore to optimise the use of resources.
- 43 The full Council is responsible for agreeing limits for virement of expenditure between budget headings.
- 44 Heads of Service are responsible for agreeing in-year virements within delegated limits; in consultation with the Section 151 Officer where required and ensuring that written records of any changes are maintained
- 45 Key controls for the scheme of virement are:
- a. it is administered by the Section 151 Officer within guidelines set by the full Council. Any departure from this scheme requires the approval of the full Council.
 - b. the overall budget is agreed by the Cabinet and approved by the full Council. Heads of Service and budget managers are therefore authorised to incur expenditure in accordance with the estimates that make up the budget. Income received cannot be used to defray expenditure.
 - c. for the purposes of this scheme, a budget head is considered to be a division of service as identified in the approved Budget Report, or, as a minimum, at an equivalent level to the standard service subdivision as defined by CIPFA's Service Expenditure Analysis
 - d. virement does not create additional overall budget liability
 - e. no virements are permitted from ring fenced budgets
- 46 Some revenue virements are Page 17ly of an administrative nature, for example, implementation of restructuring and reorganisation proposals that have already received the appropriate level of officer

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and Member approval; routine changes to the structure of the chart of accounts or changes to notional accounting budgets which are required for reporting purposes but which do not impact on the Councils cash expenditure. Where the virement is of an administrative nature, Member approval is not required and approval limits will be based on the Scheme of Delegation. Administrative virements that exceed these limits will be approved by the Section 151 Officer.

- 47 Heads of Service are expected to exercise their discretion in managing their budgets responsibly and prudently. For example, they should aim to avoid supporting recurring expenditure from one-off sources of savings or additional income, or creating future commitments, including full-year effects of decisions made part way through a year, for which they have not identified future resources. Heads of Service must plan to fund such commitments from within their own budgets.
- 48 Where transfers are a single transaction they must be affected as such and must not be undertaken as two or more smaller transactions. Approval limits for virements are as follows:

REVENUE AND CAPITAL VIREMENTS

Virement Amount (within portfolio)	Approval Level
Up to and including £100,000	The relevant Head of Service
In excess of £100,000 up to and £250,000	The relevant Head of Service in consultation with the Cabinet Member and the Section 151 Officer
In excess of £250,000 up to and including £1,000,000	The relevant Cabinet Member in consultation with Cabinet Member for Regulatory, Compliance and Corporate Service (or the Leader of the Council if the matter concerns the Cabinet Member Regulatory, Compliance and Corporate Services)
Over £1,000,000 (where virement is within budget framework)	Cabinet
Over £1,000,000 (where virement is outside budget framework)	Council

Virement Amount (between portfolios)	Approval Level
Up to and including £250,000	The relevant Heads of Service in consultation with the Cabinet Members and the Section 151 Officer
In excess of £250,000 up to and including £1,000,000	The relevant Cabinet Members in consultation with Cabinet Member for Regulatory, Compliance and Corporate Service (or the Leader of the Council if the matter concerns the Cabinet Member Regulatory, Compliance and Corporate Services Portfolio).
Over £1,000,000 (where virement is within budget framework)	Cabinet

SUPPLEMENTARY REVENUE ESTIMATES

- 49 Where services wish to undertake an activity not originally identified in the budget or incur additional revenue expenditure on an existing activity where this is fully funded (for example through additional specific grant allocations), approval must be sought for a supplementary revenue estimate in accordance with the table (paragraph 50) below. The Section 151 Officer must be consulted to establish that any additional grant funding identified can be legitimately linked to the expenditure in question and the net impact of the proposal must be neutral on the Councils overall budget.
- 50 Approval limits for fully funded supplementary revenue estimates are as follows:

Supplementary Estimate Amount	Approval Level
Up to and including £100,000	The relevant Head of Service
In excess of £100,000 up to and including £250,000	The relevant Head of Service in consultation with the Cabinet Member and the Section 151 Officer
In excess of £250,000 up to and including £500,000	The relevant Cabinet Member in consultation with Cabinet Member for Regulatory, Compliance and Corporate Service (or the Leader of the Council if the matter concerns the Cabinet Member Regulatory, Compliance and Corporate Services) and the Section 151 Officer
In excess of £500,000 up to and including £1,000,000	Cabinet
Over £1,000,000	Council

- 51 Approval limits for supplementary revenue estimates which are to be funded from earmarked reserves or contingencies are as follows:

Supplementary Estimate Amount	Approval Level	
	From Earmarked Reserves	From Contingencies
Up to and including £250,000	Section 151 Officer	Section 151 Officer
In excess of £250,000 up to and including £500,000	Section 151 Officer in consultation with the Chief Executive	Section 151 Officer in consultation with the Chief Executive
In excess of £500,000 up to and including £1,000,000	Cabinet	Section 151 Officer in consultation with the Cabinet Member for Regulatory Compliance and Corporate Services
Over £1,000,000	Council with recommendation from Cabinet	Cabinet

- 52 Supplementary revenue estimates which are to be funded wholly or in part from general reserves or purpose funding (i.e. Council Tax or non-ring fenced grant) must be approved by Council regardless of value.

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SUPPLEMENTARY CAPITAL ESTIMATES

- 53 Supplementary capital estimates which are fully funded from external resources (e.g. specific grant; developer's contributions, section 106 cumulative balances) must be approved in accordance with paragraph 55 below.
- 54 Capital budget increases funded wholly or in part from additional Council resources such as capital reserves, borrowing and capital receipts, **regardless of value**, must be approved by Council. Council approval is also required where there are significant revenue implications for future year's budgets.
- 55 Approval limits for supplementary capital estimates are as follows:

Supplementary Estimate Amount	Approval Level
Up to and including £100,000	Section 151 Officer in consultation with the Chief Executive
In excess of £100,000 up to and including £250,000	Section 151 Officer in consultation with Cabinet Member for Regulatory Compliance and Corporate Services
In excess of £250,000 up to and £1,000,000	Cabinet
Over £1,000,000	Council with recommendation from Cabinet

TREATMENT OF YEAR END BALANCES

- 56 The full Council is responsible for agreeing procedures for carrying forward under-and overspendings on budget headings.
- 57 A budget heading is considered to be a division of service as identified in the approved Budget Report, or, at an equivalent level to the standard service subdivision as defined by CIPFA's Service Expenditure Analysis.
- 58 Any revenue underspending at the year-end may be carried forward, subject to the agreement of the Cabinet. The Section 151 Officer will identify and make recommendations about the carry forward of underspends to Cabinet as part of the budget monitoring reporting process. All carry forward proposals must be supported by an appropriate business case demonstrating that the underspend was planned and that the resources carried forward will be earmarked for a specific and appropriate purpose. Heads of Service should include provisional indications of likely carry forward requests as part of their in year budget and performance monitoring. Before approval is sought for a carry forward, Heads of Service should ensure that there are no unfunded overspends within their service. It is extremely unlikely that proposed carry forwards will be approved if there are unfunded overspends elsewhere within the service.
- 59 Capital block provisions are allocations within which the full cost value of approved schemes must be contained. Any uncommitted sum at the year-end may be carried forward subject to consideration by Cabinet. Any uncommitted sum which is not justified on this basis will be returned to Council balances. Equally, any overspending will be carried forward as the first call on the following year's provision.

ACCOUNTING POLICIES

- 60 The Section 151 Officer is responsible for selecting appropriate accounting policies; exercising oversight of financial and accounting records and systems; and preparing and publishing reports containing statements on the overall finances of the Council including the annual statement of accounts.
- 61 The key controls for accounting policies are:
- a. systems of internal control are in place to ensure that financial transactions are lawful
 - b. suitable accounting policies are selected and applied consistently
 - c. accurate and complete accounting records are maintained
 - d. financial statements are prepared which present fairly the financial position of the Council and its expenditure and income
- 62 The Section 151 Officer is responsible for:
- a. selecting suitable accounting policies and ensuring that they are applied consistently
 - b. exercising supervision over financial and accounting records and systems
 - c. preparing and publishing reports containing the statements on the overall finances of the Council including the Council's Annual Report and Accounts
- 63 Heads of Service are responsible for ensuring that all staff within their directorates receive any relevant financial training which has been approved by the Section 151 Officer, and that they are aware of and adhere to the accounting policies, procedures and guidelines set by down by the Section 151 Officer.

ACCOUNTING RECORDS AND RETURNS

- 64 The Section 151 Officer is responsible for determining and approving the accounting procedures and records for the Council.
- 65 All accounts and accounting records will be compiled by the Section 151 Officer or under his/her direction. The form and content of records maintained in other directorates will be approved by the Section 151 Officer.
- 66 The key controls for accounting policies are:
- a. calculation, checking and recording of sums due to or from the Council will be separated as completely as possible from their collection or payment
 - b. officers responsible for examining and checking cash transaction accounts will not process any of these transactions themselves
 - c. reconciliation procedures are carried out to ensure transactions are correctly recorded
 - d. procedures are in place to enable accounting records to be reconstituted in the event of systems failure
 - e. prime documents are retained in accordance with legislative and other requirements.

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THE ANNUAL STATEMENT OF ACCOUNTS

- 67 The Section 151 Officer is responsible for ensuring that the annual statement of accounts is prepared in accordance with the *Code of Practice on Local Council Accounting in the United Kingdom* (CIPFA/LASAAC) and signing them in accordance with the Accounts and Audit Regulation 2015. Approval of the statutory accounts has been delegated by Council to the Audit and Governance Committee.

FINANCIAL PLANNING

WHY IS THIS IMPORTANT?

- 68 The full Council is responsible for agreeing the Council's Budget, which will be proposed by the Cabinet. In terms of financial planning, the key elements are:
- a. the **Medium Term Financial Plan** – sets out:
 - what the Council wants to achieve in the short and medium term
 - how services will change in the light of priorities, performance, resources, workforce planning needs and consideration of risks
 - investment required to deliver change
 - how much services will cost in overall terms and to service users
 - b. the **Budget** – this is the financial expression of the Council's Business Plan. It sets out the allocation of resources to services and projects, the level of contingency funding, the Council Tax base and Council Tax rate, borrowing limits and capital financing requirements.
 - c. the **Capital Programme** – Capital expenditure involves acquiring or enhancing fixed assets with a long-term value to the Council, such as land, buildings, and major items of plant, equipment or vehicles. Capital assets shape the way services are delivered in the long term and create financial commitments for the future in the form of financing costs and revenue running costs.
 - d. the Capital Strategy and **Treasury Management Strategy** – which sets out the arrangements for the management of the Council's borrowing, lending, cash flows and investments
 - e. **Specific Strategies** which have a financial implication

Policy Framework

- 69 The full Council is required by law, to agree a Policy Framework.
- 70 The full Council is also responsible for approving procedures for agreeing variations to approved budgets, plans and strategies forming the Policy Framework.
- 71 The full Council is responsible for setting the level at which the Cabinet may reallocate budget funds from one service to another. The Cabinet is responsible for taking in-year decisions on resources and priorities in order to deliver the Policy Framework within the financial limits set by the Council.

BUDGET PLAN

- 72 Each year the Section 151 Officer is responsible for preparing a budget plan for the Council including an approved revenue budget, capital programme, treasury management strategy (new capital strategy) and reserves strategy detailing the financial and service scenario and the policy and expenditure changes required to respond to this scenario.
- 73 Heads of Service will support this process by assessing and advising on the service scenario and policy and expenditure options for revenue and capital, in their area of responsibility, in a form determined by the Section 151 Officer.
- 74 The Cabinet, advised by the Section 151 Officer and Heads of Service, will develop a budget package including financing options, policy and expenditure options and capital programme. This will be subject to scrutiny by the Overview and Scrutiny Committee before the Cabinet finalises its recommendations to Council. The final Budget policy and Council Tax will be determined by Council.

REVENUE BUDGET MONITORING AND CONTROL REVENUE EXPENDITURE

- 75 Revenue expenditure is broadly defined as any expenditure incurred on the day to day running of the Council. Examples of revenue expenditure include salaries, energy costs, and consumable supplies and materials.

MONITORING AND CONTROL

- 76 The Section 151 Officer is responsible for providing appropriate financial information to enable budgets to be monitored effectively. He or she must monitor and control expenditure against budget allocations at a corporate level and report to the Cabinet on the overall position on a regular basis.
- 77 It is the responsibility of Heads of Service to control income and expenditure within their area and to monitor performance, taking account of financial information and guidance provided by the Section 151 Officer. They must report on variances within their own areas. They must also take any action necessary to avoid exceeding their budget allocation and alert the Section 151 Officer to any potential overspending or under-achievement of income budgets in a timely manner.
- 78 The Section 151 Officer is responsible for the following:
- a. Establishing an appropriate framework of budgetary management and control which ensures that:
 - budget management is exercised within annual budget allocations unless the full Council agrees otherwise
 - timely information on receipts and payments is made available, which is sufficiently detailed to enable officers to fulfil their budgetary responsibilities
 - expenditure is committed only against an approved budget head
 - all officers responsible for incurring expenditure comply with relevant guidance, and Finance and Contract Procedure Rules

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- each cost centre has a single named manager, determined by the relevant Head of Service. As a general principle, budget responsibility should be aligned as closely as possible to the decision-making processes that commits expenditure
 - significant variances from approved budgets are investigated and reported by budget managers regularly
- b. Administering the Council's scheme of virement
 - c. Submitting reports to the Cabinet and to the full Council, in consultation with the relevant Executive Director or Head of Service, where they are unable to balance expenditure and resources within existing approved budgets under their control
 - d. Preparing and submitting reports on the Council's projected income and expenditure compared with the budget on a regular basis.

79 Heads of Service are responsible for the following:

- a. Maintaining budgetary control within their Services, in adherence to the principles of paragraph 88, and ensuring that all income and expenditure is properly recorded and accounted for
- b. Ensuring that an accountable budget manager is identified for each item of income and expenditure under their control. As a general principle, budget responsibility should be aligned as closely as possible to the decision-making that commits expenditure.
- c. Ensuring that spending remains within the service's overall approved budget, and that individual budget heads are not overspent, by monitoring the budget and taking appropriate and timely corrective action where significant variations from the approved budget are forecast.
- d. Ensuring that a monitoring process is in place to review performance levels/levels of service in conjunction with the budget and is operating effectively
- e. Preparing and submitting to the Cabinet regular reports on the service's projected expenditure compared with its budget, in consultation with the Section 151 Officer
- f. Ensuring prior approval by the full Council or Cabinet (as appropriate) for new proposals, of whatever amount, that:
 - create financial commitments in future years
 - change existing policies, initiate new policies or cease existing policies or materially extend or reduce the Council's services.
- g. Ensuring compliance with the scheme of virement
- h. Agreeing with the appropriate Director or Head of Service any budget proposal, (including a virement proposal) which impacts their respective service areas, after having consulted with the Section 151 Officer and the Cabinet Member Regulatory and Compliance and Corporate Resources
- i. Ensuring Schemes of Financial Delegation are maintained for all within their area of responsibility
- j. Ensuring best value is obtained.

CONTINGENT LIABILITIES

80 The S151 Officer is responsible for:

- a. reviewing at least annually in consultation with Heads of Service the existing contingent liabilities and ensuring that a balance sheet provision is made where necessary, in accordance with CIPFA guidance.
- b. taking steps wherever **Page 24** in consultation with the Chief Executive and Heads of Service, to minimise the risk of contingent liabilities.

- 81 The Chief Executive, and Heads of Service are responsible for:
- a. setting up procedures and processes to minimise the risk of creating contingent liabilities
 - b. reviewing at least annually their service areas for contingent liabilities
 - c. informing the Section 151 Officer of any new contingent liabilities and of any changes in the circumstances of existing contingent liabilities.
- 82 These regulations may be modified by any Delegation Scheme which the Council may approve from time to time.

DETERMINATION, MONITORING AND CONTROL OF AFFORDABLE BORROWING

- 83 Under the Local Government Act 2003 the Council is required by regulation to comply with the CIPFA Prudential Code for Capital Finance in Local Authorities. The key objectives of the Prudential Code are to ensure that within a clear framework, the capital investment plans of local authorities are affordable, prudent and sustainable. A further objective is to ensure that treasury management supports prudence, affordability and sustainability.
- 84 The Council is responsible for approving prior to the commencement of the financial year the prudential indicators for the forthcoming financial year and subsequent financial years as required by the Code. The indicators required as a minimum are:
- a. Estimates of the ratio of financing costs to net revenue stream
 - b. Estimates of capital expenditure
 - c. Estimate of capital financing requirement (underlying need to borrow for a capital purpose)
 - d. Authorised limit for external debt
 - e. Operational boundary for external debt
- After the year end actual values are to be calculated for:*
- f. Ratio of financing costs to net revenue stream
 - g. Capital expenditure
 - h. Capital financing requirement
 - i. External debt
- 85 The Section 151 Officer is responsible for:
- a. establishing procedures to both monitor performance against all forward looking prudential indicators and for ensuring that net external borrowing does not exceed the capital financing requirement.
 - b. reporting to Council any significant deviations from expectations.
 - c. ensuring that regular monitoring is undertaken in year against the key measures of affordability and sustainability, by reviewing estimates of financing costs to revenue and the capital financing requirement.
 - d. reporting to Council, setting out management action, where there is significant variation in the estimates used to calculate these prudential indicators, for example caused by major overruns of expenditure on projects or in-year capital receipts.

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RESOURCE ALLOCATION

- 86 The Section 151 Officer is responsible for developing and maintaining a resource allocation process that ensures due consideration of the Council's Policy Framework.
- 87 The Section 151 Officer is responsible for:
- a. advising on methods available for the funding of resources, such as grants from central government and borrowing requirements
 - b. assisting in the allocation of resources to budget managers
- 88 Heads of Service are responsible for:
- a. working within budget limits and to utilise resources allocated, and further allocate resources, in the most efficient, effective and economic way
 - b. identifying opportunities to minimise or eliminate resource requirements or consumption without having a detrimental effect on service delivery

CAPITAL EXPENDITURE

- 89 Capital expenditure is broadly defined as expenditure on the acquisition of a tangible asset, or expenditure which enhances (rather than merely maintains), the value of an existing asset and/or extends the useful life of an asset and increasing usability, provided that the asset yields benefits to the Council and the services it provides is for a period of more than one year. Sefton's de minimus level is currently £10,000.

CAPITAL MONITORING, APPROVALS AND AMENDMENTS TO THE CAPITAL PROGRAMME

- 90 The Section 151 Officer is responsible for preparing and submitting reports to Cabinet on the Council's projected capital expenditure and resources compared with the budget on a regular basis, as well as an annual outturn report after the close of the financial year.
- 91 The Section 151 Officer is responsible for establishing procedures to monitor and report on performance compared to the prudential indicators set by the Council.
- 92 The Section 151 Officer in conjunction with the Chief Executive and the Strategic Capital Investment Group (SCIG) is responsible for:
- a. Setting up procedures under which capital expenditure proposals are evaluated and appraised to ensure that value for money is being achieved, are consistent with service and are achievable
 - b. Compiling a capital programme for approval by Council
 - c. Setting up procedures for corporate monitoring of external sources of capital funding
 - d. Ensuring that expenditure treated as capital expenditure by the Council is in accordance with the best accounting practice
- 93 Heads of Service are responsible for:
- a. liaising with the Section 151 Officer ensuring that estimated final costs of schemes in the approved capital programme are included

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within the reports to Cabinet of the overall capital programme position

- b. reporting to the Section 151 Officer circumstances when it is considered that additional Council capital resources will be required to implement a project that has previously been given approval to spend, where such additional resources cannot be identified from within the portfolio programme concerned
 - c. reporting to the Section 15 Officer on any proposed variations to the capital programme during a financial year
 - d. seeking authority for a capital scheme which is not in the capital programme agreed by Council or changes to capital programme
- 94 Any 'in year' approval sought for capital schemes, must be supported by a completed, detailed Business Case template, in the format prescribed by the Section 151 Officer, prior to submission through the appropriate decision making route.
- 95 Cabinet will approve the re-profiling of spend on approved capital schemes across financial years. Cabinet will approve the carry forward of slippage/accelerated spend into future financial years.

CAPITAL RECEIPTS

- 96 The Section 151 Officer must be informed of all proposed sales of land and buildings so that the effect on financial and property management can be assessed.
- 97 On the advice of the Section 151 Officer, the Council will determine how capital receipts will be applied when setting the annual revenue and capital budget.

LEASING AND RENTAL AGREEMENTS-

- 98 Leasing or renting agreements must not be entered into unless the service has established that they do not constitute a charge against the Council's prudential borrowing limits. The Section 151 Officer is responsible for issuing any financial procedures /guidance in relation to Leases and Lease agreements including, but not limited to, those leases and lease arrangements relating to schools, commercial and general leasing activity. In addition, advice must be obtained from the Section 151 Officer on whether the lease is a finance or operating lease. Leases, including land or property, of less than 20 years can be agreed by the Section 151 Officer via a Chief Officers Report. Leases, including land and property, of 20 years or more will require Cabinet Member approval in addition to the Section 151 Officer.
- 99 Leases relating to land or property following the approval process can only be signed by the Monitoring Officer or his/her authorised deputies, or persons specifically authorised by the Service Scheme of Financial Delegation, may sign such agreements. The Chief Executive and Heads of Service are responsible for ensuring all procedures / guidance issued by the Head of Corporate Resources in regard to Leases and Lease arrangements are complied with.

COMMERCIAL INVESTMENT ACTIVITY

- 100 The Council holds a selection **Page 27** that support the council's core purpose and generate a financial return. For such defined assets, detailed business plans outlining forecast income and expenditure over

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a determined period are produced for approval by Cabinet. In order to support the management of these assets, Cabinet have approved the establishment of an Investment Board (led by the Chief Executive and including the Section 151 Officer) that will provide the strategic management function to these assets. The approval of these business cases will include provision that all financial (capital, revenue and income) and operational decisions will be delegated to the Investment Board where the implications can be contained within the approved business plans.

- 101 The Investment Board also has the delegated authority to develop, approve and implement projects that comply with the approved business case providing they improve the financial performance of commercial assets. Where such capital investment is required (up to a maximum of £1.5m) a clear positive financial return will need to be demonstrated over the life of the asset and any investment must be made in accordance with the Council's approved Treasury Management Strategy and Prudential Indicators.
- 102 Cabinet will continue to have executive leadership of commercial assets and will monitor performance through the approval and monitoring of business plans, ensuring that capital expenditure is in accordance with the Councils Treasury Management Strategy and Prudential Indicators. Performance will be reported on a quarterly basis.

MAINTENANCE OF RESERVES

- 103 It is the responsibility of the Section 151 Officer to advise the Cabinet and/or the full Council on prudent levels of reserves for the Council.
- 104 The key controls are:
 - a. Professional standards as set out in the Code of Practice on Local Authority Accounting in the United Kingdom: and agreed accounting policies
 - b. Clear agreement of the purpose for which reserves are held and the type of expenditure which they may be used to fund
 - c. Clear processes for the authorisation of Appropriations to and from reserves
- 105 The Section 151 Officer is responsible for advising the Cabinet and/or the full Council on prudent levels of reserves for the Council, having due regard to any advice that may be offered by the Council's external auditor in this matter.
- 106 Heads of Service are responsible for ensuring that resources are used only for the purposes for which they were intended.

REPORTING

- 107 Heads of Service are responsible for preparing reports on overall financial and non-financial performance for their Services and for submitting these to the Cabinet, and the Overview and Scrutiny Committee after consulting the Section 151 Officer in accordance with procedures agreed from time to time. These reports must include specific reference to the **Page 28**tion of policy changes and new developments agreed as part of the budget setting process and other specific requirements as notified in the reporting guidance. Heads of

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Service will also be required to support the Section 151 Officer in reporting on the progress and forecast of all capital expenditure and income against the approved programme.

- 108 Any reports are to include specific reference to Service performance against the expected non-financial outcomes in the form of key performance targets. Heads of Service are expected to achieve value for money in the delivery of services and the reports should demonstrate how this has been achieved together with an analysis of how key policy and expenditure proposals have been implemented.
- 109 The key reporting stages are:
- a. Approval of the Business Case, which will be in a form prescribed by the Section 151 Officer before it can be included in the Capital Programme
 - b. Monthly reviews of revenue and capital expenditure produced by the Section 151 Officer in consultation with Heads of Service
 - c. Final outturn reports for both revenue and capital expenditure, including full post-implementation review, on all major capital schemes completed during the year.
- 110 In addition, the reports will be specifically required to give details in respect of the following:
- a. Potential overspends and proposed remedial action, including any impact on balances and future year's budgets which may need to be factored in to future financial scenario planning
 - b. Amendments to approved budgets (virements, supplementary capital estimates etc.) where Member approval is required.

Risk Management and Control of Resources

Why is this important?

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

Risk Management and Insurance

- 112 The Cabinet is responsible for advising Council on an appropriate risk management policy statement and strategy, and for reviewing the effectiveness of risk management. The Audit and Governance Committee is responsible for monitoring the effectiveness of the risk management policy. The Cabinet is also responsible for ensuring that proper insurance exists where appropriate.
- 113 The Section 151 Officer is responsible for preparing the Council's risk management policy statement and for promoting it throughout the Council.

INSURANCE

- 114 The Section 151 Officer will maintain and administer the Council's insurances. The Section 151 Officer is responsible for authorising the settlement or repudiation of insurance claims and associated costs

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acting on advice from the Council's Legal Services, insurers, and claim handlers.

- 115 Heads of Service are responsible for informing the Section 151 Officer immediately of:
- a. any events which may result in an insurance claim against the Council
 - b. the terms of any indemnity which the Council is required to give prior to entering into any contracts etc.
 - c. any new risks which might require to be insured, together with any changed circumstances affecting existing risks. Consideration should be given to new projects, new ways of working, and changes in legislation requiring new ways of delivery etc., where the insurance impact is often overlooked
- 116 No new insurances may be taken out without prior consultation with the Section 151 Officer.
- 117 Heads of Service must ensure that there is co-operation with the Insurance Team in providing the correct documentation and that the correct retention of documents is observed.

RISK MANAGEMENT

- 118 The Council's approach to Risk Management is that it should be embedded throughout the organisation at both a strategic and an operational level, through integration into existing systems and processes.
- 119 The Section 151 Officer develops the strategy and supporting framework on behalf of Heads of Service. The Audit and Governance Committee scrutinise the risk management process ensuring the Council's risks are managed effectively. .
- 120 Heads of Service are responsible for ensuring the Risk Management Strategy is implemented and that the full risk management cycle operates within their Service.
- 121 The principles within the Corporate Risk Management Handbook consist of:
- a. identification of risks, both negative and positive, in relation to the objectives of the Council.
 - b. evaluation of risks scored for likelihood and impact, both gross (before any controls) and net (with existing controls)
 - c. treatment of the risk either by: treat, tolerate, transfer or terminate the activity.
 - d. actions and risks monitored and reviewed on a regular basis.
 - e. the Council's Corporate Risk Register will be developed and maintained by the Chief Internal Auditor in consultation with Heads of Service.
- 122 There are three levels to the Risk Register. There should be a movement of risks both upwards and downwards throughout the levels and treatment addressed at the most appropriate level of the organisation.
- a. **Corporate** – those risks which have a significant impact on the organisation's overall objectives either because of their frequency of occurrence or the significance of the impact.

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- b. **Service** – those risks that impact on the service objectives.
- c. **Operational** - minor risks that are managed within the service area that impact on the operational performance of the team. Where the risks increase they should move upwards into the service and potentially corporate risk register.

OPERATIONAL

- 123 Heads of Service are responsible for ensuring risk management is carried out at both an operational and strategic level in accordance with the agreed guidance and procedures.
- 124 Heads of Service will take account of, and address, corporate risks and inform the Chief Internal Auditor of any service risks that should be considered significant enough to rise to the corporate risk register level.
- 125 Service risk registers, and associated actions, should be reviewed on a regular basis (at least quarterly) as part of the performance management process.
- 126 The Corporate Risk Register will be reported to Heads of Service / Strategic Leadership Board and to the Audit and Governance Committee on a quarterly basis. .

BUSINESS CONTINUITY

- 127 The Civil Contingencies Act 2004 places a statutory requirement for Local Authorities to maintain plans for the continuation of services in the event of an emergency, so far as is reasonably practicable. Services are expected to have arrangements in place to ensure the effective identification, evaluation and management of business critical services.

INTERNAL CONTROLS

- 128 Internal Control refers to the systems devised by management to help ensure the Council's objectives are achieved in a manner that promotes economic, efficient and effective use of resources and that the Council's assets are safeguarded.
- 129 The Section 151 Officer is responsible for advising on effective systems of internal control. These arrangements need to ensure compliance with all applicable statutes and regulations, and other relevant statements of best practice.
- 130 It is the responsibility of Heads of Service to establish sound arrangements for planning, appraising, authorising and controlling their operations in order to achieve continuous improvement, economy, efficiency and effectiveness. .

AUDIT REQUIREMENTS

INTERNAL AUDIT

- 131 The requirement for an internal audit function for local authorities is implied by section 151 of the Local Government Act 1972, which requires that authorities "make arrangements for the proper administration of their financial affairs". The Accounts and Audit Regulations 2015 more specifically require that a "relevant authority must ensure that it has a sound system of internal control which

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facilitates the effective exercise of its functions and the achievement of its aims and objectives; ensures that the financial and operational management of the authority is effective; and includes effective arrangements for the management of risk.”

- 132 The Public Sector Internal Audit Standards define internal auditing as “an independent, objective assurance and consulting activity designed to add value and improve an organisation’s operations. It helps an organisation accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control and governance processes.”
- 133 The Council’s Internal Audit Team delivers this function within the Council and provides assurance to the Section 151 Officer and the Audit and Governance Committee, with regard to the effectiveness of the Council’s internal control environment.
- 134 The Council must, on an annual basis, produce an Annual Governance statement. This statement must provide a description of the system of internal control within the Council, a description of any work undertaken to assess the effectiveness of the internal control framework, and any significant governance issues.
- 135 To contribute to the production of the Annual Governance Statement, the Chief Internal Auditor is responsible for planning and delivering a programme of independent review of the Council’s activities, the scope of the programme being based on the Council’s objectives and an assessment of the risk which may affect the achievement of these objectives.
- 136 The Chief Internal Auditor is also responsible for reporting to those charged with governance and currently satisfies this requirement by presenting an annual report to the Audit and Governance Committee, in which the activity of the internal audit service during the preceding financial year is summarised as to arrive at an opinion on the effectiveness of the Council’s internal control. The annual internal audit plan is presented to Audit and Governance Committee for approval and a report summarising performance and key findings is presented to every Audit and Governance meeting.
- 137 The Internal Audit Charter sets out that Audit staff will have, in accordance with the Accounts and Audit Regulations, and with strict accountability for confidentiality, and safeguarding records and information, full, free and unrestricted access to any and all of the Council’s premises, personnel, assets and records. Rights of access to relevant external bodies will be set out in the contracts/ agreements.

EXTERNAL AUDIT

- 138 The basic duties of the external auditor are governed by section 15 of the Local Government Finance Act 1982, as amended by section 5 of the Audit Commission Act 1998.
- 139 The Local Audit and Accountability Act 2014 established new arrangements for the audit and accountability of relevant authorities. Under these new arrangements the Council has opted for its external auditors to be appointed by the Public Sector Audit Appointments Limited (PSAA), an independent body established by the LGA for this purpose.

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- 140 The Council may, from time to time, be subject to audit, inspection or investigation by external bodies such as HM Revenue and Customs, who have statutory rights of access.

PREVENTING FRAUD AND CORRUPTION

- 141 The Section 151 Officer is responsible for the development and maintenance of an anti-fraud and anti-corruption policy.
- 142 The Council has an approved Anti-Fraud and Corruption Policy which places responsibility for preventing fraudulent activity with all Members, Managers and individual members of staff. Any matters which involve, or are thought to involve, any fraud or other significant irregularity involving Council assets or those of a third party fund, must be notified immediately to the Section151 Officer and Chief Internal Auditor..
- 143 The Monitoring Officer will, in consultation with Section151 Officer and Chief Internal Auditor, decide whether any matter under investigation should be recommended for referral to the Police or the appropriate enforcement agency. The Council's External Auditor also has powers to independently investigate fraud and corruption.

ASSETS

- 144 In the context of these Rules, assets are defined as the resources, other than people, that the Council uses to deliver its service functions. Assets include buildings, land and infrastructure; furniture; equipment; plant; stores and "intellectual property" such as computer software, data and information of all kinds.
- 145 Heads of Service are responsible for the care, control and proper and economical use of all assets used in connection with the operation and delivery of their Services. Proper records should be maintained for these assets, together with appropriate arrangements for their management and security. Information Assets should be recognised in line with the Council's guidance and recorded in the Information Asset Register.
- 146 Heads of Service are responsible for ensuring that assets are used only for official purposes and that all appropriate rights, licenses and insurances are obtained.
- 147 Heads of Service are responsible for ensuring that all computer software used is properly licensed.
- 148 Heads of Service are expected to have policies in place for:
- a. the effective disposal of surplus assets
 - b. asset replacement programme
 - c. compilation of and regular review of Asset inventories.

PROPERTY-

- 149 The Head of Regeneration and Housing is responsible for maintaining a "property terrier" recording all land and buildings owned by the Council. The Monitoring Officer is responsible for the safe keeping and recording of all property deeds.
- 150 The Council's Asset Management Strategy sets out the vision, core values and objectives that form the context for the preparation of the

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Corporate Asset Management Plan and Service Asset Management Plans.

- 151 All property acquisitions, lettings and disposals must be in accordance with the Council's rules and procedures. Separate rules apply to specific processes, such as the use of capital receipts from property sales to pay for new schemes, and guidance should be sought from the Section 151 Officer where this arises.

INVENTORIES

- 152 Heads of Service must ensure that proper arrangements are made to maintain inventories of all valuable and transportable items, including vehicles, furniture, computer and other equipment (including software), visual aids, expensive tools and sports equipment.
- 153 The inventory must be updated for all acquisitions and disposals and checked at least annually. Items acquired under leasing arrangements must be separately identified for disclosure in the published final accounts. The Section 151 Officer will provide guidance on the procedures to be followed.

STOCKS

- 154 Stock is defined as consumable items constantly required and held by a Service in order to fulfil its functions. Heads of Service are responsible for the control of stocks. They must ensure that stocks are appropriately secured and recorded, do not exceed reasonable requirements and that all significant stock is accounted for in the year end accounts. Stocks should be checked at least once a year, more frequently in the case of expensive items.

CASH

- 155 Cash held on any Council premises should be held securely, and should not exceed any sums for which the Council is insured. If retention of cash on site is unavoidable in exceptional circumstances, the Head of Service is responsible for making appropriate security arrangements. All cash should be banked as quickly as possible.

ASSET DISPOSAL/WRITE-OFF

- 156 Heads of Service may authorise the disposals, of obsolete or surplus equipment / groups of items, materials, vehicles or stores up to a disposal value of £10,000 in consultation with the Section 151 Officer. Where the sum exceeds £10,000 per item or group of items then this should be reported jointly by the Section 151 Officer and the relevant Head of Service to the Audit and Governance Committee for write-off action. Any write off which arises as a result of theft or fraud must be notified to the Chief Internal Auditor immediately.

INTELLECTUAL PROPERTY

- 157 The Chief Executive is responsible in conjunction with the Monitoring Officer for developing and disseminating best practice regarding the treatment of intellectual property.

- 158 The Chief Executive and Heads of Service are responsible for:

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- a. Ensuring that controls are in place to ensure that staff do not carry out private work in council time and that staff are aware that anything they create during the course of their employment, whether written or otherwise, belongs to the Council.
- b. Complying with copyright, design and patent legislation and, in particular, to ensure that:
 - Only software legally acquired and installed by the authority is used on its computers,
 - Staff are aware of legislative provisions, and
 - In developing systems, due regard is given to the issue of intellectual property rights.

TREASURY MANAGEMENT

- 159 The Council has adopted CIPFA's Code of Practice for Treasury Management in Local Authorities.
- 160 The full Council is responsible for approving the treasury management policy statement setting out the matters detailed in paragraph 15 of CIPFA's Code of Practice for Treasury Management in Local Authorities. The policy statement is proposed to the full Council by the Cabinet. The Section 151 Officer has delegated responsibility for implementing and monitoring the statement.
- 161 All money in the hands of the Council is controlled by the Section 151 Officer as designated for the purposes of section 151 of the Local Government Act 1972, referred to in the code as the finance director.
- 162 The Section 151 Officer is responsible for proposing to the Cabinet a treasury management strategy for the coming financial year at or before the start of each financial year.
- 163 All Cabinet decisions on borrowing, investment or financing shall be delegated to the Section 151 Officer, who is required to act in accordance with CIPFA's Code of Practice for Treasury Management in Local Authorities.
- 164 The Section 151 Officer is responsible for reporting to the Council no less than two times in each financial year on the activities of the treasury management operation and on the exercise of his or her delegated treasury management powers. One such report will comprise a mid-year review and an annual report on treasury management for presentation prior to the 30th June following each financial year end.

BANKING

- 165 It is the responsibility of the Section 151 Officer to operate such bank accounts as are considered necessary. Opening or closing any bank account shall require the approval of the Section 151 Officer.
- 166 Heads of Service are responsible for operating bank accounts opened with the approval of the Section 151 Officer in accordance with issued guidelines.

INVESTMENTS AND BORROWINGS

- 167 It is the responsibility of the sPage 35 Officer to:

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- a. ensure that all investments of money are made in the name of the Council or in the name of approved nominees
- b. ensure that all securities that are the property of the Council or its nominees (***the Monitoring Officer is responsible for ensuring the title deeds of all property in the Council's ownership is held in safe custody***)
- c. effect all borrowings in the name of the Council
- d. act as the Council's registrar of stocks, bonds and mortgages and to maintain records of all borrowing of money by the Council

LOANS TO THIRD PARTIES AND ACQUISITION OF THIRD PARTY INTERESTS

- 168 Interests should not be acquired in companies, joint ventures or other enterprises without obtaining prior approval of the full Council, the Leader, Cabinet or the appropriate Cabinet Member as outlined below.
- a. The Section 151 Officer, Cabinet Member for Regulation and Compliance and relevant Cabinet Member(s) are jointly responsible for approving financial and asset loans made to third parties **up to £50,000**
 - b. The Cabinet is responsible for approving financial and asset loans **between £50,000 and £1m**
 - c. The Council is responsible for approving financial or asset loans **above £1m**
 - d. Loans transacted as part of Treasury Management activities are covered by the Treasury Management Policy and Strategy.

TRUST FUNDS AND FUNDS HELD FOR THIRD PARTIES

- 169 It is the responsibility of the Section 151 Officer to:
- a. arrange for all trust funds to be held, wherever possible, in the name of the Council (e.g. 'Sefton Metropolitan Borough Council on behalf of.....'). All officers acting as trustees by virtue of their official position shall deposit securities, etc. relating to the trust with the Section 151 Officer, unless the deed otherwise provides.
 - b. arrange where funds are held on behalf of third parties, for their secure administration, approved by the Section 151 Officer, and to maintain written records of all transactions
 - c. ensure that trust funds are operated within any relevant legislation and the specific requirements for each trust
 - d. Approval of procedures for the management of Clients financial affairs, where the Council has been granted advocacy
 - e. The Heads of Children's Social Care and Adult Social Care are responsible for ensuring procedures in relation to the management of Clients financial affairs are complied with.

STAFFING

SALARIES AND WAGES

- 170 Heads of Service are responsible, in consultation with the Chief Personnel Officer, for providing accurate and appropriate information and instructions to the **Page 36** Trar, Payroll & Pensions Services to enable the calculation and prompt payment of salaries, expenses and pensions, including details of appointments, promotions, regradings,

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resignations, dismissals, retirements and absences from duty. Human Resources will advise the Transactional HR, Payroll & Pensions Services of relevant changes in respect of employee's pensions. The Head of Transactional Services will make arrangements for payment to the appropriate bodies, of all statutory, including taxation, and other payroll deductions.

- 171 Time sheets and other pay documents which are used to generate payment of salaries, wages or other employee-related expenses must be on official forms or via authorised electronic inputs. Heads of Service are responsible for ensuring that they are certified by an authorised officer and that they are submitted to the Transactional HR, Payroll & Pensions Services in accordance with the specified timetable. This includes on-line input entered locally. The names and specimen signatures of authorised officers must be secured by Heads of Service and included in the service Scheme of Financial Delegation notified to the Section 151 Officer.
- 172 The Chief Personnel Officer will implement national and local pay agreements as soon as possible after their notification from the appropriate body. Arrangements for funding such awards will be determined each year as part of the budgetary process.

EARLY RETIREMENT/SEVERANCE

- 173 Where Heads of Service wish to bring forward proposals under the Council's policies on severance and early retirement, they must be accompanied by a full cost and affordability assessment, in a form agreed by the Chief Executive, the Section 151 Officer and the Chief Personnel Officer. The Cabinet Member for Regulatory Compliance and Corporate Resources shall be consulted for proposals relating to Hay Grade 6 and above.
- 174 The Chief Executive or Section 151 Officer must approve all requests up to £100,000 including pension strain. All requests in excess of £100,000 including pension strain must be approved by the Pay and Grading Committee.
- 175 Heads of Service will generally be required to meet the costs of severance and early retirement from within their approved budget. Service efficiency applications may be subject to phasing over an agreed period. A corporate budget may also be established for staffing reductions linked to the Council's MTFP saving options and access to this budget will be subject to the agreement of the Chief Executive and the Section 151 Officer.

TRAVELLING AND SUBSISTENCE

- 176 The Section 151 Officer and the Chief Personnel Officer are responsible for issuing guidance on travelling and subsistence. Heads of Service are accountable for ensuring their teams follow the approved guidance on travelling and subsistence claims.
- 177 Heads of Service are responsible for instructing the Chief Personnel Officer and for providing appropriate and accurate information to enable the prompt and accurate payment of travelling, subsistence and other expenses to authorised employees in accordance with the terms of employment agreed by the Council.

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- 178 Heads of Service are responsible for ensuring that Council employees who use their cars for official business are properly insured to indemnify the Council against any loss and for ensuring that payments are only made in respect of journeys which are necessary and actually undertaken. Heads of Service should ensure that the most economical available means of transport is used, including pool cars, hire cars and car sharing.
- 179 All claims for reimbursement must be made using appropriate official claim forms, always using electronic processing where available.
- 180 Further guidance is available via the Intranet - Pay and Expenses.

CODE OF CONDUCT

- 181 The Code of Conduct for Employees applies to, and will be followed by all officers. It covers financial, personal and other interests, gifts hospitality and other favours, sponsorship – giving and receiving, use of financial resources, disclosure of information, relationship with others, and separation of duties during tendering, appointments, political neutrality, additional employment, intellectual property, equality and declarations.
- 182 Where an outside organisation wishes to sponsor or is asked to sponsor a Council activity, whether by invitation, tender, negotiation or voluntarily, the basic conventions concerning acceptance of gifts and hospitality applies, as detailed in the Code of Conduct for Employees.
- 183 Further guidance is available via the Intranet <http://intranet.smbc.loc/personnel/policies-and-procedures.aspx>.

THIRD PARTY FUNDS

- 184 A third party fund is defined as any fund financed other than by the Council, controlled wholly or partly by a member of the Council's staff in connection with the clients, establishments or activities of the Council such as School Funds, Amenity Funds or Criminal Injuries Compensation Payments for children in care. A register of third party funds will be maintained by the Corporate Finance team.
- 185 Money or goods belonging to the Third Party Fund must be kept completely separate from other money or goods belonging to the Council. Similarly, completely separate records must be kept of the money or goods involved.
- 186 An independent auditor must be appointed who has suitable qualities though not necessarily professionally qualified, to audit the Third Party Fund on an annual basis. Annual Statements of Account and Audit Certificates must be formally presented to a Management Committee or other appropriate governing body of the Third Party fund.
- 187 Heads of Service are responsible for ensuring that any Third Party Funds controlled by Council staff are:
- formally declared to Corporate Finance team as part of a register kept by the Service
 - maintained separately and correctly in accordance with these Finance Procedure Rules
 - subject to the same standards of stewardship and probity as Council funds

- 188 The Returning Officer will be responsible for maintaining complete and accurate records and for reconciliation with regard to elections accounts.

RETENTION OF RECORDS

- 189 The Council, in common with other public and private organisations, has certain statutory obligations it has to meet for the retention of its records. It also has to fulfil the requirements of HM Revenue and Customs, other legislative requirements and the external auditors in respect of its financial records.
- 190 All records held should have an appropriate retention period assigned to them, which meet the statutory obligations to retain financial records, but also takes into account legislative requirements such as the Limitation Act and General Data Protection Regulation; Freedom of Information requirements; and the business needs of the Service.
- 191 The majority of financial records must be kept for six years from the end of the tax year to which they relate. Some records however, may need to be kept for longer periods e.g. if required to defend future insurance claims. It is possible others can be destroyed within shorter periods. Guidance on the appropriate retention period is given in the Council's Retention Policy and its Information Asset Register.

FINANCIAL SYSTEMS AND PROCEDURES

WHY IS THIS IMPORTANT?

- 192 Sound systems and procedures are essential to an effective framework of accountability and control.

INCOME AND EXPENDITURE

- 193 The Council will approve the terms under which banking services, including overdraft facilities, are provided.

BANKING ARRANGEMENTS

- 194 All bank accounts must be titled impersonally in the name of Sefton Metropolitan Borough Council.
- 195 Subject to any directions given by the Council, all arrangements with the Council's bankers must be made solely through the Section 151 Officer. No bank accounts may be opened or arrangements made with any other bank except by agreement with the Section 151 Officer.
- 196 Bank transfers from the General Fund and subsidiary accounts must be authorised by the Section 151 Officer, or those officers authorised to sign through the agreed Scheme of Financial Delegation or in accordance with the Treasury Management Policy and Strategy.
- 197 Cheques drawn must bear the mechanically impressed signature of the Section 151 Officer or be signed by the Section 151 Officer or other officer authorised to sign through the agreed Scheme of Financial Delegation.

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GENERATING INCOME

- 198 The Section 151 Officer is responsible for developing and maintaining standards, procedures, systems and reports to facilitate the effective and efficient identification, collection, receipting, banking and recovery of income due to the Council in accordance with current relevant UK legislation.
- 199 Heads of Service are responsible for ensuring that the appropriate legal authority for all income generating activities has been identified.

CHARGING FOR INCOME

- 200 Heads of Service, in consultation with the relevant Cabinet Member, shall determine the level of fees or charges payable in respect of any chargeable goods or services supplied, work undertaken or the loan or use of plant, equipment or machinery.
- 201 Charges must be reviewed annually in the light of all relevant information, to the service area, including consideration of appropriate inflation factors and these will be approved by Council.

COLLECTION OF INCOME

- 202 The Council operates a Sundry Debt Collection policy to secure invoiced sundry debt income for the provision of services. All debt owing to the Council must be collected promptly, effectively, efficiently and economically, while ensuring fair treatment of those that owe money, including consideration of any financial difficulties.
- 203 Council officers must comply with guidelines issued by the Section 151 Officer for the safe and efficient collection and recording of all money due to the Council.
- 204 Heads of Service are responsible for ensuring that accounts for income due to the Council, including grant claims, reimbursements and third party contributions, are raised immediately and accurately in a form approved by the Section 151 Officer. These must include VAT where appropriate.
- 205 The cost of collection should be taken into account when raising accounts. Heads of Service must ensure that the method of collection is the most cost effective relative to the value of the transaction.
- 206 Payment shall be collected before the service or goods are provided unless explicitly agreed or stated otherwise in the fees and charges register.
- 207 Heads of Service are responsible for ensuring that all income received is receipted, where required, recorded correctly against the appropriate budgets, and in the case of cash and cheques, banked with the minimum of delay. The frequency of banking should follow guidelines provided by the Section 151 Officer. Services should avoid incurring disproportionate banking charges on relatively low value transactions, taking into account local security arrangements.
- 208 Heads of Service are responsible for monitoring income collection and ensuring appropriate record keeping is taken. A summary of the position on the level of outstanding debt and collection issues should be included in quarterly financial updates and the final outturn report. Full

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provision for income still outstanding six months after the due date should be made in Service accounts. This should not however preclude pursuit of the debt.

- 209 The Section 151 Officer will monitor compliance with paragraphs 207 and 208 above and may, in circumstances where avoidable adverse cash flow has resulted, determine an appropriate interest charge against Service budgets.
- 210 Credit notes must be authorised by appropriate officers nominated in the local Scheme of Financial Delegation.
- 211 Any receipts, tickets or other documents used as receipts should be in a format agreed by the Section 151 Officer. All controlled stationery issued to a Head of Service must be recorded in a register, which is held by a single officer within each Service.

BAD DEBTS

- 212 The Section 151 Officer is responsible for producing and issuing guidance on bad debt. Heads of Service are responsible for ensuring their teams comply with this guidance. Bad debts may be written off by Authorised Officers as contained in the Scheme of Financial delegation in consultation with the Section 151 Officer and the Monitoring Officer.
- 213 Heads of Service are responsible for ensuring that an adequate provision for bad debt is made in the Council's accounts at year end and that contributions to this provision are included in budgetary projections and outturn reports.

ORDERING AND PAYING FOR WORK, GOODS AND SERVICES

GENERAL PRINCIPLES

- 214 Heads of Service are responsible for providing all appropriate information and instructions to Transactional Services to allow for prompt and accurate payment for goods and services provided and for the analysis of expenditure.
- 215 Except for purchases by purchase /credit /debit card, all purchases must be supported by an official requisition. All purchases must have regard to Contract and Finance Procedure Rules.
- 216 All requisition and purchase orders must be authorised in accordance with the relevant service Scheme of Financial Delegation to ensure that funds are available to pay for the purchase.
- 217 All official purchase orders must include, as a minimum, the order number, the price agreed with the supplier, description of the goods or services to be provided, the delivery address, the address where invoices must be received and a link to the standard terms and conditions for the goods and services to be provided.
- 218 Heads of Service must ensure that there is adequate separation of duties in the raising and authorisation of requisitions, authorising of purchase orders, receipt of goods and authorisation of payments to transactional services.
- 219 Heads of Service must ensure processes to continually maintain computer records and accesses, and Schemes of Financial Delegation

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so that electronic workflows associated with core financial systems are not compromised.

- 220 All procurement, commissioning, contract administration or contract management must be carried out in accordance with the Council's Contract Procedure Rules
- 221 Heads of Service must consult the Section 151 Officer on appropriate arrangements for purchases of goods and services which cannot be accommodated within standard ordering and payment processes.

PAYMENT OF INVOICES

- 222 All invoices must be sent directly by the creditor to the address stated on the official purchase order to enable prompt payment.
- 223 All invoices, as a minimum, must include the official purchase order number, the description of the goods or services provided, the quantity delivered, the delivery address, the date of the invoices and/ or date of delivery of the goods or services, the address and VAT registration number of the supplier and the price and VAT at the prevailing rate.
- 224 Invoices received without a valid purchase order number may be returned to the creditor as unauthorised for payment.
- 225 The Council's standard payment terms are 30 days from receipt of a correct invoice by BACS (Bankers Automated Clearing System). Alternative terms may not be negotiated or agreed with suppliers without the explicit approval of the Section 151 Officer. Heads of Service are responsible for notifying suppliers of these terms and for ensuring that they are observed by all those involved in the purchasing and payment processing.
- 226 Payment will only be made for goods and services which have been formally receipted in accordance with receipting procedures set out by the Section 151 Officer.
- 227 All procurement, commissioning, contract administration or contract management activity must be carried out in accordance with the Council's Contract Procedure Rules and any advice or guidance that may be issued from time to time by the Section 151 Officer regarding the efficient and effective use of the Council's core financial and e-procurement systems and processes. Invoices received for payment must comply with the Council's best practice processes.

NON-INVOICE PAYMENTS

- 228 Where Heads of Service wish to initiate a payment to a third party without a supporting invoice, an official request for payment must be submitted in a form approved by the Section 151 Officer.
- 229 Any such requests must be authorised by an officer designated with an appropriate approval limit in the relevant service Scheme of Financial Delegation. They are responsible for ensuring that all payment details provided are accurate and that supporting records and documentation are available to substantiate the payment, including an official VAT receipt to allow for the reclaim of any VAT element.
- 230 Appropriately authorised rPage 42 payment will be processed and paid by BACS. Cheques will only be used in exceptional cases and by prior agreement.

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- 231 Non-invoice payments should be requested on an exceptional basis only. Where payments of this type need to be made on regular basis Heads of Service must consider, in conjunction with the Section 151 Officer, other alternative options which may be more appropriate.
- 232 Payments or reimbursements in respect of salaries and wages travelling expenses or other employment allowances must be processed through the Payroll system and not treated as a non-invoice payment.

CREDIT CARDS, DEBIT CARDS AND PURCHASE CARDS

- 233 The Section 151 Officer is responsible for
- a. providing credit cards, debit cards and purchase cards to be used for agreed purposes and to be allocated to nominated members of staff
 - b. prescribing procedures for the use of credit cards, debit cards and purchase cards and the accounting arrangements required to record and monitor expenditure incurred with such cards
- 234 Purchase Cards/Credit Cards/Debit Cards are an effective method of payment for goods and services of low value and for one off purchases. Heads of Service are responsible for the appropriate deployment and management of purchase/credit/debit cards within their service in accordance with the financial scheme of delegation.
- 235 Purchase Cards/Credit Cards/Debit Cards should only be used for legitimate Council business.
- 236 Adequate records must be maintained to allow for the verification and reconciliation of all payments made to the Council's general ledger and bank accounts, and to allow for the proper treatment of VAT.

IMPREST ACCOUNTS

- 237 The Section 151 Officer is responsible for providing, in agreed circumstances and where such need is proven to be essential, cash or bank imprest accounts to meet minor or other agreed expenditure. The Section 151 Officer is also responsible for defining procedures for operating these accounts.
- 238 The Chief Executive and Heads of Service are responsible for the operation of approved cash and bank imprest accounts in accordance with procedures issued by the Section 151 Officer.
- 239 Heads of Service are responsible for ensuring that where local arrangements are in place:
- a. Local Schemes of Financial Delegation set out clearly the responsibilities and approval limits of individual officers in respect of these arrangements; and that these are reviewed and updated regularly
 - b. they are operated in accordance with guidance issued and that appropriate management supervision and compliance monitoring is undertaken
 - c. adequate records must be maintained to allow for the verification and reconciliation of all payments made to the Council's general

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ledger and bank accounts, and to allow for the proper treatment of VAT

- d. arrangements are being operated for legitimate Council business only
- 240 Local arrangements may not be used in any circumstances to circumvent either the Council's Contract Procedure Rules or agreed approval and authorisation procedures, nor must they be used for any payments in respect of salaries and wages, travelling or other employment expenses, or payments for work carried out under the Construction Industry Tax Deduction Scheme.

PAYMENT TO MEMBERS

- 241 The Section 151 Officer is responsible for paying all allowances to Members.
- 242 The Section 151 Officer will make payments to any Members entitled to claim allowances on receipt of the proper form, completed and certified in accordance with the approved scheme for allowances.

FINANCIAL ARRANGEMENTS IN AN EMERGENCY

- 243 The Chief Executive, or his / her representative acting as Emergency Duty Co-ordinator must be able to incur expenditure immediately in order to carry out the role effectively and may rely on the provisions of Section 138 of the Local Government as amended by Section 156 of the Local Government and Housing Act 1989 (LGHA 1989). Section 155 of the LGHA 1989 provides for a scheme whereby local authorities may recoup from central government a proportion of agreed expenditure under 'Bellwin Rules'.
- 244 The Section 151 Officer is responsible for:
- a. approving a form of record for all emergency expenditure.
 - b. reporting all expenditure to the Cabinet as soon as reasonably practicable.
 - c. issuing a single expenditure code for the emergency.

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- 245 Those who incur expenditure on the occasion of any Emergency or scaled up incident are responsible for:
- a. taking such steps as are reasonable, bearing in mind the local circumstances, to enable proper accounting for any disbursement to be achieved after the event.
 - b. taking such judgments as to what constitutes reasonable controls in light of the scale and the nature of the payments, their urgency and the physical conditions at the time.
 - c. ensuring caution is exercised where large scale cash disbursements to third parties are involved
 - d. attempting to obtain some documented acknowledgement of receipt.
 - e. attempting to utilize cashless methods wherever possible.
- 246 Wherever possible/practicable, the Council's existing procurement framework contracts should be used.

TAXATION

- 247 It is the responsibility of the Section 151 Officer, in conjunction with Transactional HR, Payroll & Pensions Services to:
- a. complete all Inland Revenue returns regarding PAYE
 - b. complete a monthly return of VAT inputs and outputs to HM Revenue and Customs
 - c. provide details to HM Revenue and Customs regarding the construction industry tax deduction scheme
 - d. maintain up-to-date guidance for Council employees on taxation issues
- 248 It is the responsibility of Heads of Service to:
- a. ensure that the correct VAT liability is attached to all income due and that all VAT recoverable on purchases complies with HM Revenue and Customs regulations
 - b. ensure that, where construction and maintenance works are undertaken, the contractor fulfils the necessary construction industry tax deduction requirements
 - c. ensure that all persons employed by the Council are added to the Council's payroll and tax deducted from any payments, except where the individuals are bona fide self-employed or are employed by a recognised staff agency
 - d. follow the guidance on taxation issued by the Section 151 Officer.

TRADING ACCOUNTS AND BUSINESS UNITS

- 249 As a general rule, separate trading accounts are required when services are provided to either internal or external clients, on a basis other than a straightforward recharge of full cost. It is the responsibility of the Section 151 Officer to advise on the establishment and operation of trading accounts and business units.

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- 250 It is the responsibility of Heads of Service to:
- a. consult with the Section 151 Officer and the Monitoring Officer where a business unit wishes to enter into a contract with a third party where the contract expiry date exceeds the remaining life of their main contract with the Council. In general, such contracts should not be entered into unless they can be terminated within the main contract period without penalty.
 - b. observe all statutory requirements in relation to business units, including the maintenance of a separate revenue account to which all relevant income is credited and all relevant expenditure, including overhead costs, is charged, and to produce an annual report in support of the final accounts
 - c. ensure that the same accounting principles are applied in relation to trading accounts as for other services or business units
 - d. ensure that each business unit prepares an annual business plan.

EXTERNAL ARRANGEMENTS

WHY IS THIS IMPORTANT?

- 251 The Council provides a distinctive leadership role for the community and brings together the contributions of the various stakeholders.

PARTNERSHIPS AND JOINTLY FUNDED PROJECTS

- 252 The Council is involved in a wide range of different 'Partnership' arrangements involving joint/external funding. The main reasons for this are:
- a. the ability to provide new and better ways of delivering services.
 - b. the ability to access new resources
 - c. the desire to find new ways to share risk
 - d. the ability to forge new relationships.
- 253 Any partnership arrangement which involves the creation of or participation in, separate legal entities such as joint ventures, trusts or limited companies requires the prior agreement of the Section 151 Officer and the Monitoring Officer with ultimate approval being provided by Cabinet.

DEFINITIONS

- 254 Legally a partnership is an arrangement entered into under the Partnership Act, and is heavily regulated as to the liabilities of partners. However, the majority of the partnerships entered into by the Council are more correctly called partnership arrangements and are, at their simplest, where the Council agrees to work with one or more external agencies to deliver common aims and objectives. These partner agencies could potentially be from a government department, any public, private, community or voluntary sector body or related party.

- 255 The nature and scope of Partnership arrangements can be very different. To define their roles in terms of these Rules the definitions listed below have been used. These definitions apply to all partnerships, whether the Council is contributing financially or not, including the use of fully funded grants or grants that have been earmarked for a specific purpose or are time limited.

CONTRIBUTING PARTNER

- 256 Where the Council is contributing funding or other resources, to a wider partnership involving a partner or group of partners and where the 'Accountable Body' role is undertaken by another partner.

LEAD AUTHORITY OR LEAD PARTNER

- 257 Where the Council leads on behalf of the Partnership or consortium and is responsible for the wider management of the Partnership.

ACCOUNTABLE BODY

- 258 The Council may, in certain circumstances, need to act as the 'Accountable Body'; even when the Council will not directly incur expenditure on behalf of the Partnership. The role assumes the responsibility for 'looking after another parties monies' and will require the putting in place of appropriate and robust financial accounting and monitoring systems with the aim of safeguarding resources and minimising any risks and potential liabilities falling to the Council.

PUBLIC/PRIVATE PARTNERSHIPS

- 259 Defined as involvement with a private sector organisation or commercial enterprise, excluding those where a formal contract has been agreed when the Contract Procedure Rules will apply. Those contracts known as 'Partnering Contracts' and those funded by Private Finance Initiatives (PFIs) are not covered by this rule and fall under the Contract Procedure Rules.

KEY CONTROLS

- 260 The key controls to be considered before the funding of partnerships or other joint projects is agreed consist of:
- a. ensuring that the key conditions of funding and any statutory requirements are complied with and that the responsibilities of the accountable body are clearly understood.
 - b. ensuring that funds are acquired only to meet the priorities, aims and objectives approved by the Council, and to add value to the services provided to the local community.
 - c. ensuring any finance (including any match funding), staffing, legal and audit requirements are given due consideration prior to entering into long term arrangements and that revenue budgets reflect these requirements.
 - d. identification of key risks and mitigating controls that should be in place should be documented in a format prescribed by the Section 151 Officer

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RESPONSIBILITIES OF OFFICERS

Section 151 Officer

- 261 The Section 151 Officer is responsible for ensuring that all funding notified by external bodies is received and properly recorded in the Council's accounts and that appropriate standards of probity, stewardship and best value are secured. This will include ensuring that all appropriate claims and returns are promptly and accurately submitted.

Heads of Service

- 262 Before entering into any Partnership agreement involving joint funding (including "support in kind"), Heads of Service must consult the Monitoring Officer and the Section 151 Officer, who will advise on the appropriate form of agreement or contract taking into account the nature and scale of the proposed arrangement and the extent of the legal and financial commitment involved. As a measure of good practice and as a minimum requirement, Heads of Service need to consider and apply all the following points, which are not exhaustive, to the agreement:

- a. the overall purpose and objectives of the arrangement, including appropriate performance standards and output measures
- b. the constitutional and representational arrangements including procedures for decision making and the extent to which Cabinet powers and financial authority are to be delegated to individual officers
- c. the period of the agreement, exit strategies, notice and termination arrangements including redundancy costs and other potential liabilities on termination
- d. roles and responsibilities of the various parties including arrangements for banking, taxation and VAT matters, employment contracts, insurances and ownership of assets
- e. auditing and reporting requirements and the applicability of these Finance Procedure Rules, other Council Regulations and Codes of Conduct
- f. financial and non-financial contributions to be made by the respective parties and, where the arrangement is to extend beyond one year, the method for calculating and collecting payments in future years
- g. the named contact officer or project manager who will be responsible (within specified limits) for the Council's rights and obligations under the terms of the agreement and accountable for overall outcomes
- h. a clear exit strategy, for example, in terms of any residual ongoing costs
- i. default procedures to be applied where the terms of the agreement are broken
- j. arrangements for Internal Audit staff to have sufficient access to partner's premises, assets and records as is necessary for the purposes of the partnership:
- k. as a measure of best practice, all partnership agreements should be subject to a complete review at least every three years.
- l. add to partnership section of contracts register which is being developed and held by the Commissioning Team.

APPROVAL ROUTES

- 263 The Council's gross contributions to Partnerships may include capital and revenue expenditure, cash flow costs, support in kind (including staff time) and the cost of preparing and submitting bids. It is particularly important to identify support in kind, both to ensure that all such costs are recovered, where grant conditions allow, and to enable service and corporate managers to plan effectively. Capital funding must also meet the specific capital appraisal requirements as set out in these Rules.
- 264 Following the officer consultation process and prior to entering into any agreement, approval, based on the Council's gross contribution over the life of the partnership, should be sought by the relevant Head of Service
- 265 The approval of partnership proposals will be subject to the same financial limits as other contractual arrangements.

ADDITIONAL FUNDING ALLOCATIONS OR POLICY VARIATIONS

- 266 Partnerships often attract additional funding over and above their original levels of funding. If additional funding is made available which will result in the aggregate value remaining within the original approval limit then no further approval is required. Conversely if the additional funding increases the aggregate value to more than the original approval limit, then further approval is required in line with the routes identified in paragraph 264 above. Where the additional funding constitutes a variation from the policy originally agreed by the Cabinet, then further approval from the Cabinet is required.
- 267 If the contribution is to come from Council sources it will constitute a virement and paragraph 48 applies. Where the additional funding comes from an external source then approval for a fully funded supplementary estimate is required and paragraph 50 applies.

BIDDING FOR GRANT FUNDING

- 268 In some circumstances there may be specific grant funds available, where these are aligned with the Council's priorities, accessed through some form of bidding process. Officers must seek the appropriate approval prior to any bid being submitted. Approval for 'in principle' Supplementary Revenue or Capital Estimates should be sought at the same time through Strategic Leadership Board Any new capital schemes must be approved by Council to be incorporated into the Council's Capital Programme. Officers must ensure that they understand and are aware of the grant conditions attaching to any funding and consider whether the Council's processes and procedures are sufficient to comply with these conditions or whether more detailed processes need to be followed.

REPORTING REQUIREMENTS

- 269 Where the Council participates in any partnership or external funding arrangement either as a contributor or as an Accountable Body, an annual report must be presented to the appropriate Cabinet Member, outlining how sums have been spent and the key outcomes and achievements. The report should also review the affordability and

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continued relevance of the arrangement to Service policies and objectives and seek appropriate Business Plan approval.

- 270 Notwithstanding any statutory reporting requirement, the Head of Service will be required to provide, regular reports (minimum being quarterly) on progress and outcomes, financial and non-financial, for each significant partnership to the relevant Cabinet Member. Partnership projects should comply with the same regular reporting processes as other Council projects.

SUPPORT TO OTHER ORGANISATIONS

- 271 The Cabinet Member for Regulatory Compliance and Corporate Resources will on a periodical basis, agree a policy setting down the approach to be taken to the allocation of grants, donations and other contributions to outside bodies, in consultation with the Section 151 Officer and Head of Regulatory Compliance. The Policy would be presented for approval through Cabinet and Council.
- 272 Grants, donations and contributions will be paid by the Council in accordance with the policies determined under paragraph 271 above, subject to there being adequate provision in service budgets and the appropriate approvals being sought.

Approval level	Amount
Officers	Up to and including £50,000 (where grant is within approved grant policy)
Cabinet Member	Between £50,000 and £100,000 (where grant is within approved grant policy)
Cabinet	All Grants of £100,000 or more. All grants which do not fall within existing approved grant policy require Cabinet approval.

- 273 The Grant Funding Protocol sets out further guidance on grant funding, the process for allocation and any conditions that should apply to any grant funding.
- 274 Heads of Service will report on the outcomes achieved through the provision of support to outside bodies on an annual basis to the appropriate Member Group and Cabinet Member, with interim reporting (quarterly reports being the minimum) where the sums involved are in excess of £100,000.

Annex

Glossary of Terms/Definitions

Appropriation – Amounts transferred between the Revenue account and revenue or capital reserves.

Bad Debt – A debt becomes bad if it has not been collected within six months. Full provision for all bad debts has to be made within the revenue account, but the debt is still pursued until it is either recovered or written off as unrecoverable.

Balances (Revenue Account) – The accumulated surplus of income over expenditure. Members may agree that Balances be used to reduce future Council Tax precepts although a minimum level, consistent with prudence and best practice will be maintained. Amounts in excess of that required for day-to-day cash management and to finance working capital can be invested to generate interest income to the Council.

Block Provisions – Annual capital allocations made to cover minor schemes with starting values of less than £250,000.

Business Case Template – This is a pro forma to be completed for all Capital schemes and all significant Revenue proposals. It will provide details on the expected outcomes falling from the proposed investment and identify how the proposal will meet corporate objectives.

Capital Approval – The capital programme provision as amended by any supplementary estimates or virements.

Capital Expenditure – Expenditure on the purchase, construction or replacement of capital (fixed) assets or expenditure which adds to the life or value of an existing fixed asset.

Capital Programme – The Council's plan of capital projects and spending over future years. Included in this category are the purchase of land and buildings, the erection of new buildings and works, Highway Improvement schemes and design fees, and the acquisition of vehicles and major items of equipment.

Capital Project / Scheme – These terms mean the same thing and are used interchangeably within these Rules. A project/scheme may be separately identified in the capital programme or be an item within a block provision.

Capital Receipts – Income received from the sale of capital assets and available, subject to rules laid down by the Government, to finance new capital expenditure or to repay debt.

Carry-forward – An increase or reduction in a Service's new financial year budget, stemming from either an under or overspend in the previous year. All carry-forwards (except for Schools) need the approval of the Cabinet upon the presentation of a business case. The Sefton Scheme for Financing Schools identifies the level of balances each maintained school can carry forward without prior permission from the Schools Forum.

Chief Officers – Chief Officers are the Chief Executive or any Head of Service of the Council to whom there has been specific delegation in writing

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by the Council or the Chief Executive. Chief Officers must operate efficient systems of financial control.

Contingencies – Sums set aside to meet either:

the potential costs of activities expected to occur during the year over and above those costs included in Service budgets (pay and price contingency); or

items which are difficult to predict in terms of financial impact or timing (contingency for uncertain items).

Contract – An agreement to supply goods, services or works for a price. A contract is normally in writing however a contractual arrangement may, inadvertently be entered into orally.

Contractor – Any person or organisation awarded a Contract. This includes any consultant appointed by the Council to provide advice on any project.

Commissioning Team /Procurement – The central procurement unit is the department responsible for procurement activity within the Council.

Council Fund – The Council's main revenue fund to which all revenue receipts are credited, and from which revenue liabilities are discharged. The movement on the fund in the year represents the excess of income over expenditure within the Consolidated Revenue Account. The level of balances held is based on the Council's assessment of the level of risk and uncertainty and the potential call on such reserves.

Debt Write-Off – Realising the cost of debt which is considered to be "bad" (unrecoverable) by writing it off against the revenue account or bad debt provision.

Earmarked Reserves – These reserves represent monies set aside that can only be used for a specific use or purpose.

Financial Schemes of Delegation – Financial Schemes of Delegation are the documents that set out, for each Service, all specific financial authorisations and approval limits as delegated by the Heads of Service to Authorised Officers within their Service. Heads of Service are responsible for maintaining up to date and accurate Financial Schemes of Delegation.

Financial Year – The Council's accounting period covers the 12 months from April 1 to March 31.

Forward Plan – As defined in the Constitution.

Internal Control – A procedural system designed to manage risk to an acceptable level whereby different staff members perform different parts of a task, so that no one person is entirely responsible for processing a transaction from start to finish.

Key Decision – As defined in the Constitution.

Leases – Agreements covering the hire/rental of equipment or buildings, generally for a specified period of time and at a specified rate. There are two types of leases:

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Operating Leases – Where the risks and rewards of ownership remain with the lessor.

Finance Leases – Most of the risks and rewards associated with ownership are transferred to the lessee (responsibility for maintenance, insurance etc. will fall to the Council)

Option Appraisal/Business Case – This is required for all Capital schemes and all significant revenue proposals and takes the form of a Business Case Template. This will be used to assess whether the scheme is affordable and deliverable. Consequences to the Service are considered and evaluated and it will also provide a basis for monitoring and reporting progress. In the case of revenue proposals it will also take into account the risk and impact on users.

Policy and Expenditure Planning – The Council's annual cycle of planning for the medium and short-term future, aimed at achieving optimal allocation of available resources.

Policy and Expenditure Proposals – Proposals, including new policies, which have resource implications and will be subject to appraisal by Members, Executive Leadership Team and consultees before inclusion in annual budget preparation.

Project Board – A group of senior officers, led by the Senior Responsible Owner (SRO) who are accountable for the success of a Project and represent specific business, user and supplier interests. More information on the make-up and operation of a Project Board can be found in the Project Management Handbook which is published and maintained by the Authority's Programme Management Office.

Provision – An amount set aside by the Authority for any liabilities of uncertain amount or timing that have been incurred.

The main category is estimates of liabilities or losses already incurred but whose exact amount will be determined in the future (e.g. bad debts, obsolete stock). See also Capital Provision and Provision for Doubtful Debt.

Provision for Doubtful Debt – An allocation of funds set aside from Service revenue budgets to cover amounts which may not be recoverable from debtors.

Prudential Borrowing Limits – The maximum amount of borrowing that the Council can enter into at any one point in time during the year. This limit is set by Council prior to the start of the year to which it relates and cannot be breached under any circumstances.

Revenue Account – The Account which sets out the Council's income and expenditure for the year for non-capital spending.

Revenue Expenditure – Spending on the day-to-day running expenses of the Council. It includes expenditure on employees, premises, transport and supplies and services.

Ring Fencing – Certain budgets agreed by the Section 151 Officer are "ring-fenced". This means that under-spends on these budgets will return to balances and overspends will be **Page 53** ally. This is to reflect the fact that certain items of expenditure are Council demand-led or so significantly influenced by extraneous factors that they are beyond the direct control of

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managers. Ring-fenced budgets include planning levies, external audit fees and election expenses.

Schemes of Delegation – Schemes of Delegation are the documents that set out, for each Service, all authorisations and approval limits as delegated by the Heads of Service to Authorised Officers within their Service. Heads of Service are responsible for maintaining up to date and accurate Schemes of Delegation. (See also: Financial Schemes of Delegation)

Service Plan – A plan which outlines measurable Service aims for the year ahead, encompassing both core purpose and specific key objectives for any given year. The Plan will consider both inputs and outputs.

“Starts value” – Represents the full value of the Council’s contribution to a Capital Scheme irrespective of the timing of the payments.

Supplementary Capital Estimate (SCE) – Additional resources approved by Members with funds either provided by a third-party (e.g. developer contributions, receipts, government grant), by the use of Council reserves or from the Revenue budget.

Supplementary Revenue Estimate (SRE) – An approved increase to a Service revenue budget during the financial year, funded centrally from reserves, contingencies or external funding sources such as grants or partner contributions.

Third Party Fund(s) – Funds provided by outside bodies or individuals in support of Council activities, establishments or clients. Can sometimes be known as trust funds.

Underspend – An underspend results when the net costs of a budget holder are lower than the net budget for the year.

Virement – A Revenue virement is a transfer of amounts from one budget heading to another within, or between, Heads of Service. Capital virements cover any changes to Capital budgets funded from within the existing Capital programme.

Appendix 2 – Summary of Proposed Revision to Contract Procedure Rules

i) Update of EU Spend thresholds

The European Commission has a practice of revising EU Spend thresholds on a 2 year cycle, thresholds were updated on 1/1/2018, and now need to be reflected in the Council's Contract Procedure Rules.

CPR Rule 1.1.7 has been updated to reflect the following updated EU Spend Thresholds:

Supplies / Services	£181,302
Works	£4,551,413
<i>(as detailed within Schedule 2 of the Public Contracts Regulations 2015)</i>	
Social and Other specific Services	£615,278
<i>(as detailed within Schedule 3 of the Public Contracts Regulations 2015)</i>	

Additionally, the revised spend thresholds have also been reflected in:

CPR Rule 1.10 - Pre Procurement Reporting
CPR Part 2 - Contracts exceeding the applicable European Union spend thresholds
CPR Part 3 - Contracts up to but not exceeding the European Union spend thresholds

ii) CPR 1.1.10 Contract Sealing

Point vi has been added to clarify that a record of questions asked and responses given during a procurement process should be provided to Legal as part of the contract sealing pack

iii) CPR 1.4 – E Procurement

CPR 1.4 has been modified to recognise that where external frameworks are utilised then dependent upon the rules of the framework, as set by the framework owner, a mini competition process may not necessarily be run via the Council's electronic opportunity portal, and alternatively may be run by the framework owner externally on the Council's behalf

iv) CPR 1.8 Waiver of Contracts Procedure Rules

CPR 1.8.1(a) has been amended to remove the word 'first', allowing for a retrospective waiver to be considered.

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- v) CPR 1.10.2 - Pre-Procurement Approval specifically in respect of Adult's or Children's Social Care support packages and placements

This rule has been retitled to:

“Pre-Procurement Approval specifically in respect of Adult's or Children's Social Care support packages and placements, and Substance Misuse Residential Rehabilitation placements”

The following additional officer posts have also been inserted into the narrative:

- i) Director Social Care and Health
- ii) Director of Public Health

- vi) Criteria and Weightings set out in the Procurement Documentation

CPR Rules 2.9.1(b) and 3.2.1(b) have been corrected for terminology to ensure that it is clear that evaluation and award shall be carried out in accordance with criteria and weightings set out in the Procurement Documentation and must not be changed at any time during the process.

- vii) CPR 3.1 Competition Requirements for Contracts up to but not exceeding European Union Spend Thresholds

CPR Rules 3.1.1 (a) and (b) have been amended to raise the threshold, below which procurement can be undertaken on the basis of a minimum of two written quotations without explicit requirement to involve the Corporate Procurement Team, from £5,000 to £20,000. This is proposed in order to ensure that procurement processes are as streamlined as possible, whilst ensuring an appropriate level of control and oversight, delivers a previously expressed intention, and follows the successful implementation of improved processes and compulsory staff training over the past 18 months, both verified by internal and external audit activity. A minor change has also been made to the drafting of 3.1.1 (b) to make it read clearer.

A new rule CPR 3.1.1 (c) has been introduced to make specific provision relating to “commercial activities”, in support of the Council's stated objective to develop its commercial activity, and recognises the particular need for decisions to be made in an efficient, effective and timely manner in order to support the operation of such activity and maximise financial performance. It relates solely to “commercial activities” as defined in the Financial Procedure Rules, i.e. specific business plans that are developed and approved by Cabinet and then overseen by the Council's Investment Board, which includes the Chief Executive, Executive Director, Head of Commercial Development and Head of Corporate Resources (s151 Officer). A definition of Commercial Activities has also been added to the Glossary of Terms.

Appendix 3 – Revised Contract Procedure Rules



CONTRACT PROCEDURE RULES

Document owner:	Peter Moore, Head of Commissioning Support & Business Intelligence
Version:	6.0
Effective Date:	20 th July 2018
Review Date:	June 2019

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GLOSSARY OF TERMS

Advanced Request for Quotation (ARFQ)

Initiating step of a procurement process in which providers are invited to submit quotations for the supply of specific and clearly defined supplies, services, or works during a specified timeframe, the value of which falls below the applicable European Union Spend Threshold. ARFQ's are evaluated on a percentage split across Cost and Quality.

Aggregate

A whole procurement formed by combining several separate elements

Assignment

The transfer of the benefits and obligations of a contract from one Contractor to another.

BAFO (Best and Final Offer)

The step of inviting providers that have submitted compliant proposals within a procurement process to refine their offering, either by an improvement of the Cost, the Quality, Value Added benefits, or a combination of these factors.

Whilst the use of a BAFO step is permitted and encouraged in procurement exercises with a value below the applicable EU spend threshold, it is forbidden in the majority of over EU spend threshold exercises.

Central Purchasing Body

A Central Purchasing Body is a contracting authority that:

- i) acquires supplies or services intended for one or more contracting authorities; or
- ii) awards public contracts for works, supplies or services intended for one or more contracting authorities; or
- iii) concludes framework agreements for works, supplies or services intended for one or more contracting authorities.

Commercial Activities

Relates solely to activities meeting the definition of "commercial activities" within the Council's Financial Procedure Rules

Commissioning

Commissioning is process by which we decide how to use and prioritise the total resources available in order to improve outcomes for citizens in the most efficient, effective and sustainable way. The process covers the entire cycle of assessing the

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needs of people, designing and securing a cost-effective approach in order to deliver better outcomes, and monitoring performance to determine whether the approach commissioned is fit for purpose, or needs to be replaced with a more effective redesigned approach. This may include the procurement of goods, works or services.

Contracting Authority

The State, regional or local authorities, bodies governed by public law or associations formed by one or more such authorities or one or more such bodies governed by public law, and includes central government authorities.

Contract Payment Profile Retention

Amounts are deducted from payments due to the contractor (retention) over the course of the contract, the value of such deductions may be dependent on the achievement of performance milestones; at the end of the contract, any such retentions are released to the contractor on satisfactory completion (including any relevant defects period).

Deposited Cash Bond

A payment made by a contractor 'up-front' (or deducted from a first payment due) that is held by the Council as security until the contract is satisfactorily complete

Dynamic Purchasing System (DPS)

A completely electronic system for commonly used purchases the characteristics of which, as generally available on the market, meet the requirements of the Contracting Authority and is open throughout its duration to any Contractor which satisfies the selection criteria.

E-Procurement

A method of carrying out a procurement exercise using an electronic internet based tool such as the Council electronic opportunities portal.

Economic Operator

Any person or public entity or group of such persons and entities, including any temporary association of undertakings, which offers the execution of works or a work, the supply of products or the provision of services on the market.

Evaluation Matrix

A Microsoft Excel based document which sets out the evaluation criteria and weightings detailed within a procurement document and against which bidders' submissions and scores are recorded.

Framework Agreement

An agreement which establishes the terms under which a Contractor will enter into Contracts with the Contracting Authority throughout the duration of the Framework. A

Contractor may be awarded a Contract which extends beyond the termination of the framework, provided the Contract is entered into before the framework expires and it is proportionate. Contracts awarded at the end of framework that have a disproportionate duration may amount to an abuse of the Public Contracts Regulations.

Invitation to Tender (ITT)

Initiating step of a competitive tendering process in which providers are invited to submit sealed bids for the supply of specific and clearly defined supplies, services, or works during a specified timeframe

Light Touch Regime (LTR)

A specific set of rules for certain service contracts including certain social, health and education services as set out in Schedule 3 of the Public Contracts Regulations 2015.

Liquidated Damages

A pre-determined level of damages (calculated as a genuine pre-estimate of loss) , which the Council shall be entitled to deduct from the Contractor in the event of his failure to complete the contract within a specified time.

OJEU (Official Journal of the European Union)

The Europe-wide publication where Contract Notices are published in relation to procurement processes, the value of which exceed the applicable spend threshold as determined within the applicable Public Contracts Regulations

Open Procedure

A procurement procedure which makes the opportunity available to the marketplace as a whole.

Parent Company Guarantee

A parent company guarantee is a declaration provided by the parent company of the main contractor which commits the parent to stepping in and honouring the terms of the contract if the Contractor must fail to do so and /or paying compensation (up to a stated maximum) in respect of loss incurred by the Council as a result of non- performance.

Performance Bond

A performance bond is a guarantee provided by a surety (usually a bank or insurance co. to pay compensation (up to a stated maximum sum) in respect of loss suffered by the Council should a contractor fail to fulfil its contractual obligations.

Public Contracts Regulations (PCR)

The Public Contract Regulations 2015(as amended), set out the procedures that must be followed when certain public sector contracts are to be offered to the marketplace.

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Procurement

Procurement , in the terms of the Public Contracts Regulations 2015, is defined as the acquisition by means of a public contract of works, supplies or services by one or more contracting authorities from economic operators chosen by those contracting authorities, whether or not the works, supplies or services are intended for a public purpose.

Restricted Procurement

A procurement process that first narrows the marketplace in order that Quotations or tenders are sought from a limited group of providers

Request for Quotation (RFQ)

Initiating step of a procurement process in which providers are invited to submit quotations for the supply of specific and clearly defined supplies, services, or works during a specified timeframe, the value of which falls below the applicable European Union Spend Threshold. RFQ's are generally evaluated on 100% Cost.

Selection Questionnaire (SQ) (formerly Pre-Qualification Questionnaire PQQ)

The first stage in a two stage restricted tendering procedure where interested providers complete a questionnaire compiled by the Council for the purpose of selecting a short list of interested providers to whom Invitations to Tender are to be issued.

NOTE: Use of a Selection Questionnaire is ONLY permissible in EU Procurement Procedures. The 2015 Public Contract Regulations prohibit the use of Pre-Qualification Questionnaires in 'below EU' Procurement procedures

SME

Small and medium-sized enterprises (SMEs) are non-subsidiary, independent firms which employ less than a given number of employees. The most frequent upper limit designating an SME is 250 employees, as in the European Union.

Social Value

Seeks to maximise the additional benefits that can be created by providing benefits above and beyond the core services. Award criteria can include social, economic, and environmental matters, although these must be linked to the subject matter of the contract.

Surety

A person or organisation who takes responsibility for another's performance of an undertaking.

Part 1: CONTRACTS PROCEDURE RULES WHICH APPLY TO ALL CONTRACTS

1.1 BASIC PRINCIPLES

1.1.1 Introduction

Officers responsible for, or involved in, procurement, commissioning, contract administration or contract management must comply with these contract procedure rules. They lay down **minimum requirements** and a more detailed procedure may be appropriate for a particular contract.

These Contracts Procedure Rules are Standing Orders made under section 135 of the Local Government Act 1972. These rules apply to all officers of the Council. A Contract for the purposes of these Contracts Procedure Rules shall be any agreement between the Council and one or more parties in respect of:

- The carrying out of works for the Council
- The purchase, leasing, or hiring of supplies or materials by the Council
- The supply of consultancy, agency workers and other services to the Council

For the avoidance of doubt these Contracts Procedure Rules shall not apply to :-

- The sale, leasing or purchase of land, or of any interest in land (Officers are requested to note that land transactions are generally subject to best value considerations under Local Government legislation and some property transactions e.g. long building leases etc. may need to take account of Procurement legislation. Advice in respect of land and property transactions must be sought from the Head of Regulation and Compliance on a case by case basis): or
- Any Contract of Employment

There are certain circumstances where the public can access a service of their choice and the Local authority is obliged by regulation to pay the associated costs. This is mainly in regard to Adult Social Care Nursing and Residential Care homes, and Open Access Sexual Health services. In these circumstances client officers must work with Commissioning Support to ensure that relevant guidance, risk, invoicing and cost is clearly understood, managed and adhered to.

These contract procedure rules are intended to promote good procurement and commissioning practice, transparency, public accountability, and deter corruption. The best defence against allegations that expenditure has been committed incorrectly or fraudulently is by following the Contracts Procedure Rules.

All values specified in these rules shall be exclusive of value added tax.

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These Contracts Procedure Rules must be read in conjunction with the relevant parts of the Council's Constitution (including the Financial Procedure Rules).

[Link to the Constitution](#)

External Funding – external funders (for example, but not limited to, European Regional Development Fund) may impose additional requirements in respect of advertising, tendering, scoring and record keeping. In such cases it may be necessary to modify the approach to procurement in specific circumstances.

If an officer is in any doubt as to if and how the Contracts Procedure Rules are applicable to a prospective procurement then the Corporate Procurement Unit must be contacted for advice and guidance.

These rules will apply to all Sefton Council maintained schools, in accordance with "Fair Funding Guidance: Scheme for Financing Schools

The Public Contracts Regulations, bolstered by the Lord Young Reforms, seek to afford greater opportunity of supply to Small and Medium Enterprises (SME's). Regulation 46 of the 2015 regulations in particular encourages procuring authorities to considering dividing requirements into Lots for which providers can bid, or formally documenting reasons why dividing of Lots has not taken place.

These Contracts Procedure Rules shall be reviewed periodically by the Head of Commissioning Support & Business Intelligence, in consultation with the Head of Corporate Resources and the Head of Regulation and Compliance. The frequency of review shall, as a maximum, be bi-annually in order to incorporate any change in EU spend thresholds as directed by the European Commission.

1.1.2 Legal Compliance

All procurement procedures and contracts shall comply with all legal requirements and no officer or Committee or Board of the Council may seek to avoid them. If in doubt advice must be sought from Head of Regulation & Compliance.

1.1.3 Public Contracts Regulations

All contracts must comply fully with the requirements of Public Contracts Regulations 2015, including Regulation 57, which outlines grounds for mandatory exclusion of bidders from a procurement process.

In particular Regulation 57 (e) (i) addresses the Council's ability to exclude a bidder for non-payment of taxes by way of a bidder being convicted of :

"the common law offence of cheating the Revenue"

1.1.4 EU Principles - Transparency and Non-Discrimination etc.

The award process and structure of all contracts shall comply with the EU Principles of Openness, Fairness, Transparency, Non-Distortion of Competition, Non-Discrimination, Equal Treatment, Proportionality and Mutual Recognition

1.1.5 Procurement Documentation

All contracts and contractual processes shall be consistent with these Contract Procedure Rules and any all relevant Council Procurement Guidance, Commissioning and or Procurement Strategy.

1.1.6 Contracts where the Council acts as Agent

Where the Council acts as the Agent for any other Local Authority or Public Body or company these Contracts Procedure Rules shall apply unless the Principal in question instructs otherwise in writing

1.1.7 Calculating the Financial Value of a contract

In deciding the value of contracts for the purposes of applying the requirements of these Contracts Procedure Rules the commissioner / procurer must take into account:

- The total cost for the lifetime of the contract (including any proposed optional periods)
- That the value of contracts of like nature shall be aggregated and that aggregate value shall be applied.
- In the case of joint procurement arrangements the value shall be the value of all parties' purchases under the contract.
- In the case of long term adults and childrens social care contracts which have no defined end date, the total cost will be valued at 4 years for the purpose of applying the Public Contracts Regulations.

No officer or Committee or Board of the Council may seek to divide potential contracts in order to avoid the requirements of these Contracts Procedure Rules or Public Contracts Regulations 2015.

Officers must not actively seek to disaggregate or fragment prospective spend amounts for the purpose of avoiding specific procurement activity.

The Public Contracts Regulations require particular procurement processes to be utilised where the estimated contract value exceeds predetermined spend thresholds. The current EU Public Procurement Thresholds (for the whole of the contract including any optional years) are:

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Supplies / Services	£181,302
Works	£4,551,413
<i>(as detailed within Schedule 2 of the Public Contracts Regulations 2015)</i>	
Social and Other specific Services	£615,278
<i>(as detailed within Schedule 3 of the Public Contracts Regulations 2015)</i>	

Note: Spend threshold figures correct as at January 2018, but subject to ongoing change, ordinarily on a two year cycle.

Both Schedules 2 and 3 of the Regulations can be viewed here :-

[2015 Public Contracts Regulations](#)

1.1.8 Public Services (Social Value) Act 2012

Contracting Authorities are under a statutory duty to consider economic, social and environmental well-being issues at the pre-procurement stage of a public service contract:-

- How the economic, social and environmental well-being of the Local Authority Area might be improved by the proposed contract;
- How in conducting the procurement process, the Council might act with a view to securing that improvement (NB. Only matters that are relevant to what is to be procured can be taken into account and those matters must be proportionate);
- Whether any consultation must be undertaken in relation to social value matters.

Officers must consider this when formulating the Procurement Project Management Plan detailed herein.

1.1.9 Forfeiture in Case of Bribery of Corruption

There shall be inserted in every contract a clause empowering the Council to cancel the contract and to recover from the contractor the amount of any loss resulting from such cancellation, if the contractor shall have offered or given or agreed to give to any person any gift or consideration of any kind as an inducement or reward for doing or forbearing to do or for having done or having forborne to do any action in

relation to the obtaining or execution of the contract or any person in relation to the contract or any other contract with the Council, or if the like acts shall have been done by any person employed by the contractor or acting on the contractor's behalf (whether with or without the knowledge of the contractor), or if in relation to any contract with the Council, the contractor, or any person employed by the contractor or acting on the contractor's behalf shall have committed any offence under the

Bribery Act 2010 or shall have given any fee or reward, the receipt of which is an offence under Section 117 of the Local Government Act 1972.

1.1.10 Contract sealing

Every contract which exceeds £100,000 in value with any individual contractor (for the whole of the contract as opposed to the annual value) shall be sealed with the Council's Seal and shall be executed by the Contractor as a Deed. In order that a contract can be sealed the following package of documents must be forwarded to Corporate Legal Services:

- i) One blank copy of the Invitation To Tender (ITT), or Request for Quotation (RFQ) document (as applicable)
- ii) Two copies of the successful bidder's ITT or RFQ
- iii) A copy of the Internal Authorisation to award a contract as per delegated authority (Cabinet / Cabinet member etc.)
- iv) Copies of the award & acceptance correspondence
- v) A copy of the bidder's in-date insurance cover.
- vi) A summary of questions asked by bidders during the procurement process and responses provided by the Council

1.2 OFFICER RESPONSIBILITIES

1.2.1 Roles and Responsibilities

Ahead of any procurement exercise commencing the roles of all Officers to be involved in the exercise must be determined and responsibilities for undertaking all aspects of the procurement process shall be set out and clearly assigned, in order that the process is properly controlled and undertaken and there is a clear understanding of the requirements of each member of the team throughout the process. The assignment of roles and responsibilities shall be kept under review throughout the course of the procurement and, in terms of contract management and contract performance management, throughout the term of the contract.

The assignment of roles and responsibilities, including any changes in the assignment of those roles and responsibilities during the course of the procurement, shall be documented within a suitable Procurement Roles and responsibilities Plan. Corporate template documentation will be produced and regularly reviewed to meet this need.

<http://intranet.smbc.loc/our-council/procurement.aspx>

1.2.2 Adequate Budget Provision

No Officer should seek to enter into a contract, or purport to enter into a contract, for the provision of supplies, works or services unless there is adequate provision in the agreed Capital Programme and/or agreed Revenue Budgets.

If in doubt Head of Corporate Resources must be consulted.

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1.2.3 Disciplines

Ahead of commencing any procurement exercise Officers must give thought to the question of which disciplines need to be considered for either operational involvement in the process or within an advisory support role. For instance whilst the need for the involvement of Operational and Procurement Officers is apparent, in addition consideration must be given to the value of other disciplines, which as examples may include but not be limited to :

- a) Legal
- b) Audit
- c) Contribution from Commissioning Support Officers
- d) Finance
- e) Human Resources
- f) Investment and Employment Service
- g) External Advice/Consultancy – Private or another Local Authority

1.2.4 Information Management

Officers must be mindful that throughout any Procurement exercise the governance, management and security of information is vital to both the integrity of the work to be conducted, and potentially the reputation of the Council. Officers must therefore ensure:

- i) Storage and handling of Procurement or any supporting information or documentation, whether digital, paper or another format is carried out securely.
- ii) Where the information and documentation is in a digital format this may involve using an encrypted fixed or digital device or other suitable and secure mechanism to ensure that access is restricted only to those Officers involved in the procurement project and in accordance with their assigned roles and responsibilities. It may involve Officers using their allocated personal drive within the Council's ICT system, to which access is limited, or creation of a shared folder secured through controlled access rights, password or some other means to prevent unauthorised access.
- iii) All documents forming part of a tender / request for quotation process, (including specifications, tender / RFQ documents, evaluation documents etc.) must be subject to effective document management, including version control, review and sign-off and shall be held in a readily identifiable folder titled: '**Procurement of [INSERT PROJECT TITLE HERE]**'.

As a guiding principle, Officers must be mindful that other people, including fellow Officers, not involved in a procurement exercise must not have access to information that relates to it.

- iv) Diligence is employed when conducting discussions that relate to a Procurement exercise. Officers must be mindful of both topics discussed, and the environment within which they are discussed. Consideration must

be given to holding discussions in a controlled area, such as an individual's personal office, or a meeting room, in order to ensure that only an invited group of officers are privy to information discussed. Officers must also be mindful of the content of telephone conversations held in an uncontrolled environment, if in any doubt that the content of a proposed conversation is sensitive then arrangements must be made to hold that discussion in a controlled area

- v) Control is employed when communicating with bidders or potential bidders within a procurement exercise. Officers must ensure that no direct verbal or email communication is entered into with a bidder, bidders or potential bidders, or their representatives. Officers must ensure that all communication with any bidder or their representative, within any procurement exercise must be carried out in written form, through the Council's electronic opportunities portal, via the Procurement Officer holding responsibility for that.
- vi) Procurement Officers must ensure that the Council's Electronic Opportunities portal is utilised to store documents created throughout the procurement process in order to build a comprehensive audit trail. Such documents will include, but not be limited to:

- Evaluation Panel members' individual scores and scoring notes
- Moderated scores
- Moderation notes
- Finalised Master Evaluation Matrix
- Versions of Invitation to Tender (ITT) documents
- Versions of Advanced Request for Quotation (ARFQ) documents
- Versions of Selection Questionnaires
- Responses to questions raised by bidders
- Copies of correspondence (for example Mandatory Standstill)

1.2.5 Corporate Contracts

A corporate contract exists where the Council has entered into a contract for the provision of supplies, services, or works, and agreed rates for such.

Before procuring supplies, services or works, an Officer shall ascertain whether any corporate contract has been entered into in relation to those supplies, Services or works.

This requirement is mandated on all Council officers. Any requirement to purchase such supplies, services or works from alternative non-contracted suppliers must first be agreed in accordance with the Waiver Procedure set out in these Contract Procedure Rules.

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1.2.6 Surety

Construction Related Contracts

- £250,000 - £1,000,000

Provided that a risk assessment based on financial and technical criteria is satisfactory, construction-related contracts up to £1,000,000 do not require a Performance Bond. However, such contracts over £250,000 and up to £1,000,000 will require a contribution to the Contracts Indemnity Fund. The Contribution is calculated as 0.2% of the Contract Value, and this is administered by the Head of Corporate Resources

- Above £1,000,000

For all construction related contracts over £1,000,000, a Performance Bond will normally be required. A formal risk assessment shall be carried out by the Head of Service prior to commencing the exercise and a recommendation on the requirement for a Performance Bond and its value shall be included in the Pre-Procurement report. The minimum value of the bond should be 10% of the total contract price.

Non Construction Related Contracts

- Below £1,000,000

For contracts in respect of Social Care Packages, Information Technology Products/Services, the Head of Service shall have discretion following consultation with the Head of Regulation and Compliance and the Head of Finance, to apply one of the following options:-

- 1) Require a Performance Bond;
- 2) Require a Parent Company Guarantee;
- 3) Require a Deposited Cash Bond;
- 4) Require a Contract Payment Profile Retention;

Contracts for those supplies and services below the value of £1,000,000, not mentioned above, will not generally be subject to a Performance Bond.

- Above £1,000,000

Non Construction Related Contracts above the value of £1,000,000 will normally require a Performance Bond. A formal risk assessment shall be carried out by the Head of Service prior to commencing the exercise and a recommendation on the requirement for a Performance Bond and its value shall be included in the pre-procurement report. The value of the bond should be:

- a) a minimum of 10% of the total contract price, where an asset is being procured , or
- b) 10% of the whole annual value of a contract for goods or services over a

period of time

Parent Company Guarantee

Where the contractor is a limited company which is part of a larger group the ultimate holding company may be required to provide a parent company guarantee in addition to a performance bond. The Head of Service shall determine following consultation with the Head of Regulation and Compliance whether a parent company guarantee is necessary as an additional form of surety.

Waiver of Surety Requirements

Whilst under normal circumstances the above values will apply, it is recognised that some high value contracts (construction or non-construction related) may be low risk and vice versa. Dependent on the outcome of a risk assessment, a recommendation may be made in the pre-procurement report to waive application of the limits referred to above and/or to approve a more appropriate form of surety.

Inclusion of Surety Requirements in Procurement Documents

The requirement or possible requirement of a bond or other form of surety must be specified in the Procurement documentation. A copy of the Council's Standard Form of Bond must be included in such documentation.

For guidance on calculating the value of a contract then refer to Rule 1.1.7.

1.2.7 Contracts – Delay and liquidated damages

In the case of Works contracts over the total value of £100,000 and, in any other case where a risk assessment, undertaken at pre procurement stage, considers it necessary, a clause shall be inserted in the contract providing for the payment of liquidated damages (calculated as a genuine pre-estimated of loss) in circumstances where the contract is not completed within the time specified.

Where completion of the contract is delayed it shall be the duty of the relevant Officer under the contract to take appropriate action in respect of any claim for liquidated damages as may be provided for within the terms and conditions of the contract.

1.2.8 Breach of Contracts Procedure Rules

Any breach or non-compliance with these Contracts Procedure Rules must, on discovery, be reported immediately to the Head of Commissioning Support & Business Intelligence, Head of Corporate Resources, and the Chief Internal Auditor.

The Head of Commissioning Support & Business Intelligence, Head of Corporate Resources, and the Chief Internal Auditor shall consider whether each reported breach or non-compliance presents a significant risk of harm to the Council's interests and if satisfied that such risk exists shall undertake any necessary

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investigation and report the findings to the relevant Head of Service, and Chief Executive, as appropriate.

Officers must be aware that any non-compliance with Contract Procedure Rules could result in disciplinary action.

1.2.9 Conditions of Contract

In every written contract for the execution of works or the supply of supplies or services, the following clauses shall be inserted (unless Industry Standard Conditions are being used e.g. NEC, JCLI, JCT, Public Health Standard Form etc. in which case they must be checked to see if similar clauses are already included in the standard to avoid any confusion and/or duplication):-

- a) The Contractor must comply with the provisions of the Employment and the Trade Union and Labour Relations (Consolidation) Act, 1992, and in particular shall ensure that all persons employed by him or her in relation to the execution of the contract are afforded the rights and facilities specified in those Acts regarding trade union Membership.
- b) The Contractor must comply with national equality legislation to deliver services fairly and without unlawful discrimination.
- c) The attention of the Contractor must be drawn to the importance of complying in all respects with :
 - (i) The provisions of the Equality Act 2010. The Contractor shall have regard to the nine protected characteristics within the Act and must not discriminate either directly or indirectly on the grounds of:-

Age
Disability
Gender Re-assignment
Marriage and Civil Partnership
Pregnancy and Maternity
Race
Religion
Sex
Sexual Orientation

- (ii) The requirements of the Public Interest Disclosure Act, 1998:
- (iii) The requirements of the Freedom of Information Act 2000 and Regulations made thereunder. The Council's obligations in respect of the said Act are also drawn to the attention of the Contractor.
- (iv) The requirements of the Bribery Act 2010
- (v) The Contractor shall be responsible for the observance of clauses a–c (i)–(iv) above by Sub Contractors employed in the execution of the contract, and shall notify the Council of the names and addresses of all such Sub-Contractors.
- (vi) The requirements of the Social Value Act 2012

Health and Safety Conditions of Contract

The Contractor must comply with the 1974 Health and Safety at Work etc. Act (HASWA), Health and Safety Regulations, and Codes of Practice that are approved by the Health and Safety Executive

The Contractor must comply with the Councils Health and Safety Guidance

Data Protection

The Supplier shall (and shall procure that any of its employees and agents involved in the provision of the Contract shall) comply with any notification requirements under the Data Protection Act 1998 (“DPA”) and shall duly observe all its obligations under the DPA which arise in connection with the Contract.

Where the Supplier is processing Personal Data as a Data Processor for the Council, the Supplier shall ensure that it has in place appropriate technical and contractual measures to ensure the security of the Personal Data (and to guard against unauthorised or unlawful processing of the Personal Data and against accidental loss or destruction of, or damage to, the Personal Data), as required under the DPA: and

- a. provide the Council with such information as the Council may reasonably require to satisfy itself that the Supplier is complying with its obligations under the DPA;
- b. promptly notify the Council of any breach of the security measures required to be put in place pursuant to this clause; and
- c. ensure it does not knowingly or negligently do or omit to do anything which places the Council in breach of the Council’s obligations under the DPA.

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The provisions of this clause shall apply during the continuance of the contract and indefinitely after its expiry or termination.

The Service Provider shall and shall ensure that its Sub-contractors shall notify the Council within five Working Days if it receives:

- a. a request from a Data Subject to have access to that person's Personal Data; or
- b. a complaint or request relating to the Council's obligations under the DPA or any other data protection legislation.

1.2.10 Assignment of Contracts without Consent

There shall be inserted in every written contract a clause empowering the Council to cancel the contract and to recover from the contractor the amount of any loss resulting from such cancellation, if the contractor shall have transferred or assigned, whether directly or indirectly, the benefit of the contract without the written consent of the Council, or if the contractor shall have sub-let the contract (except so far as the sub-letting relates to the supply of patent or proprietary articles, raw materials or natural products) without the written consent of the Council.

1.2.11 Contract Extensions

Officers must consider a contractor's performance throughout the period of contract when considering a contract extension. Officers must question not only the financial aspects of any potential extension, negotiating with the contractor where possible to achieve a competitive financial offering, but must also give thought to whether the quality of supplies or service being provided to the Council would continue to offer best value to the Council should an extension be offered. Officers must be aware that markets, the providers within those markets, and the level of competition for Council business will change over periods of time. Officers must consider alongside the award of any optional extension period, what other alternatives may be available to the Council and must offer reasoning as to why such alternatives are not proposed. Officers must ensure that prior to seeking approval of any proposed contract extension; consultation is undertaken with Head of Commissioning Support & Business Intelligence in order to secure a Procurement perspective.

An extension requires the approval of a Head of Service, Cabinet Member or Cabinet according to the applicable financial thresholds detailed herein.

The value of any contract extension must be calculated in line with Rule 1.1.7.

In terms of compliant process

Contracts may be extended beyond the stated core contract period, where provision for such extension was included in the original Invitation to Tender (ITT), or Request for Quotation documents (RFQ), and in respect of EU Procurements, in the OJEU Contract Notice

In cases where an extension period was not provided for within original ITT, or RFQ documents and in respect of EU Procurements, in the OJEU Contract Notice

Extension of contracts with a value below the applicable EU Spend Threshold will require the written approval of the appropriate Head of Service, Cabinet Member, or Cabinet, following consideration of a written report setting out a justifying business case. Variations shall only be granted in exceptional circumstances if it can be established that this will be in the best interests of the Council.

Where the value of expenditure is such that an EU Spend Threshold would be exceeded then it is not possible to award a long term contract Extension. Extension on a short term basis will only be authorised in exceptional circumstances. In circumstances where a short term extension is granted, an EU compliant procurement process must be carried out as a matter of urgency in order to secure a replacement contract. Such action must be considered in consultation with the Head of Corporate Resources and the Head of Regulation and Compliance.

Wherever possible officers must endeavour to plan the necessary pre-procurement reporting, and subsequent procurement activity, in ample time to allow a replacement contract to be secured negating the need for an extension. Consideration must be given to the mobilization period and obtaining TUPE related information where relevant.

1.2.12 Monitoring of Contracts

All contracts must be monitored throughout the period of the contract, and the performance of contractors must be reviewed regularly. Appropriate records of contract monitoring and contractor performance shall be maintained.

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1.3 COLLABORATIVE ARRANGEMENTS

1.3.1 Framework Agreements / Dynamic Purchasing System (DPS)

Contract Procedure Rules 2.1 to 2.3, and 3.1 will not apply where the supplies, works or services in question are to be procured by using a framework agreement or DPS which has itself been procured through compliance with these Contract Procedure Rules or from a Central Purchasing Body for the purposes of the Public Contracts Regulations 2015. Where a Central Purchasing Body's framework agreement is used a Procurement Officer shall obtain copies of that Body's Contract and Award notices and shall seek verification from the Head of Commissioning Support & Business Intelligence of the Body's compliance with the Public Contracts Regulations 2015.

1.3.2 Joint or Partnering Arrangements, Procurement of Consultants

1.3.2.1. Partnering Arrangements

A memorandum of understanding must be developed with partners to ensure that resources, support and delivery will be available throughout the development and lifetime of the proposed contract.

A single contract may be delivered by several providers. Partnering involves an integrated team working together to deliver better services to citizens through agreeing mutual objectives, devising a way for resolving any disputes and committing themselves to continuous improvement, measuring progress and sharing the gains. All parties have a shared goal of delivering services in a cost-effective and timely way that is mutually beneficial.

Partnering arrangements are likely to be contractually based and will need to comply with these Contracts Procedure Rules.

Partnering Arrangements will be entered into ONLY after an appropriate competitive procurement process has identified potential partners and they have been evaluated from a competitive and best value perspective.

Partnering Arrangements will need to identify the following:

- (a) responsibility for each function to be performed,
- (b) the element of risk undertaken by each party,
- (c) the mutual benefits derived from the partnership,
- (d) the individual targets and objectives of the partnership,
- (e) the procedure for reviewing the performance of the partnership,
- (f) the procedure for remedying disputes and the settlement of grievances (including arbitration if required),
- (g) the period for maintaining the partnership,
- (h) the exit procedure at termination of the partnership, which must include, the responsibility for staff, premises, service provision, and any other relevant matters.
- (i) Implications for Social Value, in terms of local supply, employment

1.3.2.2. Joint Procurement

Any joint procurement activity with other local authorities or public bodies, including Membership or use of Purchasing Consortia, shall be agreed via Pre-Procurement Reporting requirements as outlined within 1.10.1 herein.

The Council may also enter into existing public sector framework arrangements, where it is evident that such frameworks represent the optimum solution to the Council in terms of service and cost. Approval to enter into such a framework shall be sought from the officer to whom delegated authority has been granted within the related Pre Procurement Report.

Where any expenditure is committed using standard arrangements such as an accessible framework contract with another local authority, government department, statutory undertaker, public service purchasing consortium or government approved catalogue of procurement sourcing, officers must be reasonably satisfied that the appropriate procurement procedures have been followed by the body concerned, and consider appropriate use of the facility i.e. straight forward call-off, or mini competition.

(a) Where the Council is working in a joint or partnering arrangement with another body or bodies and, under that arrangement, is the commissioning body, Sefton Council's Contracts Procedure Rules shall apply to contracts entered into under that arrangement.

(b) Where the Council is working in a joint or partnering arrangement with another body or bodies and, under that arrangement, another body is the commissioning body, the Contracts Procedure Rules, or equivalent, of that other body shall apply to contracts entered into under the arrangement subject to the approval of a waiver by the Cabinet Member (Regulatory, Compliance & Corporate Services). Where the body has no such Contracts Procedure Rules, the procedures applied by the other body shall comply with the principles and safeguards contained in Sefton Council's Contracts Procedure Rules, and this must be documented in the Terms and Conditions of the Contract.

(c) Where the Council is working in a joint or partnering arrangement with another body or bodies, the Terms and Conditions for the arrangement shall include powers for the Council to have access to the records, assets, site, employees and sub-contractors of that other body for the purposes of investigating or auditing compliance with the terms of the arrangement and with the relevant procurement rules.

1.3.2.3 Procurement of Consultancy Services

Establishment Control Panel approval must be sought prior to commencement of

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any procurement activity to secure consultancy.

Client Officers are reminded that the procurement of any consultancy services is ultimately subject to scrutiny by the 'Establishment Control Panel'. Any Officers procuring Consultancy Services must comply with all aspects of these Contract Procedure Rules in first sourcing any consultant through a competitive process to ensure best value.

Advice must be sought from CPU as to an appropriate competitive process in respect of these Contract Procedure Rules

1.4 E-PROCUREMENT

1.4.1 Electronic Procurement

Officers must employ an electronic procurement method and shall use only the Council's electronic opportunities portal approved by the Head of Commissioning Support & Business Intelligence in consultation with the Head of Corporate Services.

The only exception to this rule shall be where an officer is using an external framework, the use of which has been approved by the Head of Commissioning Support & Business Intelligence in accordance with CPR 1.3.1. In such circumstances the procurement work shall be carried out in compliance with the rules of the framework as determined by the framework owner.

1.5 RECORDS

1.5.1 Contracts Register

As part of the Government's Transparency Agenda the Council is required to compile a Contracts Register to capture details of all contracts let by the Council.

All procurement opportunities published on the Council's approved electronic opportunities portal will have the contract award details automatically promoted to

the online contracts register, where the contract is valued at £5,000 or above, in line with the Government's transparency agenda.

1.6 INTENTION & AWARD OF CONTRACT AND DEBRIEFING OF CONTRACTORS

1.6.1 Award Criteria

Contracts will generally be awarded on the basis of either:

a) **MEAT** (*Most Economically Advantageous Tender*) taking into consideration a percentage balance between Cost and Quality, or

b) **Lowest Cost**

(*NOTE: Whilst 100% Lowest Cost evaluation is permitted in below-EU

procurement exercises, Lowest Cost evaluation is only permissible in EU procurement exercises, where the bidders are first required to meet a minimum specification of Supplies, Services or Works)

c) **Highest Quality**

(NOTE: within EU Procurements 100% Quality Evaluation is only permissible where the Council publishes a fixed cost that it will pay to any successful bidder, and so the competition is carried out on Quality only)

The Head of Service, or their representative, must define Award Criteria appropriate to the procurement or commission. Award criteria must be designed to secure an outcome giving best value for money for the Council. If further defined within sub criteria then these must refer only to relevant considerations, and importantly all award and award sub criteria must be openly published within Invitations to Tender (ITT) or Requests for Quotation (RFQ), documentation, as applicable. If award or award sub-criteria, and applicable weightings are not openly published within the Procurement documentation then they **cannot** be employed within the evaluation process.

The Client, Commissioning, and Procuring Officer are advised to consider the desired outcome of a Commissioning / Procurement exercise, in order to determine a suitable method of evaluation.

Options entail:

- (a) Cost / Quality – In this method 100% is divided across cost and quality. The Commissioner/Procurer must determine an appropriate split commensurate with available budget and desired quality levels (quality meaning, product quality, or service quality, or a combination of the two)

Examples could include:

- (i) 50% Cost, 50% Quality
- (ii) 40% Cost, 60% Quality
- (iii) 70% Cost, 30% Quality

Or any other derivative the Commissioner/ Procurer deems appropriate.

- (b) Cost only – In this method, evaluation is carried out on the basis of 100% Cost, where the bidder meets a pre-determined minimum standard of quality. Only the bidder's Cost will be evaluated, i.e. an increased quality offering above the pre-determined minimum is not acknowledged as providing any additional value because the minimum specification is sufficient for the Council's needs.

- (c) Quality only - In this method, evaluation is carried out on the basis of 100% quality, where the Commissioner/ Procurer identifies and publishes a fixed cost that will be committed in full, irrespective of which bidder is

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awarded the contract. Only the bid quality will be evaluated with an award being made to the bidder demonstrating the highest quality submission for the budget that the Council intends to commit. Bids with Costs exceeding the published budget would be regarded as non-compliant, and so not evaluated.

Evaluation criteria and respective weightings shall be predetermined and clearly indicated in the Pre-Procurement Report and Invitation to Tender (ITT) or Request for Quotation (RFQ) documentation. In addition, the criteria shall be strictly observed at all times throughout the procurement exercise by any officer involved in the evaluation process, so as not to expose the Council to risk of challenge through deviation from the published criteria and weightings.

If in an exceptional case, prior to the receipt of bidder's proposals, this is changed, this must be duly approved (i.e. as per the original pre-procurement approval path). In no circumstance must the award / evaluation criteria be changed post receipt of bidder's proposals.

1.6.2 Acceptance of Tenders / Quotations

It shall be clearly stated in all tender / quotation documents that the Council reserves the right:

- (a) to accept a tender / quotation other than the lowest
- (b) to decline to accept any tender / quotation
- (c) not to award a contract
- (d) the Council will not be liable for any costs or expenses incurred by Tenderers during the procurement process

Where a bidder's tender / quotation are not accepted then a formal written record must be made detailing the reason/s why.

1.6.3 Debrief – Intention & Award

Mandatory Standstill Period (historically known as the 'Alcatel' process)

It is a requirement under the Public Contracts Regulations that any procurement exercise carried out under an EU Procurement Procedure must be concluded with a Mandatory Standstill Period. The purpose of the standstill period is to inform all bidders of the outcome of the procurement exercise, and, if they think that the contract award decision is wrong, to provide bidders with an opportunity to challenge the decision before contract has been awarded, signed and sealed.

The applicable legislation allows bidders to question the procurement exercise and evaluation process within the standstill period of 10 calendar days (where electronic communication has been employed) following dispatch of the award decision letter, and commence a formal legal challenge to prevent the contract from being awarded should they have grounds to do so.

Once the contract award decision has been approved by the officer with appropriate delegated authority, as authorised in any pre-procurement report, a letter must be sent to all bidders, providing written feedback to all unsuccessful bidders as to why their bid was unsuccessful and the relevant advantages and characteristics of the successful bid compared to the unsuccessful bidder.

If in any doubt as to the application of the Mandatory Standstill Period then the Corporate Procurement Unit must be contacted for guidance.

IMPORTANTLY:

Officers must be mindful of a challenge to an award decision and the implications that can result must that not be handled appropriately, specifically in relation to areas such as increased cost and workload to the Council and its Officers, alongside potential for reputational damage must the Council mishandle such a situation

Where a challenge to an award decision arises Officers must at the very least ensure that:

- i) Verbal communication with challenging bidder/s or their representative/s is not entered into. This includes avoidance of face to face debrief meetings that can become emotionally driven, and result in 'on the spot' responses being given to questions asked without such a response being correctly researched, quality checked and considered.
- ii) Communication with the challenging bidder/s or their representative/s is only carried out in writing via the Council's electronic opportunities portal
- iii) Written responses are quality checked for accuracy and content
- iv) Opinion is sought from the Council's Legal team
- v) The issue is escalated to an appropriate Senior Officer for opinion

In respect of contracts established via Non-European Union Procurement Procedures, i.e. where expenditure falls below EU Spend Thresholds, mindful of the EU Procurement principles of Openness, Fairness and Transparency, officers must use discretion as to what degree of debrief is provided, but must endeavour to provide meaningful feedback that enables bidders to understand where a submission could have been stronger, in order that future proposals may be improved.

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1.7 CONTRACT PAYMENTS

1.7.1 Contract payments/settlements

Contract payments/settlements shall be made in accordance with procedures referred to in the Financial Procedure Rules.

[Financial Procedure Rules \(within the Council's Constitution\)](#)

The terms upon which the Council will make payments to a contractor must be detailed within the applicable contract.

1.7.2 Prompt Payment within 30 days

The Public Contracts Regulations require a Contracting Authority to include a clause in all public contracts providing that invoices submitted by the contractor shall be verified in a timely manner and payment of undisputed invoices shall be made within 30 days. Where the contractor enters into a sub-contract the prompt payment provisions must be replicated down the supply chain.

Where a contract contains terms requiring payment more quickly than 30 days (for example because of statutory requirements, or because the parties choose a shorter payment period) then these shorter payment periods will apply to that contract

1.7.3 Instalment Payments

Where contracts provide for payment to be made by instalments the appropriate Head of Service shall maintain suitable records to show the state of account on each contract.

1.7.4 Authorisation of Payments

Payment to contractors shall be authorised by an authorised certifying officer in accordance with the Department's Scheme of Delegation

1.7.5 Authorisation of Variations

Officers must consult the Legal Team in respect of any proposed variation, as consideration will need to be given as to whether a proposed variation would constitute a 'material change' to the original contract. , necessitating a new

procurement. If changes are 'material' then this can put the entire agreement at risk of cancellation, if challenged.

Viable variations to a contract shall be made in writing and shall require prior written authorisation by the appropriate Head of Service or on their behalf by an authorised certifying officer.

Where the contract in question has been formally sealed by the Legal team, then in respect of such variation the sealed contract copy will need to be updated to account for the variation. Usually a deed of variation will need to be drafted by Corporate Legal Services and executed by the parties to the contract.

1.7.6 Works Contracts – Final Certificate control

No payment shall be made by the Council to the contractor without formal purchase order/formal agreement in place. This must be facilitated by processing a purchase order onto primarily the Councils financial system, Agresso, or the relevant operational system, against which invoices and payments can be processed and monitored

In the case of Works contracts a final certificate shall not be issued until the Head of Service has, to the extent that it is felt necessary, examined all matters relating to the final account.

1.7.7 Payments before Completion of Formal Contract

No payment shall be made by the Council to the contractor without a formal purchase order / formal agreement in place and will only happen following the provision of supplies, services, or works.

Advance payments are not permitted, except small emergency payments in exceptional circumstances with prior authorisation through the Waiver Process set out in these Contract Procedure Rules.

1.7.8 Signed Contracts

Contracts shall be signed on behalf of the Council by a duly authorised officer in accordance with the Scheme of Delegation for Officers

1.8 WAIVER OF CONTRACTS PROCEDURE RULES

1.8.1 - Waiver – Supplementary

Link to electronic waiver form: <https://forms.sefton.gov.uk/contractswaiver/>

(a) Where any operational officer is seeking a waiver of any of the Council's Contract Procedure Rules, approval for that waiver must be secured from the Head of Service within whose remit the procurement or contract sits

(b) Where a Head of Service is seeking a waiver then this application should be

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submitted to an Executive Director.

- (c) Where an Executive Director is seeking a waiver then this application should be submitted to the Chief Executive Officer
- (d) When seeking a waiver of any of the Council's Contract Procedure Rules, the relevant officer shall complete a formal Waiver Request Report in accordance with the procedure set out below and shall submit that report to the Head of Service within whose remit the procurement or contract sits. This Waiver Request Report shall clearly state:
 - the particular Contracts Procedure Rule/s to be waived
 - the period of time during which the waiver shall be effective and related value of expenditure for this period
 - Budget Approval – include Budget, Funding and Cost Centre Code
 - Business Case in support of the waiver which must include details of how the following would be achieved despite the waiver:
 - i. Value for Money
 - ii Transparency, propriety and accountability
 - iii. Position of the contract under the Public Contracts Regulations
2015
 - iv. How the contractor was selected
 - v. Identification of potential project risks and controls
 - vi. How the project links with departmental and corporate objectives
 - vii. Whole life costs of the project including the revenue costs associated with the project
 - viii Social Value Benefit
- (e) When considering any request for a waiver of any of the Contract Procedure Rules the relevant Head of Service shall seek any necessary advice and guidance from the Procurement service, Legal service, Finance service or any other specialist team before determining the waiver request.
- (f) The Head of Service **MUST** e-mail a copy of the signed waiver form to central.procurement@sefton.gov.uk to be archived.
- (g) Where any Contracts Procedure Rules are waived the relevant Officer shall comply with the remaining Contracts Procedure Rules

1.9 PROCUREMENT RISK ASSESSMENT

Early engagement of the Procurement Team within any procurement process is essential as that enables a member of the team to be allocated to a project a foundation stage.

Procurement Officer/s allocated is able to support the development of the Pre Procurement Report that a Client Officer needs to compile and submit in order to secure approval to commence a procurement exercise

The Procurement Risk Assessment enables the Client Officer to set out the building blocks of the requirement which will enable the Procurement Officer to contribute appropriate documentation. This can be found on the Intranet here, and is an online submission:

[PROCUREMENT RISK ASSESSMENT](#)

Procurement Officers are required to upload a copy of the Procurement Risk Assessment to the Council's opportunities Portal as a supporting document for that specific procurement exercise

1.10 EXPENDITURE APPROVAL PROCESS – PRE PROCUREMENT REPORTING

1.10.1 Pre-Procurement Reporting

All officers requiring to commit expenditure in order to acquire Supplies, Services or Works on behalf of the Council, or a Collaborative group of Councils if in the lead role, must first consider Approval to Commit Expenditure and so to commence the procurement process. In doing this officers must consider Financial Procedure Rules and any relevant budget approval process and must refer to the Head of Corporate Resources where necessary.

It is a requirement of the Chief Executive Officer and the Elected Members that approval to commit expenditure be considered, prior to commencement of any Procurement activity as follows:

- (a) Expenditure of £5000 up to £150,000 - a Pre Procurement report is to be taken to the Officer's Head of Service
- (b) Expenditure of £150,001 up to:
 - i) 3 x the OJEU Spend Threshold for Supplies & Services (i.e. £543,906.00 as at January 2018), or
 - ii) The OJEU Spend Threshold for Works (i.e. £4,551,413.00 as at January 2018)

– a Pre Procurement report is to be taken to the Officer's Cabinet Member to seek approval to commence Procurement activity and so commit expenditure.

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(c) Expenditure of:

- i) Over 3 x the OJEU Spend Threshold for Supplies & Services (i.e. £543,906.00 as at January 2018), or
- ii) Over the OJEU Spend Threshold for Works (i.e. £4,551,413.00 as at January 2018)

– A Pre Procurement report is to be taken to Cabinet to seek approval to commence Procurement activity and so commit expenditure.

NOTE : The **ONLY** exception to this rule shall be where a prospective procurement satisfies the requirements of a 'Key Decision'. The following information is reproduced from the Council's Constitution to aid officers in determining whether prospective procurement qualifies as a Key Decision:-

"A KEY DECISION is:

a) any executive decision that is not in the Annual Revenue Budget and Capital Programme approved by the Council and which requires a gross budget expenditure, saving or virement of more than £100,000 or more than 2% of a Departmental budget, whichever is the greater;

b) any executive decision where the outcome will have a significant impact on a significant number of people living or working in two or more Wards.

Where a prospective procurement is determined to be a Key Decision then this will need to be entered onto the Forward Plan via liaison with the Democratic Services Team. Officers must be mindful in such circumstances to plan additional time into the procurement process.

A Key Decision relating to a prospective procurement will be considered by Cabinet within a Pre Procurement report.

Pre Procurement reports must set out:-

- i) The brief details of the Procurement exercise and the Procurement method to be employed
- ii) The basis of evaluation, i.e.
 - MEAT (Most Economically Advantageous Tender) taking into consideration a balance between Quality and Cost

or

100% Lowest Cost,

*(*NOTE : Whilst 100% Lowest Cost evaluation is permitted in below-EU procurement exercises, Cost only evaluation is only permissible in EU procurement exercises, where the bidders are first required to meet a minimum specification of Supplies, Services or Works.*

or

100% Quality

(NOTE: within EU Procurements 100% Quality Evaluation is only permissible where the Council publishes a fixed cost that it will pay to any successful bidder, and so the competition is carried out on Quality only)

- iii) A request that authority be delegated to a nominated officer, such as a Head of Service, or one of their officers, to approve the resulting post procurement contract award.

The following illustration summarises the Pre Procurement expenditure approval process that these Contracts Procedure Rules detail.

1.10.2 Pre-Procurement Approval specifically in respect of Adult's or Children's Social Care support packages and placements, and Substance Misuse Residential Rehabilitation placements

It is recognised that some individual adult and child care or support packages and placements, and some substance misuse residential rehabilitation placements cannot be fulfilled using existing Framework Agreements or Dynamic Purchasing systems and on these occasions will need to be procured from the open market, via the Council's e-procurement portal.

It is also recognised that in many cases, due to ongoing care requirements, the end date of such contracts cannot be identified at the point of procurement. In such circumstances, and in accordance with the Public Contract Regulations 2015, a period of 4 years should be used to calculate the contract value.

On occasion the anticipated value of these contracts may exceed the normal delegated authority of Head of Service, and in certain circumstances Cabinet Member too, however due to the restricted amount of time available to procure these often urgent individual care or support service packages, it would not be possible or desirable to always obtain Cabinet Member or Cabinet Pre-Procurement approval.

Consequently, specific provision is made herein and within the Council's Constitution to

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delegate authority in such circumstances to the relevant senior officers, currently :

- i) Director Social Care and Health
- ii) Director of Public Health
- iii) Head of Adult Social Care,
- iv) Head of Children's Social Care,
- v) Head of Schools & Families

to:

- a) approve the commencement of a procurement process for Adult or Children's social care contracts or Substance Misuse Residential Rehabilitation placements which are outside the scope of an existing Framework, Dynamic Purchasing System or other budgetary agreement;

and
- b) to award contracts following a procurement exercise, and so commit expenditure.

To ensure that such procurement is effectively monitored, a report of Adult and /or Children's delegated procurement approvals will be submitted to the relevant Cabinet Member on a monthly basis.

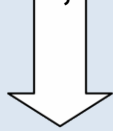
What level of pre-approval is required in respect of Contract Value?

(Officers must ensure that you read and understand The Contract Procedure Rules and do not simply refer to this illustration alone)

FOR EXPENDITURE OVER £50,000 - DECISION PUBLISHED ONLINE

(by Democratic Services via Intranet and Internet)

£5000 up to
£150,000



Head of Service
Responsibility &
Accountability

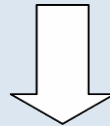
Pre Procurement Report

£150,001 up to:

i) 3 x the OJEU Spend Threshold
for Supplies & Services (i.e.
£543,906.00 as at January 2018),

or

ii) The OJEU Spend Threshold for
Works (i.e. £4,551,413.00 as at
January 2018)



Cabinet Member Responsibility

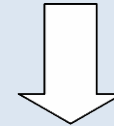
Pre Procurement Report

Expenditure Over:

i) 3 x the OJEU Spend Threshold
for Supplies & Services (i.e.
£543,906.00 as at January 2018),

or

ii) The OJEU Spend Threshold for
Works (i.e. £4,551,413.00 as at
January 2018)



Cabinet Responsibility

Pre Procurement Report

KEY DECISION

Cabinet Responsibility - Pre Procurement Report (as determined by Key Decision definition)

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PART 2: CONTRACTS EXCEEDING THE APPLICABLE EUROPEAN UNION SPEND THRESHOLDS

2.0 Application

Part 2 of these Contracts Procedure Rules shall apply to all contracts exceeding applicable European Union spend thresholds in value, and officers must adhere to the Public Contracts Regulations 2015

European Union spend thresholds (for the whole value of the contract including any optional periods) are as follows:-

- | | |
|--------------------------|----------------------|
| a) Supplies / Services - | £181,302.00 |
| b) Works – | £4,551,413.00 |

Note: Spend threshold figures correct as at January 2018, but subject to ongoing change, ordinarily on a two year cycle.

'Works' means any of the activities specified in schedule 2 of the Public Contracts Regulations 2015

The contents of schedule 2 can be viewed here:-

[2015 Public Contracts Regulations](#)

2.1 Forms of Procurement

2.1.1 There are four main forms of procurement available for contracts exceeding European Union Spend Thresholds:-

- (a) Open Procedure Tendering
- (b) Restricted Procedure Tendering
- (c) Direct Call Off from a Framework
- (d) Mini competition within a Framework or a Dynamic purchasing System

Other procurement procedures include Competitive Procedure with Negotiation, Competitive Dialogue and Innovation Partnership. These other procedures are for use in complex contracts or limited circumstances where a solution is not readily available in the market.

2.1.2 Procurement of services which are classified as falling within Schedule 3 – 'Social and Other Specific Services' of the Public Contracts Regulations 2015, must be considered against a higher European Union spend threshold (for the whole value of the contract including any optional periods) of:

£615,278.00

Note: Spend threshold figure correct as at January 2018, but subject to ongoing change, ordinarily on a two year cycle.

Where this spend threshold is exceeded officers shall follow the applicable, and Schedule 3 specific, 'Light Touch Regime' with the assistance of Officers of the Corporate Procurement Unit

2.1.3 This process shall not remove or modify the responsibility of the relevant Head of Service to take such steps as may be reasonably necessary to safeguard the Council's interest.

2.1.4 In order to determine a suitable procurement approach to a specific market, officers may first choose to carry out non-committal soft market testing in order appreciate the level of interest, and numbers of providers that exist in a particular market. This must be conducted in a way that competition isn't distorted. If a Procurement process is then required, a level playing field between bidders MUST be maintained.

2.2 Open Procedure Tendering

2.2.1 This Rule shall apply where the Cabinet or Cabinet Member has agreed that procurement activity be commenced, and where the applicable European Union spend thresholds detailed in Contracts Procedure rule 2.0 are exceeded.

Commissioners and/or Procurement Officers shall follow an Open Procedure specifically where the market for the requirement is identified as limited in terms of supplier numbers, and so the number of submitted bids is likely to be low.

Within an Open procedure, the opportunity must be made available to the marketplace for a minimum of 30 calendar days

2.2.2 The Council shall give public Contract Notice of its intention to enter into such arrangements. Such Contract Notice shall be published electronically, within the Official Journal of the European Union (OJEU), via its electronic opportunities portal.

2.2.3 The Contract Notice shall state the nature and purpose of the proposed contract, it shall provide interested providers with an electronic Invitation to Tender (ITT) document setting out particulars of the contract into which the Council wish to enter, together with specification, standard and special terms and conditions, the award criteria and weightings, the closing date for tenders, the Council's requirements as to the procedures for submission of tenders, and invite providers to submit a completed ITT proposal within the specified period stated in the public notice.

2.2.4 The Head of Service's evaluation panel shall evaluate all submissions using the award criteria and weightings in the published tender documents and shall maintain a copy of the marked evaluation matrix

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2.3 Restricted Procedure Tendering

2.3.1 This Rule shall apply where the Cabinet or Cabinet Member has agreed that procurement activity be commenced, and where the applicable European Union spend thresholds detailed in Contracts Procedure Rule 2.0 are exceeded

Commissioners and/or Procurement Officers shall follow a Restricted Procedure specifically where there is likely to be a substantial number of providers in the marketplace and so a high number of responses would be expected, or the supplies, works or services are of a specialist nature.

The procedure is a two stage process. The first stage is a Selection stage and allows the Commissioner / Procurer to restrict the marketplace. Within a Restricted procedure the opportunity must be made available to the marketplace for a minimum of 30 calendar days.

A shortlist of providers is created at selection stage by using a standard Selection Questionnaire (SQ) to evaluate and score minimum requirements that contractors must meet. Importantly such requirements must be relevant and proportional to the contract in question. The minimum period of time that must be afforded to shortlisted bidders, within a restricted procedure, at Invitation to Tender (ITT) stage is 25 calendar days.

2.3.2 The Council shall give public Contract Notice of its intention to enter into such arrangements. Such notice shall be published electronically, in the Official Journal of the European Union (OJEU), via its electronic opportunities portal.

2.3.3 The Contract Notice shall state the nature and purpose of the proposed contract, it shall provide interested providers with an electronic Selection Questionnaire (SQ) document setting out particulars of the contract into which the Council wish to enter, together with the selection criteria and weightings, the closing date for submission of SQ's and the Council's requirements as to the procedures for submission of PQQ's, and invite providers to submit a completed SQ proposal within the specified period stated in the public notice.

2.3.4 In consultation with the Head of Commissioning Support & Business Intelligence or their representative, the relevant Head of Service's evaluation panel, consisting of a minimum of two officers, shall evaluate all submissions using the selection criteria and weightings in the published SQ document and shall maintain a copy of the marked evaluation matrix.

2.3.5 At the second stage of the procedure, the Award stage, Invitations to Tender (ITT) for the contract shall, where possible, be sent to not less than five of the highest scoring providers who expressed an interest in tendering and submitted a SQ within the specified time-scale, and that have met the minimum requirements.

2.3.6 The ITT documents must state the particulars of the contract into which the Council wish to enter, together with specification, standard and special terms and conditions, the award criteria and weightings, the closing date for tenders, the Council's requirements as to the procedures for submission of tenders, and invite providers to submit a completed ITT proposal within a specified period

NOTE : *All tender opportunities that exceed the applicable EU Spend Threshold shall, in addition to being managed on the Council's Electronic Opportunities Portal, also be advertised on the Government's 'Contracts Finder' Facility. Officers of the Procurement Unit will assist with this task.*

2.4 Direct call off from a Framework

2.4.1 This Rule shall apply where the Cabinet or Cabinet Member has agreed that procurement activity be commenced.

Where an officer identifies a pre-tendered compliant framework, whether that be owned by Sefton Council, or owned by an external organisation but available to the Council, then where such a framework allows, and in line with the requirements laid down above, a direct call off may be made and a purchase order placed with an organisation that represents best value against the requirement, negating the need for a procurement exercise.

2.5 Mini competition within a Framework / Dynamic Purchasing System (DPS)

2.5.1 This Rule shall apply where the Cabinet or Cabinet Member has agreed that procurement activity be commenced.

Where an officer identifies a pre-tendered compliant framework or DPS, whether that be owned by Sefton Council, or owned by an external organisation but available to the Council, and such a framework or DPS has a requirement to further compete for an award of business, a mini competition must be carried out. This will require the creation of an Invitation to Tender (ITT) document which is issued to all Framework or DPS providers. setting out particulars of the contract into which the Council wishes to enter, together with the award criteria and weightings, the closing date for tenders, the Council's requirements as to the procedures for submission of tenders, and invite providers to submit a completed ITT proposal within an appropriate period as defined by the client officer

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2.6 Invitations to Tender and Interim Custody of Tenders

2.6.1 All Invitations to Tender shall include the following:

- (i) The Council will only be issuing and receiving Invitations To Tender electronically. Tenders submitted by any other means shall not be considered.
- (ii) A requirement for tenderers to complete fully and sign or otherwise authorise the Form of Tender,
- (iii) All electronic responses will be held within a secure online sealed tender box that is only accessible by the appointed Verifier after the specified fixed time and date.
- (iv) All Invitations to Tender must specify the supplies, works or services that are required in sufficient detail to enable the submission of competitive offers, together with the terms and conditions of the contract that will apply.
- (v) A description of the Award Procedure and a definition of the Award Criteria in objective terms and in descending order of importance with weightings.
- (vi) Notification that Tenders are submitted to the Council on the basis that they are compiled at the tenderer's risk and expense
- (vii) Notification that amendments must not be made to the contract documents by the tenderer

2.6.2 A record of tenders received in pursuance of these Contracts Procedure Rules shall be recorded within the Council's electronic opportunities portal, maintained by the Head of Commissioning Support & Business Intelligence or an Officer designated for that purpose.

2.6.3 An electronic contract register will be maintained by the Head of Commissioning Support & Business Intelligence

2.7 Closing Date for Receipt of Tenders

2.7.1. Tenders received within the Council's electronic opportunities portal, after the predetermined close date and time, will not be considered.

2.8 Method of Opening Tenders

2.8.1 In respect of tender submissions received electronically, ONLY a Verifying officer as designated within the Council's electronic opportunities portal will have permission to open online sealed tender submissions.

2.9 Evaluation of Tenders

2.9.1 Evaluation and Award (for above EU spend threshold procurements)

(a) Tenders shall be evaluated and awarded on the basis of the value for money they offer to the Council in line with either :-

i) MEAT (*Most Economically Advantageous Tender*) Principles. Criteria must be relevant to the contract and apportioned between Cost and Quality in a ratio reflecting the risk and value of the contract

or

ii) Lowest Cost. The Council must publish a minimum specification of Supplies, Services or Works which bidders are required to meet

or

iii) Highest Quality . The Council must publish a fixed cost that it will pay to any successful bidder, and so bidders are evaluated on the highest quality that can be provided for that fixed cost

as determined and documented in advance of Tenders being invited.

(b)Tenders shall be evaluated and awarded in accordance with criteria and weightings set out in the Procurement Documentation and must not be changed at any time during the process.

Should the Cost element of a tender evaluation involve a Cost Model, Basket of Goods, or Basket of Works, then consideration must be given, ahead of commencing the procurement exercise, to publishing that detail within the procurement document. Where it is felt inappropriate to publish the detail then officers must consider lodging that detail with the Legal team for the duration of the bidding period and only access the detail once the bidding period has closed.

Where a Cost Model, Basket of Goods or Basket of Works is employed in the Cost Element of an Evaluation, the content **MUST NOT** be changed once bids are received.

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2.9.2 Evaluation Panel

- (a) Evaluation Panels must be established prior to the issue of the Invitation to Tender documents, to ensure that they are engaged with the process and understand the evaluation criteria and weightings.
- (b) Evaluation Panels must include representation from the client department/key Stakeholders, and must consist of a minimum of two operational officers in addition to any procurement officer.
- (c) Where an Interview / Presentation session has been planned into an evaluation, the evaluation panel members must be consistent with the panel members that have undertaken other elements of the evaluation.

Ahead of any Interview / Presentation session, evaluation panel members must ensure that they are familiar with the content of the tender submissions of the bidders invited to that session.

2.9.3 Evaluation Matrix

- (a) The Evaluation Matrix will consist of defined evaluation criteria and weightings. Marks and scores must be brought through from the ITT document to reflect what is material to the award of a particular contract.
- (b) criteria shall have a number of marks allocated to signify to tenderers the relative importance of each criterion.
- (c) Scores – All bids must be scored consistently against a scoring scheme which must be included in the Invitation to Tender. IMPORTANTLY evaluation panel members cannot employ any scoring scheme which differs from the scoring scheme published in the ITT document. For example panel members must not introduce half marks where these do not exist within the published scoring scheme, and for which there is no published narrative.
- (d) All scores and notes made by the evaluation panel must be recorded in writing and used for reference if further moderation is required.
- (e) Section 2.9.4 of these rules advises on the need for moderation, and this is essentially to manage out subjectivity in an evaluation process. Where an evaluation contains an Interview / Presentation stage then quality scores attributed upto that point must be moderated in order to ensure that any decision taken to invite a shortlist of bidders to Interview / Presentation is based on correct and accurate scoring.
- (f) Where an Interview / Presentation stage is employed within an evaluation then officers must seek to manage this stage incorporating the following advice:
 - i) Should a Presentation be required from a shortlist of invited bidders, then all shortlisted bidders must equally be informed, ahead of the Presentation, via the Council's electronic opportunities portal, of:

- the theme that the bidder must base their presentation on (and this must be relevant to the subject of the procurement).
- the time limit applied to the Presentation
- ii) Where Interview questions are to be asked then all shortlisted bidders must equally be informed, ahead of the Interview session, via the Council's electronic opportunities portal:
 - the number of questions that will be asked
 - the marks that will be allocated to each question

However bidders invited to an Interview session must **NOT** be informed, ahead of the session, of the content of the questions to be asked as this will simply result in pre-refined question responses which will make it difficult to distinguish the bidders.
- iii) Comprehensive notes of all Interview / Presentation Sessions must be recorded and fed into the evaluation matrix as these will be required to support the scoring allocated, and enable feedback to be given to unsuccessful bidders.

2.9.4 Moderation

- (a) The Evaluation Panel will discuss their individual scores and must reach agreement on a moderated panel score and justifying comments.
- (b) Any moderated scores and applicable justifying comments must be recorded in the Evaluation Matrix accompanying the procurement.
- (c) All notes may be the subject of information requests or legal challenge against award of a contract. It is crucial that accurate notes justifying awarded scores are maintained throughout and relate solely to the relevant award criteria.

2.9.5 Post Tender Clarification

- (a) Post Tender Clarification is to be requested and returned via the Council's electronic opportunities portal. Importantly, post tender clarification may only be sought in relation to an element of the bidder's submission that has been provided, and which needs further understanding.

Post Tender Clarification however cannot be used to seek from the bidder some element of the submission which has been omitted, and as such seeking provision of such omission would provide the bidder with an unfair advantage.

- (b) Evaluation scores can only be amended where specific clarification has been requested relating to the award criteria.
- (c) All clarification questions and returns must be noted and any amended scores which result from clarification are to be updated in the Evaluation Matrix.

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2.9.6 Best and Final Offer (BAFO)

Officers are informed that in respect of procurements exceeding the applicable EU Spend Threshold, there is NO provision within the Public Contracts Regulations for a BAFO stage to be employed in any procurement procedure other than the much specialised Competitive Dialogue Procedure.

2.10 Method of Acceptance of Tender

2.10.1 Tenders may be accepted by the relevant Officer to who delegated authority to approve a contract award was sought in a related pre-procurement report provided that all of the following apply:-

- (i) In the case of an Open procedure, bids have been sought from the marketplace as a whole. Or, in the case of a restricted procedure, where possible, five or more tenders have been invited following a selection stage, in accordance with contracts procedure rules

- (ii) the tender proposed to be accepted is either:
 - the highest score if Cost and Quality in line with MEAT principles have been stated as the basis for award, or

 - the Lowest Cost if Cost has been stated as the basis for award where a published minimum specification is met

 - The Highest Quality if Quality has been stated as the basis for award where the bid meets the fixed cost that the Council has set.

2.10.2 There may be instances where due to the dynamics of a marketplace, or the specifics of the Council's requirements, only 1 tender bid is received. The Council is able to consider a single bid however Officers will naturally be concerned as to maintaining a competitive position for the Council where there is an apparent lack of competition within a marketplace. In support of this there is provision within the 2015 Public Contracts Regulations that allow an EU Procurement to be switched to a Negotiated Procedure in certain circumstances. Regulation 32 (the link to which is detailed below) sets out the circumstances under which this process variation can be employed, but importantly the regulation includes the ability to switch to a Negotiation where '*Competition is absent for technical reasons*'

The Public Contracts Regulations 2015 - Regulation 32

Where an Officer proposes to utilise the provisions under Regulation 32, and vary the procurement process, then a report will need to be taken to the level to which Pre Procurement Approval was originally secured, in order to gain further approval to the process variation.

Any subsequent Negotiation which takes place must be carried out in writing via the Council's electronic opportunities portal.

2.10.3 Where an officer proposes to reject a tender despite meeting the stated criteria officers must seek Head of Service Approval following advice from CPU

2.11 Errors in Tenders

2.11.1 If before the date of entry into a contract it is discovered that an error has been made in the tender it shall be dealt with as follows:-

(a) Building Contracts – in accordance with the National Building Specification (NBS) Guide, Alternative 1 or Alternative 2.

(b) Other Contracts – the Tenderer must be given the opportunity of confirming the offer or of amending it to correct genuine and obvious arithmetical errors.

Clarification surrounding such errors shall be sought in writing via the Messaging facility within the Council's Electronic Opportunities Portal

Should a bidder, in amending an arithmetical error, reflect a change in the bid that directly relates to the determined award criteria, then the bid must be re-scored as necessary. If a bidder opts to formally withdraw a bid altogether then it shall receive no further consideration

The above action by the relevant Head of Service in consultation with the Head of Commissioning Support & Business Intelligence shall take place before the date of entry into a contract.

2.12 Indemnity and Health & Safety

2.12.1 Every contract shall contain clauses

(i) requiring the contractor to observe and perform in relation to the work to be carried out under the contract the requirements of the Health & Safety at Work etc. Act 1974 or of any Regulations or Codes of Practice made under the authority of that Act and to comply with any lawful requirements of the Health and Safety Executive in relation to such work; and there shall be reserved to any duly authorised Officer of the Council the right of access to the site for the purpose of ensuring compliance with the requirements of this Clause

(ii) that have regard to Sustainability and to the requirements of the Equality Act 2010.

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2.12.2 In every contract the contractor shall be required to indemnify the Council against:

(i) any claim which may be made in respect of Employers' Liability against the Council or the contractor by any workmen employed by the contractor or any sub-contractor in the execution of the works or the provision of supplies and services;

(ii) any claim for Public Liability, i.e. for bodily injury, or damage to, property of third parties;

(iii) any claim which may be made under the Health and Safety at Work etc. Act, 1974 (HASWA) against the Council or the contractor/sub-contractor unless such claim is substantially due to the neglect of the Council or any of its Officers; and the contractor shall when required by the Head of Service and Head of Regulation and Compliance produce satisfactory evidence that it is insured against any such claims.

Levels of indemnity cover, must be considered for topics such as Employers Liability, Public Liability, and Professional Indemnity as appropriate to the topic in question

The responsibility rests with the client officer, to assess the risk surrounding the prospective procurement and settle upon levels of indemnity appropriate and proportional to the requirement. Where required, guidance in respect of Indemnity and assessing risk must be sought from relevant officers of the Council (i.e. Insurance, Health & Safety, Legal).

Where the appropriate levels of indemnity are determined through risk assessment supported by appropriate guidance from specialist officers, bidders through a procurement process must confirm that such indemnity will be in place must a contract be awarded.

2.13 Funding Availability

Officers are advised that Contract conditions must state:

“The price agreed for the contract is subject to the ongoing availability of sufficient funding. In the event that during the contract period the Council does not have sufficient funds to cover the price of the contract the Contractor will develop and agree a contract variation with the Commissioner / Procurer such that the contract price remains within the funding available.

In the event that agreement cannot be reached the dispute resolution procedure set out within the contract will be followed.”

2.14 Transfer of Undertakings (Protection of Employment) TUPE Regulations 2006

2.14.1 The Regulations apply to a business transfer but more regularly within the Authority it applies to service provision changes. This means that Officers commissioning / procuring Services must be aware of the impact of the TUPE Regulations. The Regulations impose a number of obligations on relevant parties and a failure to address the demands of TUPE could result in significant penalties, decisions and awards being made against the Authority which we clearly want to avoid. An outsourcing will likely carry TUPE implications and even if TUPE is deemed not to apply the potential implications must be considered as early as possible.

Another purpose of the Regulations is to ensure that in a situation where contractual delivery of a service is moving from one provider to another, i.e. by way of a procurement exercise, then affected workers' employment rights and entitlements are protected. This can include pension rights. In such circumstances the Authority may be deemed to be the client however the Council must be aware of the potential implications and requirements of the legislation and acknowledge these appropriately within Tender/outsourcing documentation and contracts.

The Council's Procurement and Legal teams and HR must be consulted in order to fully understand any potential impact on a procurement in order to protect the Council's position and address TUPE in writing, where appropriate.

Additionally clauses within any contract where TUPE is likely to apply must be included relating to ensuring that the Council can request staffing information at any point throughout the duration of the contract.

2.14.2 Pensions issues when transferring out staff

This is a high-level summary of the pensions issues that Sefton MBC must consider when looking to outsource a function where that outsource may potentially involve a TUPE transfer of staff and where those staff are / or may be members of the Local Government Pension Scheme ("LGPS").

There is an obligation placed upon employers to ensure that current LGPS members retain the right to continue to pay into the LGPS, and eligible members retain the right to join.

This is very likely to be an issue where a service of function is outsourced for the first time from Sefton MBC to a new service provider (a first generation transfer). However, it can and does regularly arise where there is a subsequent transfer from one service provider to another (a second, third or subsequent generation transfer).

For the avoidance of doubt this issue will only arise where both of the following elements are present:

1. employees are in line to transfer from Sefton MBC or from an existing

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service provider to a new service provider; and

2. some or all of those employees are either current LGPS members or are eligible to join LGPS.

If the above elements are present, advice should be taken from Sefton HR and / or Sefton Legal Services in relation to these issues before the procurement process commences.

This is because these issues will need to be dealt with in either the Advance Request For Quotation or the Invitation To Tender.

There are various obligations and implications that must be considered and these can be addressed in part in the contractual documentation.

New contractors will need to consider, amongst other things, the following:

- They are likely to be required to enter into an admission agreement whereby the new contractor becomes an admitted body (a type of Scheme Employer). The other parties to this agreement must be the Administering Authority (Merseyside Pension Fund) and the Scheme Employer (Sefton MBC).
- They will need to know what obligations and responsibilities are placed upon them when they become an admitted body. They must know this before they submit a proposal as this can have significant costs and implications for them. For example:
- they will need to know the level of employer pension contributions they will be required to pay, and this will depend on the demographic of the transferring members and the number, but certainly anything in the region of 23% plus of payroll can be expected;
- there may be the requirement for a bond to be put in place to cover certain associated risks to the LGPS; and
- there is likely to be a requirement to obtain an actuarial valuation in relation to the affected employees and they will need to budget for this and build this into their timeframes.

It is unwise to assume that the potential new contractors understand the risks and it is worthwhile verifying that this is the case. It is not likely to be in Sefton's MBC's best interests or those of either the new contractor or the affected employees to rely on the ignorance of a potential contractor. It is important that both parties have understood the risks involved so that no unexpected issues arise during, or at the end of, the contract term.

PART 3: CONTRACTS UP TO BUT NOT EXCEEDING THE EUROPEAN UNION SPEND THRESHOLDS

3.1 Competition Requirements

3.1.1 European Union spend thresholds (for the whole value of the contract including any optional periods) are as follows:-

a) Supplies / Services -	£181,302.00
b) Works -	£4,551,413.00
c) Social and Other Specific Services -	£615,278.00

Note: Spend threshold figures correct as at January 2018, but subject to ongoing change, ordinarily on a two year cycle.

'Works' means any of the activities specified in schedule 2 of the Public Contracts Regulations 2015 'Social and Other Specific Services' are as defined in Schedule 3 of the Public Contracts Regulations 2015

The contents of schedules 2 and 3 of the Regulations can be viewed here:-

2015 Public Contracts Regulations

In order to determine a suitable procurement approach to a specific market, officers may first choose to carry out non-committal soft market testing in order appreciate the level of interest, and numbers of providers that exist in a particular market. This must be conducted in a way that competition isn't distorted. If a Procurement process is then required, a level playing field between bidders **MUST** be maintained.

Where the estimated cost of any supplies, works or services to be ordered on behalf of the Council is less than the applicable European Union Spend Threshold shown above then proposals shall be invited as outlined below:

(a) Less than £20000: proof of two written quotations is necessary in order to satisfy that best value is achieved. This responsibility rests with the Client Officer, **NOT** Officers of the Procurement Unit

(b) Between £20000 and the applicable EU Spend Threshold: a procurement risk assessment must be submitted to the Procurement team, which will determine the route to market, subject to a minimum of three electronic invitations via the Council's electronic opportunities portal

(c) In the case of procurement relating to "commercial activities", as defined within the Council's Financial Procedure Rules, for all contract values up to but not exceeding the European Union spend thresholds, appropriate procurement processes shall be undertaken, with guidance and oversight from the Council's Investment Board..

NOTES :

To comply with national transparency requirements, all contracts above £5000 will need to be recorded on the Council's Contract Register. Where the Client Officer / Procurement Officer opts to publish a Request For Quotation opportunity openly, and

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where that opportunity is valued at £25,000 or more, then in addition to being managed on the Council's Electronic Opportunities Portal, this must also be advertised on the Government's 'Contracts Finder' Facility. Officers of the Procurement Unit will assist with this task.

Officers are reminded that the use of a Selection Questionnaire in order to narrow a marketplace in a below EU spend threshold exercise is **forbidden** under the 2015 Public Contracts Regulations

3.2 Evaluation of Quotations

3.2.1 Evaluation and Award (for below EU spend threshold procurements)

(a) Quotations shall be evaluated and awarded on the basis of the value for money they offer to the Council in line with one of the following options:

Cost and Quality - in a ratio reflecting the risk and value of the contract

Lowest Cost. - where a detailed requirement specification is met as determined and documented in advance of Quotations being invited.

Highest Quality – where the budget that the Council is willing to commit is published to bidders and bidders are assessed on the quality that they can offer for that budget

(b) Quotations shall be evaluated and awarded in accordance with the criteria and weightings set out in the Procurement Documentation and must not be changed at any time during the process.

Should the Cost element of a quotation evaluation involve a Cost Model, Basket of Goods, or Basket of Works, then consideration must be given, ahead of commencing the procurement exercise, to publishing that detail within the procurement document. Where it is felt inappropriate to publish the detail then officers must consider lodging that detail with the Legal team for the duration of the bidding period and only access the detail once the bidding period has closed.

Where a Cost Model, Basket of Goods or Basket of Works is employed in the Cost Element of an Evaluation, the content **MUST NOT** be changed once bids are received.

3.2.2 Evaluation Panel

(a) Evaluation Panels must be established prior to the issue of the Quotation documents, to ensure that they are engaged with the process and understand the evaluation criteria and weightings.

(b) Evaluation Panels for procurements based on a mix of Cost and Quality must include representation from the client department/key Stakeholders, and must consist of a minimum of two operational officers. Where the basis of evaluation is Cost only then the Procurement Officer can be one of the evaluators.

(c) Where an Interview / Presentation session has been planned into an evaluation, the evaluation panel members must be consistent with the panel members that have undertaken other elements of the evaluation. Ahead of any Interview / Presentation session, evaluation panel members must ensure that they are familiar with the content of the Quotations of the bidders invited to that session.

3.2.3 Evaluation Matrix

(a) The Evaluation Matrix will consist of defined evaluation criteria and weightings. Marks and scores must be brought through from the Quotation document to reflect what is material to the award of a particular contract.

(b) criteria shall have a number of marks allocated to signify to bidders the relative importance of each criterion.

(c) Scores – All bids must be scored consistently against a scoring model which must be included in the Quotation document.

(d) All scores and notes made by the evaluation panel must be recorded in writing and used for reference if further moderation is required. Individual Panel Member's scores and associated notes along with moderated evaluation panel scores and final justifying notes must be uploaded to the Council's electronic opportunities portal.

(e) Section 3.2.4 of these rules advises on the need for moderation, and this is essentially to manage out subjectivity in an evaluation process. Where an evaluation contains an Interview / Presentation stage then quality scores attributed up to that point must be moderated in order to ensure that any decision taken to invite a shortlist of bidders to Interview / Presentation is based on correct and accurate scoring.

(f) Where an Interview / Presentation stage is employed within an evaluation then officers must seek to manage this stage incorporating the following advice:

- i) Should a Presentation be required from a shortlist of invited bidders, then all shortlisted bidders must equally be informed, ahead of the Presentation, via the Council's electronic opportunities portal, of:
 - the theme that the bidder must base their presentation on (and this must be relevant to the subject of the procurement).
 - the time limit applied to the Presentation
- ii) Where Interview questions are to be asked then all shortlisted bidders must equally be informed, ahead of the Interview session, via the Council's electronic opportunities portal:
 - the number of questions that will be asked
 - the marks that will be allocated to each question

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However bidders Invited to an Interview session must NOT be informed, ahead of the session, of the content of the questions to be asked as this will simply result in pre-refined question responses which will make it difficult to distinguish the bidders.

- iii) Comprehensive notes of all Interview / Presentation Sessions must be recorded and fed into the evaluation matrix as these will be required to support the scoring allocated, and enable feedback to be given to unsuccessful bidders.

3.2.4 Moderation

- (a) The Evaluation Panel will discuss their individual scores and must reach agreement on a moderated panel score and justifying comments.
- (b) Any moderated scores and applicable justifying comments must be recorded in the Evaluation Matrix accompanying the procurement.
- (c) All notes may be the subject of information requests or legal challenge against award of a contract. It is crucial that accurate notes justifying awarded scores are maintained throughout and relate solely to the relevant award criteria.

3.2.5 Post Quotation Clarification

- (a) Post Quotation Clarification is to be requested and returned via the Council's electronic opportunities portal. Importantly, post quotation clarification may only be sought in relation to an element of the bidder's submission that has been provided, and which needs further understanding.

Post Quotation Clarification however cannot be used to seek from the bidder some element of the submission which has been omitted, and as such seeking provision of such omission would provide the bidder with an unfair advantage.

- (b) Evaluation scores can only be amended where specific clarification has been requested relating to the award criteria.
- (c) All clarification questions and returns must be noted and any amended scores which result from clarification are to be updated in the Evaluation Matrix.

3.2.6 Best and Final Offer (BAFO)

For below-EU Spend Threshold procurements only, these Contracts Procedure Rules facilitate officers employing a BAFO stage within a procurement exercise.

The purpose of the BAFO stage, is to enable the Commissioning / Procuring Officer to afford an opportunity to all bidders in a procurement exercise, that have not failed any pass/fail element of the evaluation, a final opportunity to improve their overall

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offer to the Council. This should enable the Council to seek best value.

The BAFO stage must be conducted through the Council's electronic opportunities portal, it must be provided to all 'compliant' bidders equally (i.e. those bidders that have passed all pass/fail elements of the evaluation), and must set a deadline for submission of BAFO's, to be returned via the Council's electronic opportunities portal.

Upon receipt of any number of BAFO's within a below-EU procurement exercise the Commissioning / Procuring officer will examine the contents of each BAFO.

A BAFO can be an improvement of any element of the bidder's 'offer' i.e. it may contain, for example;

- i) A lower Cost
- ii) An improvement in the quality offering
- iii) A value added element (such as an extended warranty on supplies)

Or any combination of these.

Where a BAFO is submitted Commissioning / Procuring officers must ensure that any improvements in a bidder's offer are reflected in the applicable evaluation matrix, rescoring bidder's submissions only where appropriate.

The following illustration summarises Procurement Process that these Contracts Procedure Rules detail

What level of Procurement Activity is required in respect of Contract Value?

(Officers must ensure that you read and understand The Contract Procedure Rules and do not simply refer to this illustration alone)

£1 to £20000	£20001 to EU Spend Threshold	Above EU Spend Threshold
<p>Proof of 2 Written Quotations</p> <p>Client Officer Responsibility</p>	<p>Electronic Opportunities Portal</p> <p>Minimum of 3 electronic invitations</p> <p>Best and Final Offer (BAFO)</p> <p>Procurement Team</p> <p>Risk Based Request for Quotation</p>	<p>Electronic Opportunities Portal</p> <p>In line with Public Contract Regulations</p> <p>Procurement Team</p> <p>Formal Tender Exercise</p>