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Contact Officer:

John Armstrong,  
Democratic Services and Elections Manager  
Tel: 01483 444102

14 April 2021

Dear Councillor

Your attendance is requested at a meeting of the **CORPORATE GOVERNANCE AND STANDARDS COMMITTEE** to be held via Microsoft Teams on **THURSDAY 22 APRIL 2021 at 7.00 pm.**

Yours faithfully

James Whiteman  
Managing Director

**MEMBERS OF THE COMMITTEE**

Chairman: Councillor Nigel Manning

Vice-Chairman: Councillor Deborah Seabrook

Councillor Liz Hogger	+Maria Angel MBE
Councillor Ramsey Nagaty	+Murray Litvak
Councillor George Potter	^Julia Osborn
Councillor John Redpath	^Ian Symes
Councillor James Walsh	^Tim Wolfenden

\*Independent member

^ Parish member

**Authorised Substitute Members:**

Councillor Jon Askew	Councillor Masuk Miah
Councillor Ruth Brothwell	Councillor Marsha Moseley
Councillor Colin Cross	Councillor Susan Parker
Councillor Andrew Gomm	Councillor Jo Randall
Councillor Angela Gunning	Councillor Tony Rooth
Councillor Tom Hunt	Councillor Catherine Young

**WEBCASTING NOTICE**

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**QUORUM 3**



## THE COUNCIL'S STRATEGIC FRAMEWORK

### Vision – for the borough

For Guildford to be a town and rural borough that is the most desirable place to live, work and visit in South East England. A centre for education, healthcare, innovative cutting-edge businesses, high quality retail and wellbeing. A county town set in a vibrant rural environment, which balances the needs of urban and rural communities alike. Known for our outstanding urban planning and design, and with infrastructure that will properly cope with our needs.

### Three fundamental themes and nine strategic priorities that support our vision:

- |                     |  |
|---------------------|--|
| <b>Place-making</b> | Delivering the Guildford Borough Local Plan and providing the range of housing that people need, particularly affordable homes |
|                     | Making travel in Guildford and across the borough easier   |
|                     | Regenerating and improving Guildford town centre and other urban areas   |
| <b>Community</b>    | Supporting older, more vulnerable and less advantaged people in our community  |
|                     | Protecting our environment   |
|                     | Enhancing sporting, cultural, community, and recreational facilities   |
| <b>Innovation</b>   | Encouraging sustainable and proportionate economic growth to help provide the prosperity and employment that people need       |
|                     | Creating smart places infrastructure across Guildford  |
|                     | Using innovation, technology and new ways of working to improve value for money and efficiency in Council services             |

### Values for our residents

- We will strive to be the best Council.
- We will deliver quality and value for money services.
- We will help the vulnerable members of our community.
- We will be open and accountable.
- We will deliver improvements and enable change across the borough.

## AGENDA

### ITEM

**1 APOLOGIES FOR ABSENCE AND NOTIFICATION OF SUBSTITUTE MEMBERS**

**2 LOCAL CODE OF CONDUCT - DISCLOSURE OF INTERESTS**

In accordance with the local Code of Conduct, a councillor is required to disclose at the meeting any disclosable pecuniary interest (DPI) that they may have in respect of any matter for consideration on this agenda. Any councillor with a DPI must not participate in any discussion or vote regarding that matter and they must also withdraw from the meeting immediately before consideration of the matter.

If that DPI has not been registered, you must notify the Monitoring Officer of the details of the DPI within 28 days of the date of the meeting.

Councillors are further invited to disclose any non-pecuniary interest which may be relevant to any matter on this agenda, in the interests of transparency, and to confirm that it will not affect their objectivity in relation to that matter.

**3 MINUTES**

To confirm the minutes of the meeting of the Corporate Governance and Standards Committee held on 25 March 2021 (to follow).

**4 PLANNING APPEALS (Pages 5 - 18)**

**5 FREEDOM OF INFORMATION COMPLIANCE - ANNUAL REPORT 2020**  
(Pages 19 - 26)

**6 DATA PROTECTION AND INFORMATION SECURITY UPDATE (Pages 27 - 30)**

**7 REVIEW OF PROCUREMENT PROCEDURE RULES (Pages 31 - 84)**

**8 WORK PROGRAMME (Pages 85 - 94)**

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Corporate Governance Standards Committee Report

Ward(s) affected: All Wards

Report of Director of Service Delivery

Author: Tim Dawes (Planning Development Manager)

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Date 22 April 2021

## Planning appeals monitoring follow up report

### Executive Summary

A report entitled 'Appeals Monitoring Report' was reported to the Corporate Governance and Standards Committee on 19 November 2020. The contents and conclusions were noted. At that meeting it became evident the Chairman had expected the comparison and data to have included 2018. It was also felt the focus should be mainly on member overturns at Planning Committee, and to get a better feeling and understanding of time and monies involved in defending subsequent appeals. It was also felt by members of the Committee that the data should be looked at twice yearly, going forward, to see if any patterns are emerging in respect of member overturns, costs of overturn appeals and costs awards. In addition, the updated report seeks to identify targeted training for members of the Planning Committee and its substitutes. This report is six months after the first report to the Committee and seeks to fill the gaps from the first report.

### Recommendation to Committee

That the Committee notes the contents of the revised report and data.

### Reason for Recommendation:

To enable the Committee to monitor the Council's performance on planning appeals

**Is the report (or part of it) exempt from publication? No**

### 1 Purpose of Report

- 1.1 The purpose of this report is to include 'overturn' appeals data and 'costs' data for 2018, compared with 2019, 2020 and the start of 2021 to date (4/3/2021).

- 1.2 This is the second report on appeals monitoring data following the first report that was considered by the Committee at its meeting of 19 November 2020. This report expands the search criterion further to include 2018 and also looks at any overturns and appeals between 19 November 2020 and the end of February 2021.

## 2 Strategic Priorities

- 2.1 All the strategic priorities have some relevance to this topic, however the most relevant relates to value for residents in decision making as matters that subsequently end up at appeal can attract costs either for or against the Council. This can be countered by the fact that we sometimes utilise the services of a 'costs draftsman', should the costs be substantial, and agreement is unlikely to be reached. This initiative often provides better value for money and a better outcome for the Council. Further there is always a cost identified with defending a refusal of planning permission that ends up at appeal. This will involve officer time, sometimes external consultant cost and instructing a barrister to support the case.

## 3 Background

- 3.1 To provide a comparison it is considered best to look in detail at four calendar years, 2018, 2019, 2020 and up to the end of March 2021.

Year	Number of Committee Meetings	Number of applications processed	Number of councillor overturns	Number of those overturns that ended at appeal	Overturns allowed	Overturns dismissed
2018	13	72	11	8	6	2
2019	13	73	15	11	7	3 (1 unknown)
2020	13	55	10	7	1 (so far)	2 (so far)
2021 (March)	3	14	4	Too early	Too early	Too early

- 3.2 The following tables draw out the member overturns for each year from 2018 to date and looks at those decisions in more detail.

### 2018 Overturns table

Application number	Site address and brief description of development	Officer recommendation	Committee decision	Appeal decision	Costs sought	Costs awarded Yes/No
17/P/00987	Saddlers Arms, Ripley (one dwelling)	Approve	Refuse	No appeal		
17/P/2237	257 Guildford Rd (change of use from shop to flat)	Approve	Refuse	No appeal		

Application number	Site address and brief description of development	Officer recommendation	Committee decision	Appeal decision	Costs sought	Costs awarded Yes/No
17/P/2306	12C Worplesdon Road (change of use to hot food take way)	Approve	Refuse	Appeal allowed	No	
17/P/2371	Longer End Cottage (House holder extension)	Refuse	Approved	No appeal		
17/P/2193	Unit 4 75-78 Woodbridge Rd (change of use to restaurant and take away)	Approve	Refuse	Appeal allowed	Yes	No
17/P/2194	Unit 4 75-78 Woodbridge Rd (change of use to restaurant and take away)	Approve	Refuse	Appeal allowed	Yes	No
18/P/00154	Breton House (three dwellings)	Approve	Refuse	Appeal dismissed		
18/P/00752	117 Stoke Road, Guildford (house in multiple occupation for 10 persons)	Approve	Refuse	Appeal dismissed	No	
18/P00975	14 Tunsgate (sign)	Approve	Refused	Appeal allowed	No	
18/P/1595	Land East of St Johns Close (fencing)	Approve	Refused	Appeal allowed	Yes	No
18/P/01733	179 Send Road, Send (House holder extension)	Approve	Refuse	Appeal allowed	Yes	No

### Costs 2018

- 3.3 Its important to note that due to time lags there is little correlation between costs outcomes in any given year when compared to appeal data for a given year. These were the costs awarded both for and against the Council in 2018. It is important to stress that these cost decisions are both delegated and committee;

with most not relating to member overturns. It was considered appropriate to provide the overall picture for costs and not just related to member overturns. It is also worth remembering you can claim costs if someone involved in your planning appeal behaves unreasonably and costs you money. This includes if they:

- Fail to cooperate with you or others;
- Missed deadlines;
- Fail to turn up to a site visit, Hearing or Inquiry
- Gave information that was wrong or declared after the deadline

Against the Council

- One Finglebridge Cottage, Woking Road, Jacobs Well (Officer delegated decision) – Erection of an outbuilding – written reps - partial award of costs. Settled and agreed £1800
- Send Hill Farm, Send (Officer delegated decision) – challenging conditions imposed on outline permission – written reps - partial award of costs, settled and agreed at £2950
- Manor Farm, Tongham (Planning Committee decision) – outline application for 254 units – Public Inquiry - partial award of costs settled and agreed at £160,000. The claimants originally sought close to £300,000. We utilised a costs draftsman to assist the Council.
- Cut Mill House, Suffield Lane, Puttenham (Officer delegated decision) – Extension – written reps - full award of costs, settled and agreed at £2500

For the Council

- Woodruffe, Wyke Lane, Ash (Officer delegated decision) – 6 two beds – withdrawn – written reps - partial award of costs – appellant deceased; costs not pursued.
- Mountain Wood Farm, Green Dene, West Horsley (Officer delegated decision)– change of use from storage to mixed use building – withdrawn – written reps - partial award of costs. Not yet known.

2019 Overturns table

<b>Application number</b>	<b>Site address and brief description of development</b>	<b>Officer recommendation</b>	<b>Committee decision</b>	<b>Appeal decision</b>	<b>Costs sought</b>	<b>Costs awarded Yes/No</b>
18/P/1595	Land East of St Johns Close (fencing)	Approve	Refused	Appeal allowed	Yes	No
18/P/01982	Yaldens Cottage, Tongham (1 wall mounted sign)	Approve	Refused	No appeal		



<b>Application number</b>	<b>Site address and brief description of development</b>	<b>Officer recommendation</b>	<b>Committee decision</b>	<b>Appeal decision</b>	<b>Costs sought</b>	<b>Costs awarded Yes/No</b>
18/P/1642	Land at Tilthams Garage (12 houses)	Approve	Refused	No appeal		
18/P/2387	Boxgrove, 144 London Rd (6 flats)	Approve	Refused	Appeal allowed	No	
19/P/00178	Burchatts Farm (change of use to D1 use)	Approve	Refused	Appeal allowed	Yes	No
19/P/00179	Burchatts Farm (change of use to D1 use)	Approve	Refused	Appeal allowed	Yes	No
18/P/2011	Land North of Harewood Rd (5 dwellings)	Approve	Refused	Appeal dismissed	Yes	No
18/P/01950	Land East of White Lane (59 dwellings)	Approve	Refused	Appeal allowed	No	
19/P/00362	Holy Trinity Church (windows)	Refuse	Approved	No appeal		
18/P/02240	Land rear of Christmas Hill, Shalford (3 dwellings)	Approve	Refused	Appeal dismissed	No	
19/P/00566	Sherwood, East Horsley (2 dwellings)	Approve	Refused	Appeal dismissed	No	
19/P/1039	14A Tangier Road, Guildford (householder extension)	Approve	Refused	Appeal allowed	No	
19/P/01234	Land South of Champney (5 dwellings)	Approve	Refused	Appeal allowed	No	
19/P/1429	Whistlers Farm, Guildford (House holder extension)	Refuse	Approved	No appeal		

Application number	Site address and brief description of development	Officer recommendation	Committee decision	Appeal decision	Costs sought	Costs awarded Yes/No
19/P/1796	17 Romans Close, Guildford (change of use of land to garden)	Approve	Refused	Appeal lodged; no decision		

### Costs 2019

3.4 Turning to costs once more, these are the ones recorded in 2019. Once again these are costs settled and agreed in the calendar year and are a mixture of delegated and committee decisions.

### Against the Council

- Plot 23 RSCH Hearing (Officer delegated decision) - Full award of costs against the Council; settled and agreed at £54,000. The claimants originally sought close to £100,000. We utilised a costs draftsman to assist the Council.
- The Bungalow, Send Hill (Officer delegated decision) - Partial award against the Council – Not agreed. Potentially headed for detailed assessment due to lack of agreement on quantum to be paid.

### For the Council

- Land at Ash Manor (Officer delegated decision)– Late withdrawal of Public Inquiry – Partial award of costs - settled at £17, 636
- Lynwood Nurseries, Westwood Lane, Normandy (Officer delegated decision) – Full award of costs, not yet settled or monies received. The legal services team registered the debt with the Council’s debtors’ team in December, the final amount being £4555.50 (legal services advise that in their view it is unlikely the debtor will pay due to recalcitrance)
- 257 Guildford Road (Officer delegated decision) – Full award of costs – settled at £600

### 2020 overturns table

Application number	Site address and brief description of development	Officer recommendation	Committee decision	Appeal decision	Costs sought	Costs awarded Yes/No
19/P/00721	Land off Send Hill, Send (8 dwellings)	Approve	Refuse	Appeal allowed	No	

<b>Application number</b>	<b>Site address and brief description of development</b>	<b>Officer recommendation</b>	<b>Committee decision</b>	<b>Appeal decision</b>	<b>Costs sought</b>	<b>Costs awarded Yes/No</b>
19/P/01980	Land of Westwood Lane, Normandy (Barn and shade tunnel)	Approve	Refuse	Appeal dismissed	No	
20/P/0446	Meadow Cottage, Horsley (Householder extension)	Refuse	Approve	No appeal		
19/P/2102	Manor Farm, Tongham (254 units)	Approve	Refuse	Hearing 10 May 21	Appellants likely to seek costs	
19/P/1003	Land at Heath Drive, Send (29 units)	Approve	Refused if they could have	Appeal against non-determination	Too early	
20/P/01011	Land at Heath Drive, Send (29 units)	Approve	Refused	No appeal lodged yet	Too early	
20/P/00511	1 Ash Lodge Close, Ash (1 dwelling)	Approve	Refused	Appeal lodged	Too early	
20/P/0534	Weekwood Copse (relax conditions for dog walking activity)	Approve	Refused	No appeal		
20/P/01166	The Lodge, Barn End, West Horsley (Householder extension)	Approve	Refused	Appeal dismissed	No	
20/P/01216	Land off Field Way, Send (9 dwellings)	Approve	Refused	Appeal lodged	Too early	

### Costs 2020

3.5 These are the costs awarded against and for the Council in 2020.

Against the Council

- Kings Yard, Burrows Lane, Shere (Planning Committee decision) - Full award of costs against the Council. Appellants are seeking £3,744. The matter has yet to be settled.
- 31 Millmead Terrace, Guildford (Officer delegated decision)- Full award of costs against the Council. The costs decision notice was only received on 30 September 2020 and therefore the matter will not be agreed and settled for several months yet.
- Unit 5 Guildford Business Park. (Planning Committee decision) Partial award of costs against the Council. The matter has yet to be settled

For the Council

Kailyaird House, Vicarage Lane, Send (Planning Committee decision) - Full award of costs in favour of the Council. Decision received first week of October. The amount may take several months to settle and agree

2021 overturns table

<b>Application number</b>	<b>Site address and brief description of development</b>	<b>Officer recommendation</b>	<b>Committee decision</b>	<b>Appeal decision</b>	<b>Costs sought</b>	<b>Costs awarded Yes/No</b>
20/P/968	Hayloft, Waterlane Farm, Albury(change of use to classic car restoration)	Approve	Refuse	No appeal lodged yet	Too early	
19/P/1726	Church Street Effingham (17 dwellings)	Approve	Refuse	No appeal lodged yet	Too early	
20/P/1755	Merrow Centre, 41 Down Road (reduced parking)	Approve	Refuse	No appeal lodged yet	Too early	
20/P/2126	21 Oxenden Road, Tongham (House holder outbuilding)	Approve	Refuse	No appeal lodged yet	Too early	

3.6 There are no cost awards to report at the start of 2021.

Observations on appeal costs since 2018 and to date.

- 3.7 Nearly all appeals remain written representation appeals with most appeal costs met by the individual parties. However as can be seen above, some appeals do draw costs claims both from the appellants and from the Council. Many costs claims are rejected by the Planning Inspectorate and in reality, only a very few are awarded either partially or in full. It needs to be kept in mind that often there is a significant lag between a partial or full award of costs and the eventual agreed settlement. This often takes months, sometimes years. When larger sums are involved, the Council will seek assistance from a costs draftsman to seek an overall reduction in the claim. This has been used to good effect in recent years and particularly in the case of Manor Farm, Tongham and the plot 23 hospital car park appeal hearing.
- 3.8 It should be noted there are also some hidden costs associated with statutory duties involved in appeal. Statutory advertising 'costs' run into several hundreds of pounds per appeal if they are a Hearing or Public Inquiry.

Observations on appeals data since the November 2020 Corporate Governance and Standards Committee

- 3.9 Some appeals resulting from member overturns are causing significant amounts of work for officers in 2021. An example of this is application 19/P/0721 land off Send Hill in Send. Whilst we appointed an external planning consultant to defend the appeal, the consultant required a great deal of officer input both leading up to the Hearing on 22 February 2021 and on the day of the Hearing. The overall cost to the Council in defending this appeal was close to £10-15,000 (barrister and external planning consultant) plus officer time on top. It is felt the same will apply for the other two Send appeals; applications 19/P/1003 and 20/P/1216.
- 3.10 It is worth noting that since last November we have had the 'Quadrant' public Inquiry for student accommodation. It's important to stress that this case was not a member overturn and was a committee refusal. This case once again caused a significant amount of officer work and drain on officer time. Officers were supported by two external consultants and a barrister. The appellant, after two days (of the planned 9-day inquiry) was forced to withdraw his appeal. The Council's barrister has sought appeal costs for this action and wasted officer time and council expense and the outcome of this submission will be known in the next month or two. The overall costs to the Council for the barrister, officer time and specialist consultant costs must be circa £100,000.
- 3.11 The only other one to note is the Manor Farm, Tongham and the Hearing scheduled for 10 May 2021. We have a current and live planning application which remains undetermined. The appeal is likely to proceed due to timings and this has caused significant work for officers. We will need support from a barrister (Conor Fegan, a very able junior counsel appointed), as the appellants will have one present and also a sustainability consultant. The cost to defend this appeal will be just over £15-20,000, plus officer time as well.
- 3.12 Finally it is worth noting that since 1 January 2021 we have received 18 appeal decisions. 15 have been dismissed, one allowed (Land off Send Hill, Send) and 2

withdrawn. 15 of the 18 were delegated officer decisions; with three being Planning Committee decisions. These were application 19/P/1980 Land off Westwood Lane, Wanborough and application 19/P/01974 1-5 The Quadrant, Bridge Street and 20/P/01166, The Lodge, Barn End, West Horsley.

#### Officer time

- 3.13 One cost that should not be overlooked is officer time for defending appeals. The charging for this is very much in line with what is published on our website for Planning Performance agreement work and is also used for appeal work charging. It is as follows.

Officer time (per hour)	Fees (including VAT)
Director	£275
Development Manager	£175
Team leader	£110
Principal planner	£95
Senior planner	£85
Planning solicitor	£225
Design and Cons officer	£80
Administrative officer	£50

#### Additional training for members and substitutes sitting on the Planning Committee

- 3.14 The original request for this report by Councillor Manning referred to training for Committee members around this subject area. It is worth noting there have been two training sessions organised by our in-house legal team and provided by a QC and junior barrister from Frances Taylor Buildings. The first session was on 'probity in planning' and second and more relevant session was entitled 'decision making in planning and appeals training'. The report Author attended both these sessions and although there was no question and answer session, both were well attended by Councillors and were well received. A session (once again provided by barristers) was provided on new permitted development rights, which took place on 7 April 2021.
- 3.15 A further request that was received at the Committee's meeting in November 2020 was for any training to be practical and not just theoretical and preferably collaborative between Councillors and Officers.

#### Local Government Association Peer Review of the Council's Planning Committee

- 3.16 At the end of 2019, the Managing Director agreed that a 'critical friend' peer review of the Council's Planning Committee should be undertaken. This was set to happen in March 2020 but was delayed until the first week of November because of the pandemic.
- 3.17 The review was held virtually and reported back in early December. The report was shared with all Councillors and made 12 recommendations. Recommendation 3 was relevant and advised:

**R3. Examine ways for Planning Committee and relevant officers to discuss and learn from appeal decisions to ensure that decisions on planning applications are undertaken, on behalf of the whole Guildford borough community, in a fair, impartial and transparent way. The present system tagged onto the end of often long Planning Committees is not conducive to creating a learning atmosphere.**

- 3.18 The Council has now appointed an independent chairperson for the Task and Finish Group and this Councillor/Officer group met (virtually) for the first time on Thursday 1 April.

#### **4 Consultations**

- 4.1 This report originally arose from a discussion at a Group Leaders' session post Planning Committee in June/July 2020. The report has been considered by Management team and their observations incorporated. It has also been shared with our former portfolio holder, Councillor Caroline Reeves and our new portfolio holder, Councillor Tom Hunt. Further the report has also been shared with legal services, democratic services, our accountant and with the Lead Specialist for Human Resources.

#### **5. Key Risks**

5.1 **The key risk in this area of planning work are considered as follows:**

- Reputational; should we lose a significant number of appeals and have costs regularly awarded against us
- Failure to meet government targets. Falling below the government rolling 'two year' threshold for appeal outcomes. If we fall below the bar there is a possibility we could be designated as a 'standards' authority. (In August 2017, the Department for Communities and Local Government published some Experimental Statistics on the Quality performance measure for major and non-major applications in preparation for the process of potential designation of Local Planning Authorities (LPA's) that are losing more than 10% of all major applications (district and county matters separately) received at appeal or 10% of all non-major applications received at appeal over a two year period). This process and data interrogation continue to happen, to date, and is an ongoing process.
- Refusal of appropriate housing development may impact on our supply; which may in turn force us back into a tilted balance test. This could lead us to being vulnerable to speculative development particularly in newly non-Green Belt areas
- Financial; particularly in the current climate. Should we have many awards of costs against us this will clearly put undue and further financial pressure on the Council.

#### **6. Financial Implications**

- 6.1 The financial implications can of course be significant when it comes to planning appeals. The main costs are in defending decisions at appeal. These can become expensive if we have to put together an external team to defend the

Council's decision making and is often the case when dealing with member overturns from Planning Committee.

- 6.2 The other area to highlight is award of costs both for and against the Council in appeal situations. These can be associated with all types of appeals and can be significant in amounts sought and settled. The most significant costs are normally attributed to either Hearings or Public Inquiries. As a Council we do not budget for appeals, so any defence or award of costs is an overspend.

## **7. Legal Implications**

- 7.1 There are no direct legal implications associated with the report. We work closely with the Legal Team in appeal situations and particularly in respect of instruction for barristers when undertaking Public Inquiries and sometimes Hearings. The legal team also provide instructions to costs draftsman in the event that costs sought by appellants are seen as unreasonably high.

## **8. Human Resource Implications**

- 8.1 No HR implications apply for this report and no specific comments from the head of HR when assessing this report. It is worth noting there are implications to workloads for officers and delays to other work. This can become an issue at times of high workloads such as we are currently experiencing.

## **9. Equality and Diversity Implications**

- 9.1 This duty has been considered in the context of this report and it has been concluded that there are no equality and diversity implications arising directly from this report

## **10. Climate Change/Sustainability Implications**

- 10.1 No climate change implications directly apply to the appeals data and costs data.

## **11. Summary of Options**

- 11.1 To note the data and observations made in this report and to advise on any actions to take forward from hereon.

## **12. Conclusion**

- 12.1 Overall the picture is consistent. Towards the end of 2020 there have been a number of overturned decisions that have ended up at appeal that have caused a significant amount of work. Some are costly due to having to instruct external consultants (because officers who have recommended a grant at Planning Committee cannot realistically or under the RTPPI Code recommend the contrary at appeal) and in some cases barristers have needed to be instructed.
- 12.2 The appeal data will be reviewed later in the autumn this year and reported once more to a future meeting of this Committee.



**13. Background Papers**

None

**14. Appendices**

None

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Corporate Governance and Standards Committee Report

Ward(s) affected: n/a

Report of Director of Strategic Services

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Date: 22 April 2021

## **Freedom of Information Compliance: Annual Report 2020**

### **Executive Summary**

This is a regular report to monitor the Council's performance in dealing with Freedom of Information (FOI) and Environmental Information Regulations (EIR) requests.

Due to unprecedented circumstances related to the Covid-19 pandemic lockdown and recent corporate restructures, performance rates for timely delivery of FOI/EIR requests dropped during 2020 to 80%, compared with 94% in 2019.

Circumstances permitting, the aim for 2021-22 will be to return performance rates to previous levels.

### **Recommendation to Committee**

That the Committee notes the report, officer actions, and continues to receive six monthly updates.

### Reasons for Recommendation:

- To ensure that the Committee is kept up to date with developments in the FOI/EIR framework
- To ensure that the Committee has the necessary information to enable requests for information to be made easily to the Council and properly responded to
- To assist with learning lessons and improving performance following requests for information made to the Council

## **1. Purpose of Report**

- 1.1 The Corporate Governance and Standards Committee has requested this report to ensure the Council improves its response timescales for FOI and EIR requests.
- 1.2 Promoting openness and transparency in Council policy and decision-making is essential to promote public confidence within the Borough in order to improve prosperity and well-being as outlined in the Strategic Framework – i.e. the Council “will be open and accountable”.
- 1.3 Effective compliance with information governance, including the management of the Council’s FOI/EIR regime plays a key part in achieving these objectives.

## **2. Background**

- 2.1 The Council is required to respond to FOI and EIR requests within 20 working days – subject to certain exceptions as long as the requester is kept informed – for example extra time can be taken to consider the Public Interest Test.

## **3. Update on progress in 2019**

- 3.1 The Council received 643 FOI/EIR requests during the calendar year 2020. This marks a 12% decrease in volume from 2019 when 732 requests were received. This may be due in part to the Council’s [online Disclosure Log](#), which has been live for almost two years now and has details of 400 responses — as well as recent improvements made to the [Transparency pages](#) on the Council’s website.
- 3.2 The Council’s performance rate for 2020 is 80% of requests being closed within the statutory period (20 working days), compared with a figure of 94% for 2019. This drop was largely due to unforeseen and unprecedented circumstances connected with the Covid pandemic and recent changes to the corporate structure. Key staff were redeployed into other areas relating to the pandemic and consequently FOI was not the most pressing priority during this time. It is worth noting, however, that other local authorities have experienced similar issues during this time. Accordingly, the [Information Commissioner’s Office](#) (ICO) announced that it would be taking a more flexible approach to FOI in view of the unique circumstances.
- 3.3 Going forward, upcoming deadlines will continue to be closely monitored with line manager involvement if necessary. Underperforming service areas will be investigated and discussed at monthly Information Risk Group (IRG) meetings with input from the Council’s Senior Information Risk Owner (SIRO).

## **4. Requests received by Service Areas, January – December 2020**

- 4.1 Planning received the most requests with a total of 97 (15% of the total requests received across all service areas). Of these Planning-related requests, an impressive 91% were answered within the 20 working day time-scale.

- 4.2 The second busiest service area was Business Rates which received 68 requests, accounting for 10.5% of the total.
- 4.3 Thirteen service areas have exceeded the Information Commissioner’s Office regulatory performance target of 85%. Notably, nine service areas deserve special commendation for achieving a 100% compliance rate.
- 4.4 Twelve service areas are currently performing above the target of 90% as set by Corporate Management Team. See table in Appendix 1 for full details.

**5. Exemptions**

- 5.1 The most frequently used exemption under the Freedom of Information Act used for withholding requested information (either partially or completely) was section 21 (information available by other means), which was used on 51 occasions during 2020 – marking a very similar trend to last year’s figure of 68.
- 5.2 This is largely due to the information being readily available on the Council’s website – e.g. information on expenditure, procurement, business rates, public health funerals, planning applications, houses in multiple occupation (HMOs).
- 5.3 The next most commonly applied exemptions were section 31 (law enforcement/ prevention of crime), which was used on 15 occasions, and section 40 (where third party personal data is involved) – used on 8 occasions.

**6. Categories of Requester**

- 6.1 The highest proportion of requests during 2020 came from members of the public, accounting for 41% of all FOI/EIR requests. This was followed by private companies at 26% of the total. See table below for full figures – which reveals a broadly similar pattern to that of 2019.

**Fig 1 – Categories of Requester**

Correspondent Group	No. of requests	%
Charity	15	2%
Private Company	166	26%
Professional body	43	6.5%
Campaign Group	14	2%
Media	52	8%
Political	13	2%
“WhatDoTheyKnow”	45	7%
Trade Union	2	0.5%
Academic	13	2%
Member of the Public	270	41%
Legal	4	0.5%
Other local authorities	6	2.5%

**7. Internal and External Reviews**

- 7.1 Five FOI/EIR requests went to internal review stage in 2020 – compared with ten during 2019, a reflection of the fall in overall number of requests received. One case concerning a contentious local construction project was referred to the Information Commissioner’s Office (ICO) for review. In this instance, the Council’s original decision to withhold certain information was overturned by the ICO.

**8. Subject Access Requests (SARs)**

- 8.1 The Council received 12 SARs in 2020 compared with 18 during 2019 and 25 during 2018. All requests were dealt with within the standard time limit.

**9. Equality and Diversity Implications**

- 9.1 No Equality and Diversity Implications apply to this report.

**10. Financial Implications**

- 10.1 There are no financial implications to this report.

**11. Legal Implications**

- 11.1 Failure to respond to FOI/EIR requests within 20 working days is a breach of the respective legislation. Requesters whose FOIs/EIRs have not been answered within the statutory time limit have the right to request an internal review and/or to make a formal complaint to the Information Commissioner’s Office (ICO). There are therefore direct legal implications associated with the risk of reputational damage to the Council, adverse publicity and active monitoring by the ICO.

**12. Human Resource Implications**

- 12.1 There are no proposals in this report with any direct HR implications.

**13. Conclusion**

- 13.1 Although the Council’s overall performance on the timely delivery of information requests has dropped due to the unique circumstances of 2020, twelve service areas have nevertheless exceeded the Corporate Management Team’s set target of 90%. Notably, nine service areas deserve special commendation for achieving a 100% compliance rate.
- 13.2 Approaching deadlines will continue to be closely monitored and enforced if necessary.
- 13.3 Directors will ensure requests in their service areas remaining overdue or approaching their deadline date are resolved as soon as possible so that

standards can be gradually improved and eventually return to targeted levels in the near future.

**14. Background Papers**

None

**15. Appendices**

Appendix 1: FOI/EIR Requests received by service area, 01/01/20 – 31/12/20

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FOI/EIR Requests received by service area, 01/01/20 – 31/12/20

Service Area	Total requests	Total answered in time	Percentage
Asset Management	8	3	37.5%
Audit	3	2	66.5%
Benefits	8	8	100%
Bereavement Services	8	4	50%
Business Rates & Systems	68	49	72%
Community Services	18	13	72%
Corporate Property	4	4	100%
Council Tax	25	18	72%
Customer Services	3	3	100%
Democratic & Electoral Services	13	13	100%
Energy Management	3	1	33%
Engineers	3	2	66.5%
Environmental Health	48	40	83%
Finance	44	24	54.5%
Fleet & Waste	43	31	72%
Heritage	3	3	100%
Housing Advice	36	28	78%
HR	28	23	82%
ICT	39	36	92%
Legal	4	3	75%
Leisure Services	7	6	86%
Licensing	27	27	100%
Major Projects	2	1	50%
Parking	26	22	84.5%
Parks & Countryside	21	20	95%
Neighbourhood & Housing Management	15	15	100%
Payroll	5	5	100%
Planning	97	88	91%
PR Comms	16	10	62.5%
Private Sector Housing	3	3	100%
Regulatory Services	15	12	75%
<b>TOTAL/AVERAGE</b>	<b>643</b>	<b>517</b>	<b>80%</b>

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Corporate Governance and Standards Committee Report

Ward(s) affected: n/a

Report of Director of Strategic Services

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Date: 22 April 2021

## Data Protection and Information Security Update

### Executive Summary

The transactions and interactions customers, residents, and staff make with the Council often involves the sharing of personal data, for example, in relation to council tax accounts, housing agreements, employment contracts.

It is therefore important that this data is used only in ways reasonably expected, and that it stays safe. Similarly, the secure collection, storage, and transfer must be executed with regard to sound cybersecurity practices.

### Recommendation

That the Committee notes this report.

#### Reason for Recommendation:

To keep the Committee informed of progress with various data protection and information security initiatives that have taken place since the last annual report.

**Is the report (or part of it) exempt from publication? No**

### 1. Background

- 1.1 It is now almost three years since the General Data Protection Regulation (GDPR) came into force. Although the UK has left the European Union since then, the basic principles of the GDPR continue to apply. A number of positive advances have taken place within the Council during this time.
- 1.2 This report will cover developments in data protection and information security within the Council since the last annual report of March 2020.

## 2. Update on progress in 2020

### 2.1 Information Governance and Information Assurance Successes since March 2020

- Policy page on intranet updated, encompassing release of new cloud-based suite of GBC branded [information security and ICT-related policies/procedures](#), and guidance on email encryption (updated to reflect organisational changes following migration of Council network to Office 365) – including guidance on acceptable use of ICT systems, access control, anti-virus measures, business continuity, use of mobile devices, cybersecurity, password/authentication and related areas.
- Phasing out of old Sharepoint system and replacement with new and more efficient cloud-based Office 365 version for the storage of folders and documents.
- Successful take-up of Office 365, especially the use of Microsoft Teams for virtual meetings out of necessity due to large scale working at home during the Covid-19 lockdown period over the past 12 months which has coincided with the allocation of laptops to office-based staff.
- New GDPR online training for all new starters – included as part of a suite of online training programmes provided by Workrite.
- Implementation of DMARC (Domain-based Message Authentication, Reporting and Conformance), a system set up to tackle email spoofing<sup>1</sup>. DMARC aims to reduce email spam by approximately 80% to 90%. Examples of fraudulent spam messages in the past have included fake emails purporting to be from GBC's council tax department which tell the recipient they owe a sum of unpaid council taxes.
- PDNS (Protective Domain Name System), a system created by government agency the National Cyber Security Centre (NCSC). PDNS scans the network for suspicious emails by mapping IP addresses to names, thereby hampering the use of domain name systems for malware distribution and preventing access to malware, ransomware, phishing<sup>2</sup> attacks, viruses, malicious sites and spyware at source - thus making the network more secure.
- Removal of legacy Government Connect Secure Extranet (GCSx) email infrastructure, as traffic within "gov.uk" email domains now recognised as being secure.
- Information Assurance Officer has carried out work in conjunction with Ignite around cloud-based systems and mandated internal and external penetration tests of all new systems.

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<sup>1</sup> **Spoofing** - The creation of email messages with a forged sender address often designed to trick the receiver into believing they come from a legitimate source (e.g. a bank or utility supplier) for the purposes of unlawful financial gain. Spoof emails often have the intention of spreading malicious viruses.

<sup>2</sup> **Phishing** – a fraudulent attempt to obtain sensitive information such as usernames, passwords and credit card details by disguising oneself as a trustworthy entity in an electronic communication – e.g. emails or text messages - which often direct users to enter personal data at a fake website which matches the look and feel of the legitimate site.

- Information Assurance Officer managed KPMG auditors to complete a Cyber Security and Privacy Report – which has resulted in the new suite of policies as referenced above.
- Continue to provide advice and guidance to staff in relation to Covid related phishing, and smishing<sup>3</sup> related social engineering scams – a number of all-staff emails have been sent out urging employees to be vigilant and to report any suspicious-looking emails or text messages to ICT.
- Roll-out of remote data protection training sessions via Microsoft Teams offered as refresher training to all staff as well as part of induction process for new starters – a consequence of staff largely working from home during lockdown.

## **2.2 Objectives for next six months**

- Managing external and internal security penetration tests of council-wide systems.
- Removal of legacy systems currently in progress
- Release of Council wide Cyber Security Awareness Training for all Staff.
- Review and update of Information Asset Registers (IARs) held by each service area (it is now almost three years since the implementation of the GDPR which made it compulsory for organisations to document their information assets. There have been various changes within the Council since then, including organisational restructuring, adoption of new policies and procedures, etc. – so the Council's IARs will require updating).

## **3. Background Papers**

None.

## **3. Appendices**

None.

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<sup>3</sup> **Smishing** – a form of phishing which involves the scammer attempting to trick the victim into giving them private information via a text or SMS message.

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Corporate Governance and Standards Committee

Ward(s) affected: All wards

Report of Director of Resources

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Date: 22 April 2021

## Review of Procurement Procedure Rules

### Executive Summary

The Council's expenditure on goods, works, and services is approximately £50 million per annum and the Procurement Strategy adopted by the Executive on 26 May 2020 provides a strategic approach to sourcing in order to demonstrate best value and meet the requirements of the Public Contract Regulations 2015.

A need was identified to update the Procurement Procedure Rules, which form part of the Council's Constitution, in line with the adoption of the Procurement Strategy and subsequent shift to strategic sourcing as the last substantial review of the Rules was in 2016 which was based on historic practices; the devolved procurement model.

Key changes as outlined in this report are necessary to the Procurement Procedure Rules in order to bring them in line with the current way of working, a summary of the changes is as follows:

- Update to threshold for procurement advice
- Defining the role of Corporate Procurement Board
- Update to Tendering thresholds
- Updated exemption grounds
- Specific inclusion of embedding Social Value
- Specific inclusion of adopting Modern Slavery
- Specific inclusion of Climate change considerations

By adopting the updated Procurement Procedure Rules, the Council will bring the Rules in line with current practices and commit to delivering a robust approach to Commissioning and Procurement. Compliance with the Public Contract Regulations 2015 will be achieved, significant savings realised, and commercial opportunity maximised.

The Council's Constitution will also be brought up to date which will mirror current working practices, removing any potential conflicts.

**Recommendation to Committee**

That the Committee recommends to the Council that the updated Procurement Procedure Rules, as set out in Appendix 1 to this report, be adopted.

Reason(s) for Recommendation:

The current Procurement Procedure Rules were last subject to a full review in 2016, there are therefore substantial changes and updates required in order to align with the Procurement Strategy adopted by the Executive on 26 May 2020.

**Is the report (or part of it) exempt from publication? No**

**1. Purpose of Report**

- 1.1 This report outlines the necessary changes to the Council's Procurement Procedure Rules (PPRs) which form part of the Council's Constitution.

**2. Strategic Priorities**

- 2.1 Procurement supports the Council's Strategic Framework, in particular the Innovation theme as it encourages sustainable and proportionate economic growth to help provide the prosperity and employment that people need.
- 2.2 Procurement and Commissioning is a highly innovative work area which utilises technology and new ways of working to improve value for money and efficiency in Council services.

**3. Background**

**3.1 The Procurement Function**

- 3.1.1 The Procurement function sits within Financial Services in the Resources Directorate following the implementation of Phase A of Future Guildford. The Procurement team are supported by Legal services colleagues who ensure compliance with the Public Contracts Regulations (PCR 2015) and Procurement Procedure Rules (PPRs) as well as providing contract and commercial legal advice.
- 3.1.2 The Council's annual spend on procuring goods, works, and services is approximately £50 million.

**3.2 The Procurement Strategy**

- 3.2.1 The Executive adopted the Procurement Strategy 2020-2023 on 26 May 2020. The Strategy serves to support the Council in delivering its strategic objectives and to ensure that, in the procurement of goods, works, and services, the very best value for money is obtained along with the required quality at the best price achievable. A significant modification as part of the Strategy was to update the threshold for engagement with the Procurement Team to seek procurement advice, which now stands at any expenditure over £1,500.



- 3.2.2 The Strategy dictates that a Category Management approach is adopted, which consists of understanding spend data through the Council's Finance system Business World, by supplier, contract, category or period to be mapped and analysed. This information then forms part of the initial approach to Category management which is required in order to deliver a more strategic approach to sourcing.
- 3.2.3 Implementing category management techniques allow the Council to bring contracts similar in nature together into a single Procurement exercise and seek opportunities to collaborate and/or develop shared services with other public bodies which maintain or improve quality but at a lower overall price. Category Management also enables alignment with the market and thus more successful Tendering.
- 3.2.4 The introduction of Business World has also triggered all new supplier set up being subject to procurement approval. This is in order to maximise use of existing contracts where compliant and where possible, rationalise the number of suppliers reducing back office costs of set up and sense check the need for the new commission.

### 3.3 **Existing Procurement Procedure Rules**

- 3.3.1 The current PPRs (which are attached as Appendix 2) were last reviewed in full in 2016 and are based on a devolved procurement model and are therefore out of date.
- 3.3.2 In October 2018, a permanent Procurement Manager was appointed as a strategic appointment to transform procurement into a central team. Since this point, the Procurement service has been in a transformational stage moving from a devolved unit to a central team delivering category management which is integral to facilitating how the Council operates and makes decisions regarding spend. The current PPRs are therefore not fit for purpose and do not reflect the current operating model. They are also too lengthy and contain an excess of detail in some areas.

### 3.4 **Updated Procurement Procedure Rules**

- 3.4.1 The updated PPRs are based on the model of a modern day central Procurement function which is there to add value, deliver savings, and meet the Council's compliance obligations under the PCR 2015.
- 3.4.2 The Rules have been benchmarked and compared with other Council's rules and aim to provide clarity on role and responsibilities and what the procurement function is expected to deliver.
- 3.4.3 The key updates to the PPRs, which are summarised in the table below, also aim to implement some of the Council's priority issues and embed these into purchasing.

Table 1 – Key updates to the PPRs

<b>Key Change</b>	<b>Commentary</b>	<b>Section in PPRs</b>
<b>I. Threshold Procurement engagement</b>	Addition of new threshold; expenditure in excess of £1,500 requires procurement advice	1.3
<b>II. Role of Corporate Procurement Board (CPB)</b>	Addition of the role of the CPB, the introduction of Gateway reports for above threshold activity – (See Appendix 3)	8
<b>III. Tendering thresholds</b>	Updating the thresholds in line with the Procurement Strategy	10
<b>IV. Updated exemption grounds</b>	Addition of two new exemption grounds have been added 3.3.2.5 and 3.3.2.6, and two existing grounds have been removed as incorrect as follows: Goods or materials are proprietary items or are sold only at a fixed price and no satisfactory alternative is available <i>And</i> The work to be executed or the goods or materials supplied constitute an extension or variation permitted under the terms of an existing contract provided the extension or variation is compliant with English or National law.	3.3.2
<b>V. Social value</b>	Addition of Social value and that it should form part of a bidder's commitments at tender stage, be evaluated and therefore tailored to the subject nature of the contract being awarded	13
<b>VI. The Modern Slavery Act</b>	Addition of Modern Slavery following the Council's formal adoption of the Modern Slavery Motion in 2020 and that proportionate, due diligence should be undertaken to certify that council appointed contractors do not participate in modern slavery, either directly or within their supply chains.	14
<b>VII. Climate Change</b>	Addition of Climate Change, the environmental impact must be considered in every procurement, and if relevant evaluated with the emphasis being placed on minimising the carbon footprint	15

#### 4. Consultations

Lead Councillor for Resources– Cllr Tim Anderson

- 4.1 Procurement is a crucial work area and needs robust Governance in place. These rules were last fully reviewed in 2016, they therefore need to be updated to align with the Procurement Strategy adopted by the Executive on 26 May 2020.

- 4.2 The report details the key changes in table 1 which is clear, short and to the point. It scrolls through from the Threshold for engagement with Procurement through the role of the Corporate Procurement Board to Modern Slavery and Climate Change.
- 4.3 By adopting the updated Procurement Rules, the Council will commit to delivering a robust approach to Commissioning and Procurement, Compliance will be achieved, significant savings delivered, and commercial opportunity maximised.
- 4.4 The key principles are best value for money, transparency, legality, fairness, sustainability, social value objectives, and equality. Nothing is left to chance. The responsibilities of the Procurement Service and the Corporate Procurement Board are identified in fine detail and are those of Service Leaders.
- 4.5 Cost thresholds are clearly set and with each, the changes to procedures. Those responsible are identified in each category. A seven stage, step by step procurement procedure rules road map leaves no scope for ambiguity.

## **5. Key Risks**

- 5.1 If the current PPRs remain, they are not in line with the adopted Procurement Strategy presenting an overall lack of cohesion and governance to underpin the Strategy.
- 5.2 As the PPRs form part of the Council's Constitution, it is important they are kept up to date as they constitute a key reference point for officers; there is also a legal obligation to ensure compliance with the Council's Constitution so they need to be up to date with current legislation and the Council policies.

## **6. Financial Implications**

- 6.1 Annual Procurement expenditure is currently in the region of £50 million per annum.
- 6.2 As part of the Future Guildford Programme, a procurement savings target of £1.2 million has been earmarked to be delivered annually from 2022.
- 6.3 Savings are reported to the Corporate Procurement Board and noted in terms of being cost avoidance or actual budget savings realised.

## **7. Legal Implications**

- 7.1 The Council when procuring goods, services, and works has a legal duty to comply with the following legislation:
  - The Public Contract Regulations 2015
  - Section 3 of the Local Government Act 1999 'best value' duty.
  - Public Services (Social Value) Act 2012
  - Rule 31 of Local Government Transparency Code 2015.

The changes to the PPRs detailed in this report ensure full compliance with current legislation.

- 7.2 In addition when procuring goods, services and works officers must comply with the PPRs, Financial Procedure Rules and Scheme of Delegation as set out in the Council's Constitution. Reducing the detail in the Rules and making them easier to follow will assist officers in this compliance.

## **8. Human Resource Implications**

- 8.1 It is proposed that the option of introducing a corporate training provision is explored and should consist of an online module covering an introduction to procurement. This should be completed by all new members of staff as part of the Corporate training package added to the induction checklist as a requirement if applicable, and a module in the induction course.

## **9. Equality and Diversity Implications**

- 9.1 This duty has been considered in the context of this report and it has been concluded that there are no equality and diversity implications arising directly from this report

## **10. Climate Change/Sustainability Implications**

- 10.1 As outlined in section 3.4 of this report a specific reference has been made to Climate Change in the PPRs. Procurement will be working closely with the Council's climate change lead in order to fully maximise the opportunity to embed environmental measures into supplier selection and procurement. There are also now standard terms in the template contract terms relating to climate change and sustainability.

## **11. Summary of Options**

- 11.1 Option 1: The PPRs are updated to align with the adopted Procurement Strategy. This is the recommended option.
- 11.2 Option 2: The PPRs are not updated and will therefore not align with the adopted Procurement Strategy causing a lack of cohesion between services and procurement, lack of compliance and missed opportunity. This is not the recommended option.
- 11.3 Option 3: It has been suggested that Procurement provide an annual update report to Committee. This is a further option for consideration.

## **12. Conclusion**

- 12.1 By adopting the updated PPRs, the Council will commit to delivering a robust approach to Commissioning and Procurement. Compliance will be achieved, significant savings achieved, and commercial opportunity maximised.

12.2 The PPRs will continue to be reviewed on a regular basis by Legal and Procurement and any substantial changes reported to Full Council.

**13. Background Papers**

[Procurement Service Strategy 2020-2023 approved by Executive on 26 May 2020](#)

**14. Appendices**

Appendix 1: Updated Procurement Procedure Rules

Appendix 2: Existing Procurement Procedure Rules

Appendix 3: Gateway report Template

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# **GUILDFORD BOROUGH COUNCIL**

## **PROCUREMENT PROCEDURE RULES**

**April 2021**

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**Appendix 1: Steps to Procurement: Minimum requirements**

## Part 1

### 1 INTRODUCTION

- 1.1 These Procurement Procedure Rules apply to all purchases of works, goods, and services by the Council. They provide a framework within which all the procurement activity of the Council is undertaken. The object of these Rules is to ensure that all the Council's procurement activity regardless of value is fair, open, transparent, non-discriminatory, and lawful. Their observance is mandatory. The Rules are to protect the interests of the Council and also councillors and officers from the risk of challenge, undue criticism, or allegations of wrongdoing.
- 1.2 Procurement decisions are among the most important decisions a local authority will make in order to ensure that public money is appropriately directed and that the goods, works, and services are procured effectively and in accordance with Procurement Legislation and represent best value. The Council's reputation is equally important and should be safeguarded from any imputation of dishonesty or corruption.
- 1.3 These Procedure Rules should be seen as setting minimum requirements. Where better value for the Council might be achieved by seeking more tenders or quotations this should be done. The threshold for engaging with the Procurement Team is for all expenditure in excess of £1,500.
- 1.4 Corporate Procurement Board (CPB) is to take an active role in the management of the procurement process. The CPB will ensure that the processes and reporting requirements are followed and will enable the identification of areas of strength and weakness within the procurement function. It will seek out solutions and better methods of working, encouraging consistency and efficiency to achieve best value through the procurement process across the Council.
- 1.5 If there is any relevant change to English Law, which affects these rules then that change must be observed until these rules can be revised. Where there is a difference between these Rules and the current legislation, the legislation will prevail.
- 1.6 The Council is required by section 135 of the Local Government Act 1972 to maintain these Rules as part of the Constitution.
- 1.7 The Council's Monitoring Officer has Delegated Authority to make minor amendments to the Constitution and therefore these Rules. The Senior Specialist Procurement together with the Lead Specialist Legal in consultation with the Lead Councillor, shall publish details of any substantial amendments, following formal approval by full Council.
- 1.8 Procurement and Legal are the custodian of these Rules and are responsible for keeping them under review.



## Part 2

### 2 KEY PRINCIPLES

- 2.1 These Rules are based on the following key principles:
- 2.2 To ensure that the Council meets its statutory duty to deliver **best value for money** and creates healthy competition and markets for the Goods, Services and Works purchased
- 2.3 To be **transparent** to our residents about how the Council spend their money
- 2.4 To ensure that public money is spent **legally** and **fairly**
- 2.5 To support **sustainability** and **social value objectives**, and our public sector **equality** duty, encouraging local small businesses.

### 3 APPLICATION

- 3.1 These Rules apply to:
  - 3.1.1 All contracts for the supply of works, goods, or services (including consultancy) to the Council, regardless of value.
  - 3.1.2 Partnership and collaborative arrangements with other bodies.
  - 3.1.3 Concession Contracts
- 3.2 These rules do not apply to:
  - 3.2.1 Contracts for the purchase or sale of any interest in land including leasehold interests and licences, which are purely land transactions, for which reference should be made to the Financial Procedure Rules.
  - 3.2.2 Contracts of employment for the appointment of individual members of staff.
  - 3.2.3 Grant agreements, where the Council is giving an unconditional grant.
  - 3.2.4 Sponsorship agreements regulated by the Sponsorship Rules.
  - 3.2.5 Supply of works, goods, and services by the Council. [The Lead Specialist – Legal must be consulted where the Council is contemplating this route.]
  - 3.2.6 Contracts procured in collaboration with other local authorities where the Council is not the lead authority (subject to the necessary approvals having been obtained from the appropriate decision maker at the Council). The Procurement/Contract Procedure Rules of the lead authority shall apply. Assurance is to be sought that the lead authority is acting in compliance with its own contract procedure rules.
- 3.3. Exemptions to these rules
  - 3.3.1 In all cases, where an exemption to the tendering or quotation process is sought the Director or Service Leader for the area shall obtain the consent of

Appendix 1

the Corporate Procurement Board. The Senior Specialist -Procurement will document the exemption request, all reasons for the exemption request and record the decision. **It should be noted that no exemptions are permitted if the value requires compliance with the National Procurement Directives and thresholds.**

3.3.2 The following circumstances represent the permitted exemptions from all or part of these Rules. Tenders or quotations need not be sought in the following circumstances:

3.3.2.1 The price of the goods or materials is wholly controlled by trade organisations, government order or statutory undertakers where they have monopoly status and no satisfactory alternative is available;

3.3.2.2 The work to be executed or the goods or materials to be supplied consist of repairs to or the supply of parts for existing proprietary machinery or plant or the execution of work or supply of goods or services or materials necessary for maintenance or repairs to existing machinery or plant;

3.3.2.3 Where the work to be executed or goods to be supplied are required urgently and would not, therefore, permit the invitation of quotations or tenders;

3.3.2.4 The execution of works or the supply of services is of such a specialised nature that in the opinion of the Director or Service Leader the number of prospective contractors is less than required by these rules. In this case, tenders or quotations shall be obtained from the sole or all available suppliers who possess the relevant knowledge or expertise;

3.3.2.5 the nature of the market for the goods, works or services has been investigated and it is demonstrated that a departure from the Regulations is justified.

3.3.2.6 If it is in the overall best interest of the Council.

3.3.2.7 Legal services falling within Regulation 10(i)(d) of the Public Contracts Regulations 2015.

3.3.3 The Senior Specialist Procurement will report on exemptions to the CPB and has authority to approve any direct award requests under the value of £10,000.

## 4 COMPLIANCE

4.1 Every Contract entered into on behalf of the Council shall comply with

- these Procurement Procedure Rules.
- the Council's Financial Procedure Rules, and
- all relevant legislation.

- 4.2 All members of staff and consultants engaged in any capacity to manage or supervise the procurement of any works, goods or services for the Council must comply with these Procurement Procedure Rules. The attention of Officers is drawn to the Council's Code of Conduct for Staff at Part 5 of the Constitution. Non-compliance with these Rules may constitute grounds for disciplinary action.
- 4.3 Generally, work must not begin under a contract until both parties have signed the contract document, except in the cases of urgency when the approval of the Lead Specialist – Legal is to be obtained. Letters of intent may only be provided with the approval of the Lead Specialist - Legal who must agree the terms of any such letter. If a Letter of Intent is provided a contract must be signed as soon as possible thereafter.
- 4.4 If there is any doubt about the application of the rules the issues should be referred to the Senior Specialist - Procurement.

## **5 CONFLICTS OF INTEREST**

- 5.1 Members of staff must avoid any conflict between their own interests and the interests of the Council. This is a requirement of the Council's Code of Conduct for Staff and includes:
- 5.1.1 not accepting gifts or hospitality from organisations or suppliers that the Council has dealings with;
- 5.1.2 not working for organisations or suppliers that the Council has dealings with;
- 5.1.3 notifying the Director or Service Leader in writing if an officer has links with an organisation or supplier who is tendering or quoting for a contract with the Council or already has a contract with the Council (for example, a family member or close friend works for the organisation).
- 5.2 All consultants engaged to act on behalf of the Council must declare that they will avoid any conflict between their own interests or those of any of their other clients and the interests of the Council.
- 5.3 If a councillor or a member of staff has an interest, financial, otherwise, in a contract, or proposed contract, he/she must declare it in writing to the Monitoring Officer as soon as he/she becomes aware of the interest. A councillor or member of staff who has an interest in a contract must not take part in the procurement or management of that contract.

## **6 PREVENTION OF BRIBERY AND CORRUPTION**

- 6.1 A contract may be terminated immediately, and any losses to the Council arising from the termination recovered from the supplier, if the supplier, or anyone acting on his behalf (with or without the supplier's knowledge), offers or promises or gives a financial or other advantage to a councillor any member of staff or any consultant in connection with the contract.
- 6.2 Any councillor, member of staff or consultant who becomes aware or has reason to believe that a supplier or potential supplier has committed one of the corrupt acts referred to in Rule 4.1, must report it to the Monitoring Officer.

- 6.3 The Monitoring Officer must maintain a record of all declarations of interest notified by Councillors and Officers.

### Part 3

## 7 RESPONSIBILITIES OF THE PROCUREMENT SERVICE

- 7.1 The Procurement service is responsible for
- a. Delivering the Procurement Strategy adopting a Category Management approach to the Councils expenditure and purchasing activity.
  - b. Ensuring transparency over spend, contracts and contract opportunities
  - c. Embedding social value and sustainability across the supply chain
  - d. Ensuring efficient and effective purchasing practices are in place for all staff
  - e. Providing general commercial advice and support as required,
  - f. Ensuring suppliers are aware of, and follow, the Council's Supplier Code of Conduct when bidding and carrying out contracts
  - g. Approving all new supplier set up requests
  - h. Authorising any Procurement card transactions outside of the nominated card holders
  - i. Purchasing from existing contracts where they are appropriate and in place
  - j. Ensuring there is adequate budget available prior to any procurement activity commencing
  - k. Taking a commercial lead on all major contracts and relationships with suppliers alongside the Contract Manager

## 8 ROLE AND RESPONSIBILITIES OF THE CORPORATE PROCUREMENT BOARD (CPB)

- 8.1 The Council recognise that, in order to achieve consistency and compliance with these Regulations and the Procurement Strategy, there is a need for the involvement of key corporate advisers in all significant procurement processes. All procurement of goods, works or services in excess of the National thresholds, must be referred to the CPB.
- 8.2 The CPB will consist of the following Officers (or their nominated deputies):
- Director of Resources
  - Senior Specialist Procurement
  - Financial Services representative
  - Legal Services representative
- Procurement Specialists together with the Service leads shall routinely attend Corporate Procurement Board to present proposals and updates.
  - Deputies must attend if the primary representative is not available.
- 8.3 The CPB aims to ensure that the Council's Procurement Procedure Rules, Scheme of Delegation and Procurement Strategy is implemented in all cases and at all stages.
- 8.4 The CPB shall operate a Procurement Gateway process whereby a full report is presented to CPB for sign off, this is split into two stages as follows:
- Gateway part one: Commissioning and Procurement Strategy.
  - Gateway part two: Tender Evaluation and Contract Award.

- 8.5 Any failure to consult the CPB at the appropriate time shall be deemed to be a breach of these Regulations.

## **9 RESPONSIBILITIES OF SERVICE LEADERS**

- 9.1 Service Leaders must ensure adequate budget provision is in place prior to engaging in any Procurement activity. Procuring officers must observe the Council's Financial Procedure Rules at all times.

- 9.2 It is the responsibility of each Service Leader:

9.2.1 To incorporate within their service plan, a list of all current and forecast contract opportunities for the upcoming three years. This list is to be updated as necessary throughout the year and shared with the Procurement Team to inform the pipeline of work.

9.2.2 To ensure that all procurements and contracts within the named department comply with Procurement Procedure Rules, Financial Procedure Rules, and all applicable public procurement legislation.

9.2.3 To ensure those officers to whom they delegate their functions are aware of the strategic direction of the service and have authorisation to engage with procurement.

9.2.4 To manage Contracts within the named department to ensure that contracts deliver best value, are operated effectively, efficiently, and economically, and are operated in accordance with the contract provisions.

9.2.5 To keep adequate records to show compliance with the Procurement Procedure Rules, Financial Procedure Rules and all relevant legislation.

- 9.3 At the outset of each procurement, the Service Leader must in conjunction with the Procurement Team:

9.3.1 assess the business needs determining whether the requirement shall be subject to the project and programme governance board prior to commencing procurement

9.3.2 ensure the procurement complies with corporate policies and priorities

9.3.3 review ethical, social and sustainability issues

9.3.4 consider potential contractual relationships

9.3.5 undertake a risk management exercise at the start of any procurement exercise, which is commensurate with the value and complexity of the procurement

9.3.6 undertake when appropriate a pre-market testing exercise

9.3.8 (a) Ensure that adequate provision has been made within the Council's capital or revenue estimates and that proper technical and financial

appraisals of the procurement have been carried out in accordance with the Council's Financial Procedure Rules.

## 10 TENDERING THRESHOLDS

- 10.1 The following minimum number of invitations to tender or quote shall apply to all contracts including those let to the Voluntary / Not for Profit Sector, subject to National procurement regulations (including aggregation).

Type of procurement and total cost threshold	Minimum number of invitations to tender or quote	Responsibility
Goods, Works, and Services estimated to cost no more than <b>£1,500</b>	<b>No requirement to seek Procurement advice</b> but key principles outlined in Part 2, section 2 apply.	<b>Service led</b>
Goods, Works, and Services estimated to cost between <b>£1,500</b> and <b>£50,000</b>	<b>Seek procurement advice on route to market to demonstrate best value</b>	<b>Procurement led together with Service</b>
Goods, Works, and Services estimated to cost between <b>£50,000</b> and the National threshold for Goods and Services limit ( <b>currently £189,330 or £663,540 for Light Touch Regime contract</b> )	<b>3 Formal Tenders as a minimum</b>	<b>Procurement led together with Service</b>
Goods, Works, and Services estimated to cost above the relevant National tendering threshold. ( <b>works currently £4,733,252</b> )	<b>In accordance with the Public Contract Regulations 2015 as a minimum.</b> Approval from Corporate Procurement Board at Gateway One/Two.	<b>Procurement led together with Service</b>

## 11 ESTIMATE OF TOTAL CONTRACT VALUE (TCV)

- 11.1 The value of a contract is the **total** amount that the Council expects to pay for the contract, including any contract extension period and any options within the contract.
- 11.2 Contracts must **not** be packaged or divided into smaller units for the purpose of creating lower value contracts to avoid any provision of these Rules or national procurement legislation. When tendering consideration must be given to the extent to which it is appropriate to divide the contract into lots to facilitate opportunities for small businesses and voluntary organisations.

## 12 SPECIFICATION / EVALUATION CRITERIA/ ROUTE TO MARKET

- 12.1 Each procurement must be appropriately specified, and selection and award criteria must be formulated in advance to ensure the Council obtains value for money, the procurement process is transparent, and the desired outcome is obtained. Tenders will be assessed on a price / technical split in order to determine the Most Economically

Advantageous Tender (MEAT) the weightings and price / technical split will be determined by Procurement taking into account the requirements of the service area.

- 12.2 All works, goods and services must be specified by reference to national standards. The specification must be a clear and comprehensive description of the Council's requirements and should incorporate measurable and, so far as is possible, objective quality and performance criteria to enable a proper assessment to be made of the supplier's ability to meet the Council's requirements.
- 12.3 The appropriate route to market must be selected as advised by the Procurement Officer or approved by CPB where required by these Rules. This may be a Request for quote (RFQ) or an Invitation to Tender (ITT) or a two stage procedure when Tenderers are invited to submit initial information via a Selection Questionnaire (SQ) and a number qualify to receive an ITT on the basis of the information provided. Additional procedures including Competitive Dialogue, Competitive procedure with Negotiation, Frameworks and Dynamic Purchasing System (DPS) may be available but advice must be taken from the Procurement team on the most appropriate route.

### **13. SOCIAL VALUE**

- 13.1 The Public Services (Social Value) Act 2012 places a requirement on officers who commission, or buy, public services to consider securing added economic, social, or environmental benefits for their local area.
- 13.2 The Act currently applies only to service Contracts over the National Tendering threshold but must be considered in all procurements where applicable.
- 13.3 Social value should form part of a bidder's commitments at tender stage and should be tailored to the subject nature of the contract being awarded

### **14. MODERN SLAVERY**

- 14.1 The Modern Slavery Act 2015 was implemented to tackle modern slavery, defined in the act as slavery, servitude, forced or compulsory labour, human trafficking, and exploitation.
- 14.2 The Council adopted the Modern Slavery Motion in 2020 and has an obligation to report annually on its progress. Proportionate due diligence is therefore undertaken to certify that Council appointed contractors do not participate in modern slavery, either directly or within their supply chains.

### **15. CLIMATE CHANGE**

- 15.1 On 23 July 2019 the Council declared a climate emergency across the borough with an ambition of reducing the Council's carbon emissions to net-zero by 2030. As such for every procurement within the scope of these Rules, the environmental impact must be considered, the emphasis should be placed on minimising the carbon footprint and a relevant clause included in the contract where possible.

### **16 E-TENDERING**

- 16.1 All procurement is to take place through the Council's e-tendering portal any exceptions are to be agreed by the Senior Specialist Procurement. The e-tendering

portal must be used for all returns which records the time received and all the necessary information to satisfy audit and transparency principles.

- 16.2 Any tender received after the date and time indicated on the Tender documentation will be excluded from the process.

## **17 CONTRACTS REGISTER**

- 17.1 Spend data, contract opportunities and awards are published in accordance with government requirements and Transparency Agenda, Council expenditure with suppliers that exceeds £500 is published and all contracts valued at £5,000 and above are available on the publicly accessible Contracts Register, this can be found on the Council's public website.

- 17.2 Any advertised opportunity valued over £25,000 must be advertised on Contracts finder, for Contracts over £25,000 a Contract award notice must also be published.

- 17.3 Freedom of Information – in accordance with the Freedom of Information Act (FOIA) 2000 and Environmental Information Regulations (EIR) 2004, the Council has an obligation to publish specific information and to provide information to members of the public upon request. By exception confidential or commercially sensitive information may be withheld.

## **Part 4**

## **18 LEGAL CONSIDERATIONS**

### **18.1 CONTRACT DOCUMENTS**

Wherever practicable, work under a contract must not start until the contract documents and all other procedures have been completed to the satisfaction of the Service Leader or, in the case of a procurement valued at £100,000 or more, the Service Leader and the Lead Specialist - Legal. A letter of intent must not be issued unless approved by the Lead Specialist - Legal.

### **18.2 TUPE**

Where relevant, the procuring officer must consider the implications of the Transfer of Undertakings (Protection of Employment) Regulations 2006 as amended and consult with the allocated Legal advisor as to their application.

### **18.3 DISPUTE RESOLUTION**

The procuring officer must consider the procedure for resolving disputes arising in relation to the procurement and, where appropriate, contracts shall contain provisions for alternative dispute resolution.

### **18.4 DEEDS, SEALING AND SIGNING OF CONTRACTS**

- 18.4.1 Any contract valued at £100,000 or more must, unless the Lead Specialist - Legal determines otherwise, be sealed with the common seal of the Council. In exceptional cases where the Lead Specialist - Legal decides that a contract which amounts to or



exceeds £100,000 in value does not require the common seal, it must be signed, subject to compliance with the Council's Procurement Procedure Rules and Financial Procedure Rules, by Legal services under the authority of a Delegated Authority signed by the relevant Managing Director, Director or Service Leader.

18.4.2 Contracts less than £100,000 in value must be signed by Legal Services under the authority of a Delegated Authority Form signed by the relevant Managing Director, Director or Service Leader or may be sealed with the common seal of the Council in cases where the Lead Specialist - Legal considers it to be appropriate.

## 18.5 CONTRACT TERMS

18.5.1 Every contract entered into by the Council for the provision of works, goods or services which exceeds £500 in value (and in any other case where the Director or Service Leader shall require) shall:

18.5.2 Specify the works to be executed and goods or services to be supplied;

18.5.3 State the price to be paid detailing the frequency and method of calculation together with a statement as to the amount of any discounts or other deductions and requiring payment within 30 days of receipt of a valid invoice;

18.5.4 State the period or times within which the contract is to be performed;

18.5.5 Prohibit any assignment or sub-letting of the contract without the express agreement in writing of the Council;

18.5.6 State that the Council may cancel the contract and recover any resulting losses if the contractor, his employees or anyone acting on his behalf, with or without his knowledge, does anything improper to influence the Council or commits an offence under Bribery Act 2010;

18.5.7 Require the supplier to comply with the requirements of the Health and Safety at Work etc. Act 1974, and any other relevant Acts, Regulations or Orders pertaining to health and safety;

18.5.8 Require the contractor to comply with the Equality Act 2010 including the Public Sector Equality Duty, the Modern Slavery Act 2015, freedom of information requests and data protection law.

18.5.9 State that if the Contractor enters into liquidation or administration, the Council is entitled to cancel the contract and recover any resulting losses

18.5.10 State the minimum insurance levels required to be held by the contractor

18.6 For contracts with a value in excess of £100,000, if appropriate, make provision for the payment of liquidated damages by the contractor where he fails to complete the contract within the time specified. The level of liquidated damages must be determined by the Director or Service Leader.

Appendix 1

18.7 For every contract with a value of £100,000 or more, require and take sufficient security for the due performance of the contract, unless the Chief Finance Officer deems this inappropriate.

18.8 For contracts which permit sub-contracting, the contractor is to be required to impose on the sub-contractors equivalent contractual requirements in terms of equality, health and safety, bribery and corruption, insurance, data protection, modern slavery, and payment provisions.

**19. PERFORMANCE BOND/PARENT COMPANY GUARANTEE**

19.1 The Procuring Officer must consult the Lead Specialist Finance to determine whether a Parent Company Guarantee, Performance Bond or in an appropriate case, a deposited sum is necessary and at what level when the total contract value is in excess of £1 million and there is concern about the stability of the bidder following financial appraisal.

19.2 Any decision taken in accordance with 19.1 above must be recorded by the Procuring Officer.

**20 INSURANCE**

20.1 It is the responsibility of the Service Leader, in consultation with the Insurance Officer to set, where appropriate, adequate levels of insurance for every procurement in respect of employers' liability, product liability, professional indemnity, third party and fire and material damage. As a guide the level of insurance required shall not, unless exceptional circumstances prevail, be less than £10 million for employer's liability insurance, £5 million for public liability insurance and £2 million for professional indemnity insurance.

20.2 The procuring officer must ensure that any insurance required by the Council is held by the provider with a reputable insurance company(ies) and that the policy(ies) are renewed as necessary during the contract period.

## OUTLINE STEPS TO BE TAKEN TO PROCURE

These steps are part of the formal rules for undertaking procurement and bound by the formalities of the Council's Constitution. Procurement will keep a full trail of documents relating to each procurement undertaken.

<b>STEP 1</b>  IDENTIFY NEED	<ul style="list-style-type: none"> <li>• Procurement is required to commence in good time, having identified the requirement in the Service Plan. This will allow adequate time to re procure and enable the proper procurement and legal guidance necessary to carry out the procurement. The process for urgent procurement is set out in separate guidance.</li> <li>• The Procurement initiation form (PIF) requests budget approval from Finance to perform the procurement before commencement.</li> </ul>
<b>STEP 2</b>  DEVELOP BUSINESS CASE	<ul style="list-style-type: none"> <li>• An estimated value of the contract is required at the outset, ensuring that there is adequate budget provision for lifetime of the contract or the process for obtaining funds (e.g. CMT approval; Executive approval) has taken place and this is in accordance with the financial procedure rules.</li> <li>• Procurement will provide advice on the route to market options and determine the recommended percentage split of price / technical for the purposes of the evaluation.</li> </ul>
<b>STEP 3</b>  IDENTIFY MARKET	<ul style="list-style-type: none"> <li>• Pre-market consultation with potential suppliers to establish that the market can meet the requirement for good, works or services is permitted until the point at which the Tender is released. Dialogue with the market pre-procurement is encouraged not only to bring the opportunity to the attention of the market but also to assist in a greater understanding of the marketplace for specific products or services. This intelligence can help to inform the specification.</li> <li>• Steps must be taken to ensure pre-market engagement does not distort competition or violate the transparency and non-discrimination principles. This exercise may also shape your thinking about what alternatives might exist or how suppliers might deliver the Council's requirements with the latest innovation.</li> </ul>

<p><b>STEP 4</b></p> <p>DEVELOP TENDER DOCUMENTATION</p>	<ul style="list-style-type: none"> <li>• The specification development and technical evaluation criteria is led by the service. Procurement hold the ownership of the Procurement documentation and application through the e-tendering system.</li> <li>• Best value for the Council must be achieved by balancing cost and technical to produce the most economically advantageous solution over the lifetime of the contract.</li> </ul>
<p><b>STEP 5</b></p> <p>UNDERTAKE PROCUREMENT PROCESS</p>	<ul style="list-style-type: none"> <li>• Procurement will undertake the process including advertising on appropriate channels, developing, and issuing documentation via the Council’s e-tendering portal, assess due diligence, evaluate the price element, lead the moderation session, and take the process to award. Service are responsible for conducting the technical evaluation. At least three officers are required to do this independently on above threshold activity.</li> </ul>
<p><b>STEP 6</b></p> <p>AWARD AND IMPLEMENTATION OF CONTRACT</p>	<ul style="list-style-type: none"> <li>• Legal will be notified upon commencement of the standstill period of intent to award to the successful supplier.</li> <li>• The contract will be finalised in standstill and will be issued on expiry of the standstill period.</li> <li>• Procurement will record the contract on the Council’s Contract Register.</li> </ul>
<p><b>STEP 7</b></p> <p>CONTRACT MANGEMENT</p>	<ul style="list-style-type: none"> <li>• All contracts will have a contract manager nominated by the Director or Service Leader.</li> <li>• The role of the contract manager is to manage the contract throughout its duration, as well as enforce duties owed to the Council and to take responsibility for those duties owed to the contractor.</li> <li>• The contract manager will –             <ul style="list-style-type: none"> <li>- monitor performance of the contractor against the agreed level of service,</li> <li>- monitor the continuing level of operational and financial risk to which the Council is exposed and to institute controls as appropriate,</li> <li>- ensure the contractors’ due diligence with all appropriate health and safety obligations,</li> <li>- facilitate the resolutions of issues between the contractor and users of the service,</li> <li>- ensure prompt payment of invoices and compliance with all financial regulations and contract standing orders during the lifetime of the contract,</li> <li>- ensure that appropriate arrangements are made for the termination or re-letting of the contract at the appropriate time in conjunction with procurement.</li> </ul> </li> </ul>

# **GUILDFORD BOROUGH COUNCIL**

## **PROCUREMENT PROCEDURE RULES**

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**Appendix 1: Quick Guide to Procurement: Minimum requirements**

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**Part 1****1 INTRODUCTION**

- 1.1 These Procurement Procedure Rules apply to all purchases of works, goods and services by the Council. They provide a framework within which all the procurement activity of the Council is undertaken. The object of these Rules is to ensure that all the Council's procurement activity regardless of value is fair, open, transparent, non-discriminatory and lawful. Their observance is mandatory. The Rules are to protect the interests of the Council and also councillors and officers from the risk of challenge, undue criticism or allegations of wrongdoing.
- 1.2 These Procedure Rules should be seen as setting minimum requirements. Where better value for the Council might be achieved by seeking more tenders or quotations this should be done.
- 1.3 A Corporate Procurement Advisory Panel (CPAP) is to take an active role in the management of the procurement process. The CPAP will ensure that the processes and reporting requirements are followed and will enable the identification of areas of strength and weakness within the procurement function. It will seek out solutions and better methods of working, encouraging consistency and efficiency to achieve best value through the procurement process across the Council.
- 1.4 If there is any relevant change to English or European Law, which affects these rules then that change must be observed until these rules can be revised. Where there is a difference between these Rules and the current legislation, the legislation will prevail.

**Part 2****2 APPLICATION**

- 2.1 These rules apply to:
- 2.1.1 All contracts for the supply of works, goods or services (including consultancy) to the Council, regardless of value.
- 2.1.2 Partnership and collaborative arrangements with other bodies.
- 2.1.3 Concession Contracts
- 2.2 These rules do not apply to:
- 2.2.1 Contracts for the purchase or sale of any interest in land including leasehold interests and licences for which reference should be made to the Financial Procedure Rules.
- 2.2.2 Contracts of employment for the appointment of individual members of staff.
- 2.2.3 Grant agreements, where the Council is giving an unconditional grant.
- 2.2.4 Sponsorship agreements regulated by the Sponsorship Rules.

**PART 4 – PROCUREMENT PROCEDURE RULES**

- 2.2.5 Supply of works, goods and services by the Council. [The Council Solicitor and Monitoring Officer must be consulted where the Council is contemplating this route.]
- 2.2.6 Contracts procured in collaboration with other local authorities where the Council is not the lead authority (subject to the necessary approvals having been obtained from the appropriate decision maker at the Council). The Procurement/Contract Procedure Rules of the lead authority shall apply. Assurance is to be sought that the lead authority is acting in compliance with its own contract procedure rules.
- 2.3. Exceptions to these rules
- 2.3.1 In all cases, where an exception to the tendering or quotation process is sought the Director or Service Leader for the service concerned shall obtain the consent of the Council Solicitor and Monitoring Officer, in consultation with the Procurement Officer and the lead councillor with responsibility for governance. The Procurement Officer will document the request, all reasons for the request and record the decision. Additionally the Director or Service Leader will ensure that a record of the decision of the Council Solicitor and Monitoring Officer, are recorded on the procurement file.
- 2.3.2 The following circumstances represent the permitted exceptions from all or part of these Rules. Tenders or quotations need not be sought in the following circumstances:
- 2.3.2.1 Goods or materials are proprietary items or are sold only at a fixed price and no satisfactory alternative is available;
- 2.3.2.2 The price of the goods or materials is wholly controlled by trade organisations, government order or statutory undertakers where they have monopoly status and no satisfactory alternative is available;
- 2.3.2.3 The work to be executed or the goods or materials to be supplied consist of repairs to or the supply of parts for existing proprietary machinery or plant or the execution of work or supply of goods or services or materials necessary for maintenance or repairs to existing machinery or plant;
- 2.3.2.4 Where the work to be executed or goods to be supplied are required urgently and would not, therefore, permit the invitation of quotations or tenders;
- 2.3.2.5 The execution of works or the supply of services is of such a specialised nature that in the opinion of the Director or Service Leader the number of prospective contractors is less than required by these rules. In this case, tenders or quotations shall be obtained from the sole or all available suppliers who possess the relevant knowledge or expertise;
- 2.3.2.6 The work to be executed or the goods or materials supplied constitute an extension or variation permitted under the terms of an existing contract provided the extension or variation is compliant with English or European law.

2.3.2.7 Legal services falling within Regulation 10(i)(d) of the Public Contracts Regulations 2015.

2.3.3 The Procurement Officer will report on exceptions to the CPAP.

2.3.4 No exemptions are permitted if the value requires compliance with EU Procurement Directives.

### **3 COMPLIANCE**

3.1 Every Contract entered into on behalf of the Council shall comply with

- these Procurement Procedure Rules;
- the Council's Financial Procedure Rules, and
- all relevant English and European legislation.

3.2 All members of staff and consultants engaged in any capacity to manage or supervise the procurement of any works, goods or services for the Council must comply with these Procurement Procedure Rules and with the Council's Manual of Procurement Practice. The attention of Officers is drawn to the Council's Code of Conduct for Staff at Part 5 of the Constitution. Non-compliance with these Rules may constitute grounds for disciplinary action.

3.3 Generally, work must not begin under a contract until both parties have signed the contract document (or, if the only contract document is a purchase order, until the purchase order has been issued), except in the cases of urgency when the approval of the Council Solicitor and Monitoring Officer is to be obtained. Letters of intent may only be provided with the approval of the Council Solicitor and Monitoring Officer who must agree the terms of any such letter.

3.4 If there is any doubt about the application of the rules the issues should be referred to the Council Solicitor and Monitoring Officer.

### **4 CONFLICTS OF INTEREST**

4.1 Members of staff must avoid any conflict between their own interests and the interests of the Council. This is a requirement of the Council's Code of Conduct for Staff and includes:

4.1.1 not accepting gifts or hospitality from organisations or suppliers that the Council has dealings with;

4.1.2 not working for organisations or suppliers that the Council has dealings with;

4.1.3 notifying the Director or Service Leader in writing if an officer has links with an organisation or supplier who is tendering or quoting for a contract with the Council or already has a contract with the Council (for example, a family member or close friend works for the organisation).

4.2 All consultants engaged to act on behalf of the Council must declare that they will avoid any conflict between their own interests or those of any of their other clients and the interests of the Council.



**PART 4 – PROCUREMENT PROCEDURE RULES**

- 4.3 If a councillor or a member of staff has an interest, financial, otherwise, in a contract, or proposed contract, he/she must declare it in writing to the Monitoring Officer as soon as he/she becomes aware of the interest. A councillor or member of staff who has an interest in a contract must not take part in the procurement or management of that contract.

**5 PREVENTION OF BRIBERY AND CORRUPTION**

- 5.1 A contract may be terminated immediately, and any losses to the Council arising from the termination recovered from the supplier, if the supplier, or anyone acting on his behalf (with or without the supplier's knowledge), offers or promises or gives a financial or other advantage to a councillor any member of staff or any consultant in connection with the contract.
- 5.2 Any councillor, member of staff or consultant who becomes aware or has reason to believe that a supplier or potential supplier has committed one of the corrupt acts referred to in Rule 4.1, must report it to the Monitoring Officer.
- 5.3 The Monitoring Officer must maintain a record of all declarations of interest notified by Councillors and Officers.

**6 RESPONSIBILITIES OF DIRECTORS AND SERVICE LEADERS**

- 6.1 Procurement activity in the Council is devolved to individual service units, which are supported in their purchasing activities by Legal Services, Financial Services and by the CPAP, from whom advice must be sought as necessary. Procuring officers must observe the Council's Financial Procedure Rules at all times.
- 6.2 It is the responsibility of each Director and Service Leader:
- 6.2.1 To compile and provide a list of all forecast contract opportunities to the CPAP at the beginning of each business planning year containing projections for the upcoming three years. (This is also part of the business planning process.) This list is to be updated as necessary throughout the year.
- 6.2.1 To ensure that all procurements and contracts within his/her department comply with Procurement Procedure Rules, Financial Procedure Rules and all applicable public procurement legislation.
- 6.2.2 To ensure those officers to whom they delegate their functions have received relevant training and have the necessary skills. The CPAP will from time to time in conjunction with the Training Officer organise training for staff engaged in procurement.
- 6.2.3 To plan the procurement of and manage Contracts within his/her department to ensure that contracts deliver best value, are operated effectively, efficiently and economically and are operated in accordance with the contract provisions.
- 6.2.4 To keep adequate records to show compliance with the Procurement Procedure Rules, Financial Procedure Rules and all relevant legislation. In particular, it is incumbent on the Director and Service Leader to ensure each contract valued at £500 or more is listed on completion in the Contracts Register.

- 6.3 At the outset of each procurement, the Director or Service Leader must:
- 6.3.1 assess the business needs,
  - 6.3.2 ensure the procurement complies with corporate policies and priorities
  - 6.3.3 review ethical, social and sustainability issues
  - 6.3.4 consider potential contractual relationships
  - 6.3.5 undertake a risk management exercise at the start of any procurement exercise, which is commensurate with the value and complexity of the procurement
  - 6.3.6 undertake when appropriate a pre-market testing exercise
  - 6.3.7 ensure that they have the necessary authority to undertake the procurement.
  - 6.3.8 (a) Prepare or obtain an estimate in writing of the probable cost of the procurement and any ongoing revenue costs arising from the procurement; and
    - (b) Ensure that adequate provision has been made within the Council's capital or revenue estimates and that proper technical and financial appraisals of the procurement have been carried out in accordance with the Council's Financial Procedure Rules.

## **7 ESTIMATE OF CONTRACT VALUE**

- 7.1 The value of a contract is the total amount that the Council expects to pay for the contract, including any contract extension period and any options within the contract. This may be a lump sum (e.g. £50,000) or a periodic payment (e.g. £10,000 per year for a 5 year contract = £50,000). If the contract is for an uncertain term (e.g. a “rolling” Contract), the value is the amount the Council expects to pay over four years.
- 7.2 Contracts must **not** be packaged or divided into smaller units for the purpose of creating lower value contracts to avoid any provision of these Rules or EU procurement legislation. When tendering consideration must be given to the extent to which it is appropriate to divide the contract into lots to facilitate opportunities for small and medium sized enterprises and voluntary organisations.

## **8 USE OF FRAMEWORK AGREEMENTS**

- 8.1 The use of framework agreements is permitted for any value of contract. The Council Solicitor and Monitoring Officer must be consulted and confirmation given that the Council may lawfully access the framework before a purchase. The CPAP must be informed of the use of a framework agreement.
- 8.2 In order to select a supplier for a call-off contract under a multi-supplier framework agreement or to conduct a mini competition, the procuring officer must follow the procedure set out in that Framework Agreement.

**PART 4 – PROCUREMENT PROCEDURE RULES**

- 8.3 The Council Solicitor and Monitoring Officer will keep a record of framework use and provide regular reports to the CPAP.

**9 SPECIFICATION**

- 9.1 Each procurement must be appropriately specified and selection and award criteria must be formulated in advance of inviting expressions of interest to ensure the Council obtains value for money and the procurement process is transparent.
- 9.2 All works, goods and services must be specified by reference to European standards, or national standards if no European standards are set. The specification must be a clear and comprehensive description of the Council's requirements and should incorporate measurable and, so far as is possible, objective quality and performance criteria to enable a proper assessment to be made of the supplier's ability to meet the Council's requirements.

**10 INSURANCE**

- 10.1 It is the responsibility of the procuring officer, in consultation with the Insurance Officer to set, where appropriate, adequate levels of insurance for every procurement in respect of employers' liability, product liability, professional indemnity, third party and fire and material damage. As a guide the level of insurance required shall not, unless exceptional circumstances prevail, be less than £10 million for employer's liability insurance, £5 million for public liability insurance and £2 million for professional indemnity insurance.
- 10.2 The procuring officer must ensure that any insurance required by the Council is held by the provider with a reputable insurance company(ies) and that the policy(ies) are renewed as necessary during the contract period.

**11 TUPE**

- 11.1 Where relevant, the procuring officer must consider the implications of the Transfer of Undertakings (Protection of Employment) Regulations 2006 as amended and consult with the Council Solicitor and Monitoring Officer as to their application.

**12 DISPUTE RESOLUTION**

- 12.1 The procuring officer must consider the procedure for resolving disputes arising in relation to the procurement and, where appropriate, contracts shall contain provisions for alternative dispute resolution.

**13 PURCHASING SERVICE (ePAYMENTS)**

- 13.1 Procuring officers must make enquiries of the Financial/Revenue and Payments Services where the procurement is of consumables. These services will advise of any existing corporate contracts or mechanisms through which the purchase is to be made.

**14 ELECTRONIC PROCUREMENT**

- 14.1 Systems to enable the Council to procure works, goods and services are to begin introduction in the course of the financial year 2015–2016 and details of the system will be incorporated in an appendix to these Rules.

**15 ELECTRONIC TENDERING**

- 15.1 Electronic tendering systems will be introduced in the course of the financial year 2016-17, details of which are set out in Appendix 2 to these Rules.

- 15.2 Use of the electronic tendering system will become mandatory after an introductory period, during which training will be provided.

**16 FORM OF CONTRACT**

- 16.1 Each procurement must be in writing or confirmed in writing whether by way of formal contract or by exchange of correspondence. Contracts valued at £10,000 or more must be in a form approved by the Council Solicitor and Monitoring Officer.

**17 CONTRACTS REGISTER**

- 17.1 All contracts having a value or estimated value of £500 (five hundred pounds) or more must be entered in the central Contracts Register, which will be monitored by the CPAP. The register will specify the information that is to be held, but will include:

- contract value or estimated value
- description of contract
- name of contractor/supplier
- name of contract administrator
- start and completion dates
- payment details

**18 PERFORMANCE BOND/PARENT COMPANY GUARANTEE**

- 18.1 A performance bond or, in an appropriate case, a deposited sum must be obtained for any construction contract with a contract sum in excess of £100,000.00 unless the procuring officer, in consultation with the Chief Finance Officer, deems it to be unnecessary having undertaken an appropriate risk assessment.

- 18.2 For any other contract for works, goods or services having a value of £100,000 or more, the procuring officer must consider in consultation with the Chief Finance Officer whether it is appropriate to take security in the form of a Performance Bond or Parent Company Guarantee. In each case, the procuring officer must record his decision with reasons.

**19 DEEDS, SEALING AND SIGNING OF CONTRACTS**

- 19.1 Any contract valued at £100,000 or more must, unless the Council Solicitor and Monitoring Officer determines otherwise, be sealed with the common seal of the Council. In exceptional cases where the Council Solicitor and Monitoring Officer decides that a contract which amounts to or exceeds £100,000 in value does not require the common seal, it must be signed, subject to compliance with the Council's Financial Procedure Rules, by the Managing Director and one other Director or by two Directors.

- 19.2 Contracts less than £100,000 in value must be signed by the relevant Director or Service Leader (or, subject to compliance with the Council's Financial Procedure Rules, his or her nominee) or may be sealed with the common seal of the Council in cases where the Council Solicitor and Monitoring Officer considers it to be appropriate.

- 19.3 Before a Contract can be sealed by the Council, the Officer must provide the relevant authority to award in writing from the appropriate decision maker.

**PART 4 – PROCUREMENT PROCEDURE RULES****20 CONTRACT DOCUMENTS**

- 20.1 Wherever practicable, work under a contract must not start until the contract documents and all other procedures have been completed to the satisfaction of the Service Leader or, in the case of a procurement valued at £100,000 or more, the Service Leader and the Council Solicitor and Monitoring Officer. A letter of intent must not be issued unless approved by the Council Solicitor and Monitoring Officer.

**21 DELAY IN COMPLETING THE CONTRACT**

- 21.1 If a written contract is not signed or sealed, as the case may be, within a period of six months from the date of the decision to enter into it, the procuring officer shall report the details to the lead councillor for the procurement activity.

**22 NOMINATING SUB-CONTRACTORS AND SUPPLIERS**

- 22.1 Where it is decided to be in the Council's interest, that a sub-contractor or supplier should be nominated to a main contractor, at least three tenders for the nomination must be invited in accordance with one of the methods described in Table 1 below.
- 22.2 The invitation to tender as sub-contractors or suppliers must require an undertaking from any tenderer to enter into a contract with the main contractor, including an obligation to indemnify the main contractor in respect of matters included in the sub contract.

**23 CONFIDENTIALITY OF TENDERS AND QUOTATIONS**

- 23.1 All matters concerned with quotations and tenders must be treated as confidential, including the correction of errors, and any information, discussion or correspondence entered into should be confined to those officers of the Council who are directly concerned and any consultant retained by the Council irrespective of the procurement process in question.
- 23.2 The amount or value of any tender or quotation which is to be considered by the Council or Executive shall not be made public before the meeting and shall be omitted from any written report on the subject which may be circulated before the meeting unless the report is marked as confidential.

**24 AMENDMENTS TO PROCUREMENT PROCEDURE RULES**

- 24.1 The Council Solicitor and Monitoring Officer shall be empowered to review the Procurement Procedure Rules from time to time and as often as may be necessary in consultation with the lead councillor and, following formal approval by full Council, shall publish details of any amendments.

**Part 3****25 THE PROCUREMENT PROCESS**

- 25.1 The process to be adopted is determined by the value of the contract (see paragraph 6 above). The procedure must be both appropriate and proportionate to the value of the contract. It must ensure that the Council achieves best value which is to be assessed by an evaluation of both the price and quality of competitive bids so as to determine the most economically advantageous over the life of the contract.
- 25.2 Procuring officers must, as a minimum, obtain quotations and tenders as follows:

**PART 4 – PROCUREMENT PROCEDURE RULES**

	Goods, services and works	Goods, services and works	All goods and services other than Schedule 3 services		Services covered by Schedule 3 <sup>2</sup> and those not covered by the regulations	Services covered by Schedule 3 <sup>2</sup> and those not covered by the regulations	Works	
Value of contract aggregated over 4 years (excluding VAT)	UNDER £10,000	£10,001 - £100,000	£100,001 to the EU threshold for standard goods and services (£181,302) <sup>3</sup>	The EU threshold for standard goods and services (£181,302) <sup>3</sup> and over	£100,000 to the relevant EU threshold for Schedule 3 services (£615,278) <sup>3</sup>	Over the relevant EU threshold for Schedule 3 services (£615,278) <sup>3</sup>	£100,001 up to relevant EU threshold for works (£4,551,413) <sup>3</sup>	The relevant EU threshold for works (£4,551,413) <sup>3</sup> and over
Minimum requirements	1 written quotation demonstrating value for money	3 written quotations <sup>1</sup>	3 formal tenders <sup>1</sup>	Full EU tender process in accordance with the Public Contracts Regulations,	3 formal tenders <sup>1</sup>	Light-touch tender regime under regulations 74 to 77	3 formal tenders <sup>1</sup>	Full EU tender process in accordance with the Public Contracts Regulations

**Table 1**

- <sup>1</sup> For sub-threshold procurements of over £25,000 which are covered by the Public Contracts Regulations 2015, the procedures set out in regulations 109 to 112 inclusive will need to be followed in obtaining those quotations or tenders. This will equally apply to Schedule 3 contracts under their higher threshold.
- <sup>2</sup> The social and other specific services mentioned in Schedule 3 to the 2015 Regulations have a higher threshold of £615,278 as at January 2018, and for those services there is a light-touch procurement regime (referred to in Regulation 74) even over that threshold.
- <sup>3</sup> The EU threshold for goods and other services (i.e. non-Schedule 3) is £181,302, and for works it is £4,551,413 as at January 2018.

**PART 4 – PROCUREMENT PROCEDURE RULES**

- 25.3 A summary of these processes and requirements is at **Appendix 1**.
- 25.4 Procuring officers will be issued with the Council's Manual of Procurement Practice providing detailed information and highlighting issues which may arise in respect of which further advice must be sought. The Manual must be followed. Advice must be sought as appropriate from the Council Solicitor and Monitoring Officer or the CPAP. The following is a summary of the key steps to be taken when engaging in a procurement exercise.
- 25.5 Preparation of Business case:
- 25.5.1 A business case proportionate to the complexity, risk and value of any proposed procurement must be prepared setting out the issues in sufficient detail to enable an informed decision to be taken.
- 25.6 Pre-Tender market research and consultation, with a view to preparing the procurement and informing economic operators in the market place of plans and requirements:
- 25.6.1 Advice may be sought from independent experts, authorities or from market participants and may be used in the planning and conduct of the procurement process provided that the consultation does not have the effect of distorting competition and does not breach requirements for non-discrimination and transparency. It is recommended advice be sought from the Council Solicitor and Monitoring Officer as appropriate.
- 25.7 Advertising.
- 25.7.1 If a Contract (**regardless of value**) may be of interest both to local suppliers and more widely including suppliers in EU member states (cross border interest), a sufficiently accessible advertisement must be published. Generally, the greater the likely interest, the wider the advertising coverage should be. At a minimum advertisements should appear on the Council's web site (mandatory for all contracts above £10,000) and may be placed on regional and national portals in addition to local papers and national specialist journals as appropriate.
- In respect of sub-threshold contracts, regulation 109 of the 2015 regulations may require tenders to be advertised on the Cabinet Office's Contracts Finder.
- OJEU notices are mandatory for procurements exceeding the threshold values specified by the current European Directive. Procuring officers are required to keep a record of their consideration of and decision in respect of the potential for cross border interest.
- 25.8 Route to market
- 25.8.1 The appropriate route to market must be selected. This may be an Open procedure through an Invitation to Quote (ITQ) or an Invitation to Tender (ITT) or a Restricted Procedure when candidates are invited to submit initial information and a number are selected to receive an ITT on the basis of the information provided. Additional procedures including Competitive Dialogue, the Competitive Dialogue with Negotiation, the Negotiated Procedure and

Innovation Partnership may be available but must be selected only after consultation with the Council Solicitor and Monitoring Officer and the CPAP.

25.9 Evaluation criteria and scoring mechanism:

25.9.1 Each procurement must be properly specified and the evaluation criteria and the scoring mechanism clearly explained in the Invitation to Tender or Invitation to Quote.

25.9.2 Award Criteria must be designed to assess the suitability of the offer being made and must be appropriate to the purchase so as to assess which proposal is the most economically advantageous over the life of the contract.

25.10 Return of Quotations and Tenders:

25.10.1 Quotations must be returned to the respective Director or Service Leader by whom they will be held securely and unopened until after the closing time and date for receipt of responses. All responses must be opened at one time in the presence of two persons.

25.10.2 Tenders must be returned to the Democratic Services Manager. They will be retained securely unopened until after the date and time for receipt of responses. All tenders must be opened at one time and in the presence of a councillor, the Democratic Services Manager or his or her nominee and the Service Leader for the procurement activity or his/her nominee.

25.10.3 Any tender received after the date and time indicated for receipt will be retained unopened by the Democratic Services Manager until all other valid tenders have been opened and recorded. It will then be opened and returned to the sender. Exceptionally, the Council Solicitor and Monitoring Officer may, on being satisfied that there is evidence of posting in time for delivery by the due date authorise acceptance of the tender provided other tenders have not already been opened.

25.10.4 A record shall be kept for both quotations and tenders of:

- (i) the nature of the works, goods or service to be supplied;
- (ii) the authority for entering into the contract;
- (iii) the name of each person by or on whose behalf a quotation or tender was submitted;
- (iv) the amount of each quotation or tender ;
- (v) the date and time of opening of the quotation or tenders
- (vi) the names of those present at the opening of the quotation or tender.

25.10.5 A tender or quotation that does not comply with the instructions to tenders or is conditional must be treated as non-compliant and rejected. Non-compliant tenders or quotations will not be evaluated. The Council's decision in this respect is final.

25.11 Evaluation Panels:

25.11.1 The evaluation panel must consist as a minimum of the procuring officer (when appointed), Service Leader or their delegate, and the Financial Services Manager or their delegate. The evaluation panel may include



**PART 4 – PROCUREMENT PROCEDURE RULES**

service users and external consultants. The panel may further include those with specific expertise in the subject matter.

25.11.2 Negotiations with applicants who have tendered for a contract through an Open or Restricted procedure are not permitted. Clarification of a submission may be sought by the evaluation panel but must not result in any substantive changes to the Tender. Clarification questions and responses must be carefully documented.

25.11.3 A tenderer may be permitted to amend his tender sum where there is an obvious arithmetic or similar error in the priced bill of quantities or schedule of rates in which case the tender sum shall be corrected accordingly and the contractor/supplier notified in order to facilitate withdrawal of the submitted tender if the contractor/supplier so determines.

25.12 Standstill period:

25.12.1 For procurements subject to the OJEU procedure observation of a standstill period and the issue of standstill letters prior to the award of contract are mandatory and for other procurements are strongly recommended. If it is not proposed to provide feedback the CPAP must be informed and the reasons provided.

25.12.2 Award decision notification letters are mandatory for all procurements.

**Part 4****26 CONTRACT TERMS**

26.1 Every contract entered into by the Council for the provision of works, goods or services which exceeds £500 in value (and in any other case where the Director or Service Leader shall require) shall:

26.1.1 Specify the works to be executed and goods or services to be supplied;

26.1.2 State the price to be paid detailing the frequency and method of calculation together with a statement as to the amount of any discounts or other deductions and requiring payment within 30 days of receipt of a valid invoice;

26.1.3 State the period or times within which the contract is to be performed;

26.1.4 Prohibit any assignment or sub-letting of the contract without the express agreement in writing of the Council;

26.1.5 State that the Council may cancel the contract and recover any resulting losses if the contractor, his employees or anyone acting on his behalf, with or without his knowledge, does anything improper to influence the Council or commits an offence under Bribery Act 2010;

26.1.6 Require the supplier to comply with the requirements of the Health and Safety at Work etc. Act 1974, and any other relevant Acts, Regulations or Orders pertaining to health and safety;

**PART 4 – PROCUREMENT PROCEDURE RULES**

- 26.1.7 Require the contractor to comply with the Equality Act 2010 including where relevant the Public Sector Equality Duty;
- 26.1.8 State that if the Contractor enters into liquidation or administration, the Council is entitled to cancel the contract and recover any resulting losses
- 26.2 For contracts with a value in excess of £100,000, if appropriate, make provision for the payment of liquidated damages by the contractor where he fails to complete the contract within the time specified. The level of liquidated damages must be determined by the Director or Service Leader.
- 26.3 For every contract with a value of £100,000 or more, require and take sufficient security for the due performance of the contract, unless the Chief Finance Officer deems this inappropriate.
- 26.4 For contracts which permit sub-contracting, the contractor is to be required to impose on his sub-contractors equivalent contractual requirements in terms of equality, health and safety, bribery and corruption and payment provisions.
- 26.5 The terms of appointment of a consultant must include the following provisions requiring the consultant to:
  - 26.5.1 Comply in all respects with the Council's Procurement Procedure Rules and Financial Procedure Rules;
  - 26.5.2 Consult the Council's Council Solicitor and Monitoring Officer in respect of all tender documents and obtain written approval for such documents prior to tendering;
  - 26.5.3 Maintain adequate records relating to the contract and produce them to the procuring officer whenever requested during the contract; and
  - 26.5.4 Pass all relevant records to the procuring officer on completion of the contract.
- 26.6 Every contract entered into by the Council shall (where considered appropriate by the Council Solicitor and Monitoring Officer) contain suitable provisions to ensure that
  - (a) the Council can terminate the contract in the situations specified in Regulation 73 of the 2015 Regulations, and in any other case where the contract has been entered into in breach of the Council's Procurement Procedure Rules and
  - (b) the Council complies with Regulations 113 (payment of invoices within 30 days by the Council and its contractors and subcontractors)

in each case the wording of such provision to be such as the Legal Services Manager specifies from time to time.

Appendix 1

QUICK GUIDE TO PROCUREMENT: Minimum requirements

	Goods, services and works	Goods, services and works	All goods and services other than Schedule 3 services		Services covered by Schedule 3 and services not covered by the regulations	Services covered by Schedule 3 and services not covered by the regulations	Works		Accessing Framework agreements
Value of contract aggregated over 4 years (excluding VAT)	UNDER £10,000	£10,001 - £100,000	£100,001 to the EU threshold for standard goods and services (£181,302)	The EU threshold for standard goods and services (£181,302) and over	£100,000 to the relevant EU threshold for Schedule 3 services (£615,278 as at Jan 2018)	Over the relevant EU threshold for Schedule 3 services (£615,278 as at Jan 2018)	£100,001 – up to relevant EU threshold for works (£4,551,413)	The relevant EU threshold for works (£4,551,413) and over	Not relevant
Minimum tendering requirement	1 written quote evidencing value for money.	3 written quotes.	3 formal tenders	Full EU tender process (Public Contracts Regulations) <sup>1</sup>	3 formal tenders	Light-touch tender regime under regulations 74 to 77	3 formal tenders	Full EU tender process (Public Contracts Regulations) <sup>2</sup>	Confirmation Framework accessible to authority. Comply with framework conditions re call off. Confirm with legal services
Who authorises process?	Director/SL <sup>3</sup> Budget holder	Director/SL/ Budget holder	Director/SL + CPAP <sup>4</sup>	Director/SL + CPAP & briefing note to CMT	Director/SL + CPAP & briefing note to CMT	Director/SL + CPAP & briefing note to CMT	Director/SL + CPAP & briefing note to CMT	Director/SL + CPAP & briefing note to CMT	Director/SL + CPAP. Briefing note to CMT on values in excess of £100,000

<sup>1</sup> Different procedures can apply: Legal Services will approve most appropriate route.

<sup>2</sup> Different procedures can apply: Legal Services will approve most appropriate route.

<sup>3</sup> SL – Service Leader

<sup>4</sup> CPAP – Corporate Procurement Advisory Panel

**PART 4 – PROCUREMENT PROCEDURE RULES**

	Goods, services and works	Goods, services and works	All goods and services other than Schedule 3 services		Services covered by Schedule 3 and services not covered by the regulations	Services covered by Schedule 3 and services not covered by the regulations	Works		Accessing Framework agreements
Value of contract aggregated over 4 years (excluding VAT)	UNDER £10,000	£10,001 - £100,000	£100,001 to the EU threshold for standard goods and services (£181,302)	The EU threshold for standard goods and services (£181,302) and over	£100,000 to the relevant EU threshold for Schedule 3 services (£615,278 as at Jan 2018)	Over the relevant EU threshold for Schedule 3 services (£615,278 as at Jan 2018)	£100,001 – up to relevant EU threshold for works (£4,551,413)	The relevant EU threshold for works (£4,551,413) and over	Not relevant
Where should advert be placed?	No advert required <sup>5</sup>	Consider use of website, portals suitable media <sup>6</sup> Use of Contract Finder required over £25K	Appropriate medium - web site, portals, professional journals etc. Use of Contract Finder required	Advert in OJEU website., and other media	Appropriate medium - web site, portals, professional journals etc. Use of Contract	Advert in OJEU website., and other media	Advert on website and other media Use of Contract Finder	Advert in OJEU Also website and other media	No advert required
Who receives quotes/ tenders?	Director/SL	Director/SL	Democratic Services Manager Recorded opening with Councillor present	Democratic Services Manager Recorded opening with Councillor present	Democratic Services Manager Recorded opening with Councillor present	Democratic Services Manager Recorded opening with Councillor present	Democratic Services Manager Recorded opening with Councillor present	Democratic Services Manager Recorded opening with Councillor present	Director
Is a contract required?	Yes, we have to publish all contracts over £500. May be evidenced by order form with GBC appropriate terms and conditions attached.	Yes. Advice from Legal Service.	Yes. Agreed by Legal Service and under seal.	Yes. Agreed by Legal Service and under seal.	Yes. Agreed by Legal Service and under seal.	Yes. Agreed by Legal Service and under seal.	Yes. Agreed by Legal Service and under seal.	Yes. Agreed by Legal Service and under seal.	Yes. Agreed by Legal Service. May be under seal .

<sup>5</sup> Use eTendering portal from 1 April 2015.

<sup>6</sup> Use eTendering portal from 1 April 2015

**PART 4 – PROCUREMENT PROCEDURE RULES**

	Goods, services and works	Goods, services and works	All goods and services other than Schedule 3 services		Services covered by Schedule 3 and services not covered by the regulations	Services covered by Schedule 3 and services not covered by the regulations	Works		Accessing Framework agreements
Value of contract aggregated over 4 years (excluding VAT)	UNDER £10,000	£10,001 - £100,000	£100,001 to the EU threshold for standard goods and services (£181,302)	The EU threshold for standard goods and services (£181,302) and over	£100,000 to the relevant EU threshold for Schedule 3 services (£615,278 as at Jan 2018)	Over the relevant EU threshold for Schedule 3 services (£615,278 as at Jan 2018)	£100,001 – up to relevant EU threshold for works (£4,551,413)	The relevant EU threshold for works (£4,551,413) and over	Not relevant
Evaluation	Budget Holder	Evaluation panel	Evaluation panel	Evaluation panel	Evaluation panel	Evaluation panel	Evaluation panel	Evaluation panel	Evaluation panel for mini-competition
Who approves exemption from rules?	Director/SL	Council Solicitor and Monitoring Officer in consultation with the Procurement Officer & Lead Councillor	Council Solicitor and Monitoring Officer in consultation with the Procurement Officer & Lead Councillor	No exemption	Council Solicitor and Monitoring Officer in consultation with the Procurement Officer & Lead Councillor	No exemption	Council Solicitor and Monitoring Officer in consultation with the Procurement Officer & Lead Councillor	No exemption	N/A

# PROCUREMENT PROCEDURE RULES – STEPS TO BE TAKEN TO PROCURE

These notes complement the *Quick Guide to Procurement*. These steps are part of the formal rules for undertaking procurement and bound by the formalities of the Council’s Constitution. Procuring officers will be expected to keep a full trail of documents relating to each procurement undertaken.

**STEP 1**  
IDENTIFY NEED

- You must prepare for a procurement process in good time, having identified in your service/business plan that procurement for goods and/or services and/or works will be required during the lifespan of the plan. This will allow for a legitimate fairer procurement cycle and enable the proper legal guidance necessary to carry out the procurement. The process for urgent procurement is set out in separate guidance.
- Document what you want to do with your procurement and keep it on a file.
- You must record on the file that you have your manager’s authority to perform the procurement before you take any steps.

**STEP 2**  
DEVELOP BUSINESS CASE

- Before you start the process, prepare and document an estimated value of the contract you wish to procure.
- You must ensure that you have adequate budget provision for the procurement you wish to undertake or have commenced the process for obtaining funds (e.g. CMT approval; Executive approval) in accordance with the financial procedure rules.
- You must determine the appropriate form of tender or quotation process to follow. You can use the Quick Guide to Procurement that forms part of these procedure rules (and the Council’s Constitution) in conjunction with the Council’s Manual of Procurement Practice. In either case, you must consult with Legal Services before progressing further. The form of tender might be to use a framework agreement. Use the Manual to determine whether a framework agreement will meet your objectives.
- The guidance suggests the minimum in terms of procedures. You must remember that we are aiming for the best value for Guildford residents, which we may achieve by obtaining a greater number of quotes or tenders than specified.

**PART 4 – PROCUREMENT PROCEDURE RULES**

<b>STEP 3</b> IDENTIFY STAKEHOLDERS	<ul style="list-style-type: none"> <li>You may enter into pre-market consultation with potential suppliers to establish that the market can meet your requirement for good, works or services. Dialogue with the market pre-procurement is encouraged not only to bring the opportunity to the attention of the market but also to assist in a greater understanding of the market place for specific products or services.</li> <li>We purchase such a wide range of goods and services that it is impossible, particularly in a smallish authority like Guildford, to understand the vagaries and needs of all markets. Pre-engagement will assist in the understanding of the feasibility of the requirement, market capacity and the acceptable level of risk in an individual market.</li> <li>You must take care however, to ensure pre-market engagement does not distort competition or violate the transparency and non-discrimination principles. This exercise may also shape your thinking about what alternatives might exist or how suppliers might deliver your requirements and the extent to which there is cross border interest.</li> </ul>
<b>STEP 4</b> DEVELOP TENDER DOCUMENTATION	<ul style="list-style-type: none"> <li>A specification and selection criteria must be prepared in advance of your request for tenders or quotations. You must keep these on the procurement file ready to use for evaluating the tenders or quotations you receive.</li> <li>You are seeking the best value for the Council and selection criteria must reflect our ability to secure best value by balancing cost and quality to produce the most economically advantageous solution over the lifetime of the contract.</li> </ul>
<b>STEP 5</b> UNDERTAKE PROCUREMENT PROCESS	<ul style="list-style-type: none"> <li>Determine the most appropriate procurement process</li> <li>Advertise</li> <li>Issue documentation</li> <li>Evaluate tenders/quotations returned</li> <li>Feedback</li> </ul>
<b>STEP 6 AWARD AND IMPLEMENTATION</b>	<ul style="list-style-type: none"> <li>Work under contract must not start until you have completed the contract documents and all other procedures to the satisfaction of the Director/Service Leader.</li> </ul>

**PART 4 – PROCUREMENT PROCEDURE RULES**

<b>OF CONTRACT</b>	<ul style="list-style-type: none"> <li>• A letter of intent must not be issued unless approved by the Council Solicitor and Monitoring Officer</li> </ul>
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<b>STEP 7</b>  <b>CONTRACT MANGEMENT</b>	<ul style="list-style-type: none"> <li>• All contracts will have a contract manager nominated by the Director or Service Leader.</li> <li>• The contract manager will be responsible to the Director/Service Leader for entering contracts over £500 onto the contracts register, including appropriate markers for when the contract is due for renewal or termination. The contract manager must enter the contract on the register immediately following the contract being agreed with the supplier.</li> <li>• The role of the contract manager is to manage the contract throughout its duration, as well as enforce duties owed to the Council and to take responsibility for those duties owed to the contractor.</li> <li>• The contract manager will –             <ul style="list-style-type: none"> <li>- monitor performance of the contractor against the agreed level of service,</li> <li>- monitor the continuing level of operational and financial risk to which the Council is exposed and to institute controls as appropriate,</li> <li>- ensure the contractors’ due diligence with all appropriate health and safety obligations,</li> <li>- facilitate the resolutions of issues between the contractor and users of the service,</li> <li>- ensure prompt payment of invoices and compliance with all financial regulations and contract standing orders during the lifetime of the contract,</li> <li>- ensure that appropriate arrangements are made for the termination or re-letting of the contract at the appropriate time.</li> </ul> </li> </ul>
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<b>STEP 8</b>  <b>LESSONS LEARNED</b>	<ul style="list-style-type: none"> <li>• All contract managers will use their knowledge and experience gained from each procurement exercise to inform and advise other contract managers. This knowledge sharing will be facilitated by the CPAP in order to ensure that mistakes are not repeated and good practice appropriately disseminated.</li> </ul>
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**PART 4 – PROCUREMENT PROCEDURE RULES****Appendix 2: E-Tendering**

1. Introduction
  - 1.1 These rules apply to all procurement activity undertaken using the Council's e-tendering portal.
  - 1.2 The use of e-tendering is optional during the introductory period. Following the introductory period, the use of e-tendering will become mandatory for all procurements.
  - 1.3 The use of e-tendering is being introduced following the introduction of the Public Contracts Regulations 2015. The use of electronic means to publish tender opportunities and make the documents available electronically is required by Regulation 22.
  - 1.4 All procuring officers will be required to attend training before being given access to the e-tendering portal.
2. Thresholds
  - 2.1 The use of e-tendering is not based on monetary thresholds, it is suitable for all quotes, tenders and framework mini-competitions.
3. Guidance and Mandatory Settings
  - 3.1 When setting up a new procurement on the e-tendering portal the procuring officer must refer to the separate E-Tendering Guidance document and, in particular, the mandatory settings.
  - 3.2 The E-Tendering Guidance document is available on the intranet in the Procurement Toolkit.
4. Communication
  - 4.1 All communication during the tender process must be conducted via the e-tendering portal, in accordance with the instructions to tenderers.
  - 4.2 Any clarification questions must be submitted by tenderers using the correspondence function of the e-tendering portal.
  - 4.3 In the event the procuring officer is contacted via email, telephone or in person regarding the procurement, they must direct the individual to the e-tendering portal. The procurement must not be discussed directly with individual bidders.
  - 4.4 Clarifications and responses to clarification questions will be issued to all bidders via the e-tendering portal.

## PART 4 – PROCUREMENT PROCEDURE RULES

### 5. Return of Quotations and Tenders

- 5.1 All quotations and tenders must be returned via the e-tendering portal and will remain unopened and anonymous until the closing time and date for the receipt of responses.
- 5.1.1 The only exception to 5.1 is where bidders are having problems with the e-tendering portal and are unable to upload their return. The Procurement Officer must have been made aware of the problem prior to the return deadline.
- 5.1.2 Where a return has been returned by other means, following agreement by the Procurement Officer that this is acceptable, the return must be manually added at the start of the opening ceremony before the electronic submissions are opened.
- 5.2 Any pending, or late, tender returns will be rejected by the e-tendering portal once the opening ceremony has been started.
- 5.3 The opening ceremony will be carried out by the procuring officer and relevant Director, or his nominee.
- 5.4 An electronic record shall be kept for both quotations and tenders of:
- The contract title;
  - The contract reference;
  - The return date and time;
  - The number of expressions of interest;
  - The number of returns;
  - The name of the person/company submitting the quotation or tender;
  - The value of each quotation or tender;
  - The date and time the opening ceremony is started;
  - The name of the procuring officer carrying out the opening ceremony.
- 5.5 Following the opening ceremony, a confirmation email shall be sent to the appropriate procurement stakeholders which, dependent on contract value, may include the Lead Councillor, Council Solicitor and Monitoring Officer and the Service Leader, and should include the information listed in paragraph 5.4 above.

### 6. Notification of Award Decision

- 6.1 Notification of the award decision and feedback for the unsuccessful bidders must be issued using the e-tendering portal.

# Procurement Gateway Report

<b>Requirement Title:</b>	
<b>PI reference:</b>	

<b>Directorate</b>	
<b>Service</b>	
<b>Requirement Title:</b>	
<b>Contract Start Date:</b>	Click or tap to enter a date.
<b>Contract Term:</b>	
<b>Extension Term:</b>	
<b>Estimated overall Requirement Value (including extensions)</b>	
<b>Goods, Works, or Services</b>	Choose an item.

# Gateway One – Commissioning and Procurement Strategy

## 1.1 Business Need, Objectives, Scope, and Overview of Specification

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## 1.2 Have the Specification guidelines been followed? Yes No

## 1.3 Contact details

Service Leader:	
Contract Manager:	
Procurement Lead:	
Budget Holder:	

## 1.4 Draft Procurement Timetable

Milestone	Estimated Date
CPB Sign Off	Click or tap to enter a date.
Estimated Tender Publication	Click or tap to enter a date.
Issue of Invitation to Tender	Click or tap to enter a date.
Tender Clarification Deadline	Click or tap to enter a date.
Tender Submission Deadline	Click or tap to enter a date.
Evaluation completed	Click or tap to enter a date.
Intention to Award Published	Click or tap to enter a date.
Standstill Period End	Click or tap to enter a date.
Expected Award Date	Click or tap to enter a date.
Contract Commencement	Click or tap to enter a date.

	Capital (£)	Revenue (£)	Total (£)
<b>Total annual funding available:</b>			
<b>Budget code for capital and revenue:</b>			

**1.5 Financial Baseline**

**1.6 Social Value Considerations**

How will Social Value be considered as part of this Procurement?

**1.7 Climate Change Considerations**

How will Climate change be considered as part of this Procurement?

**1.8 Summary of market conditions and any market engagement undertaken**

**1.9 Options Appraisal - Route to Market (RTM)**

Option	Description of Option	Relative Advantages/Disadvantages, Reasons for selection or not, and any cost implications
Option 1 – <i>Proposed Route to Market</i>		
Option 2 – <i>title</i>		
Option 3 – <i>title</i>		
Option 4 – <i>do nothing</i>		

(If required add additional lines to include other options)

**1.10 Collaboration opportunities**

Provide details of any options available for collaboration:

**CONTRACT REQUIREMENTS**

**1.11 Rationale for Contract Term**

**1.12 Details of Framework or Dynamic Purchasing System (if appropriate)**

**1.13 Required financial security for performance if applicable (For contracts over £1,000,000 only)**

**TENDER/EVALUATION DETAILS**

**1.14 Evaluation Panel – technical (minimum three)**

Name	Position	Service Area

**1.15 Selection and/or Award Criteria and weighting**

*If the weighting is not 70 (price)/30 (technical), please outline why.*

**APPROVED BY:**

Report approval by	Name:	Date:
<i>Senior Specialist Procurement – Route to market</i>		Click or tap to enter a date.
<i>Finance authorisation – available funding and benefits forecast</i>		Click or tap to enter a date.
<i>Legal sign off</i>		Click or tap to enter a date.



# Gateway Two - Contract Award

## 2.1 Summary of Tender Activity (complete as relevant)

Tender Procedure	
Number of expressions of interest	
Number of responses (SQ)	
Names of tenderers passing the SQ process and reasons for their selection	
Number of responses	
Number of suppliers shortlisted (if applicable)	
Reasons for any rejection of any tender found to be abnormally low	
Significant changes during tender (e.g. revised spec, pricing schedule)	
Number of clarifications	
Other pertinent information/ ongoing decisions	

## 2.2 Successful Supplier(s) scoring

Successful supplier name	Technical Score %	Commercial Score %	Total Score %	Ranking
				<b>1</b>
				<b>2</b>
				<b>3</b>
				<b>4</b>
				<b>5</b>
				<b>6</b>

**2.3 Unsuccessful Supplier/tenderer(s)**

Unsuccessful supplier name	Technical Score %	Commercial Score %	Total Score %	Ranking
				<b>1</b>
				<b>2</b>
				<b>3</b>
				<b>4</b>
				<b>5</b>

**2.4 Detail any issues which have arisen which may affect contract award, or a decision not to award**

**2.5 How has Social Value been delivered in this award?**

**2.6 How has Climate change been delivered in this award?**

**2.7 Total contract value**

--

**2.8 Details of any savings**

Contract Period	** Enter contract length and split out the savings per FY years in the table below	
FY Years	Total Savings Achieved	Total Cost Avoidance Achieved
19/20		
21/22		
22/23		
23/24		
24/25		
25/26		
<b>Total:</b>		

**FINAL APPROVAL:**

Report approval by	Name:	Date:
Senior Specialist Procurement:		Click or tap to enter a date.
CPB Approval:		Click or tap to enter a date.

Contract award decision made by	Name:	Date:
Service Leader:		Click or tap to enter a date.

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Corporate Governance and Standards Committee Report

Ward(s) affected: n/a

Report of Director of Strategic Services

Author: John Armstrong, Democratic Services and Elections Manager

Tel: 01483 444102

Email: john.armstrong@guildford.gov.uk

Date: 25 March 2021

## **Corporate Governance and Standards Committee – 12 month rolling Work Programme**

### **Recommendation**

That the Committee considers and approves its updated 12 month rolling work programme, as detailed in Appendix 1 to this report.

#### Reason for recommendation:

To allow the Committee to maintain and update its work programme.

**Is the report (or part of it) exempt from publication? No**

### **1. Purpose of report**

1.1 The draft work programme attached as Appendix 1 sets out the items scheduled to be considered by this Committee at its meetings over the next 12 months.

### **2. Draft work programme**

2.1 The draft work programme for the Corporate Governance and Standards Committee is set out in Appendix 1 to this report. The timing of the reports contained in the work programme is subject to change, in consultation with the chairman. The items to be considered include decisions to be made by the Executive and/or full Council, with consideration of any comments or recommendations made by this Committee.

### **3. Financial Implications**

3.1 There are no financial implications arising directly from this report.

### **4. Legal Implications**

4.1 There are no legal implications arising directly from this report.

### **5. Human Resource Implications**

5.1 There are no human resources implications arising directly from this report.

**6. Background Papers**

- Guildford Borough Council Forward Plan
- Corporate Management Team Forward Plan

**7. Appendices**

Appendix 1: Corporate Governance and Standards Committee 12 month rolling work programme

# CORPORATE GOVERNANCE AND STANDARDS COMMITTEE: 12 MONTH ROLLING WORK PROGRAMME

**17 June 2021**

Subject	Details of decision to be taken	Decision to be taken by	Contact Officer
Annual Audit Letter 2019-20	To review the letter and make any comments to the Executive as appropriate.	Corporate Governance and Standards Committee Executive: 22 June 2021	Claire Morris 01483 444827
External Audit Plan and Audit Update 2020-21	To approve the external audit plan for 2020-21, and to note the content of the External Auditor's update report and make any appropriate comments.	Corporate Governance and Standards Committee	Claire Morris 01483 444827
Capital and Investment outturn report 2020-21	To submit any comments to the Executive when it considers this matter in June 2021.	Executive: 22 June 2021 Council: 27 July 2021	Victoria Worsfold 01483 444834
Revenue Outturn Report 2020-21	To note the Draft Statement of Accounts 2019-20, and to make any comments to officers in advance of the audit.	Executive: 22 June 2021	Victoria Worsfold 01483 444834
Housing Revenue Account Final Accounts 2020-21	To submit any comments to the Executive when it considers this matter in June 2021.	Executive: 22 June 2021	Victoria Worsfold 01483 444834
Annual Governance Statement 2020-21	To adopt the Council's Annual Governance Statement 2020-21	Executive: 22 June 2021	John Armstrong 01483 444102
External Audit 2021-22 Fee Letter	To consider the planned audit fee	Corporate Governance and Standards Committee	Claire Morris 01483 444827
Audit Report on the Certification of Financial Claims and Returns 2019-20: Housing Benefit Subsidy and Pooling Housing Capital Receipts	To note the position regarding the certification of financial claims and returns for 2019-20	Corporate Governance and Standards Committee	Belinda Hayden 01483 444867
Corporate Performance Monitoring	To receive a quarterly report setting out the Council's performance against its Key Performance Indicators	Corporate Governance and Standards Committee	Steve Benbough 01483 444052
Equalities Scheme Action Plan	Annual monitoring report on the implementation of the actions in the Equalities Scheme action plan approved in January 2018	Corporate Governance and Standards Committee	Francesca Smith 01483 444014
Review of Task Groups reporting to the Committee	To review the work carried out by the task groups over the past 12 months and work to be carried put in the next 12 months and appoint councillors to the groups	Corporate Governance and Standards Committee	John Armstrong 01483 444102

## CORPORATE GOVERNANCE AND STANDARDS COMMITTEE: 12 MONTH ROLLING WORK PROGRAMME

29 July 2021

Subject	Details of decision to be taken	Decision to be taken by	Contact Officer
2020-21 Audit Findings Report: Year ended 31 March 2021	To note the external auditor's findings and management's response in the Action Plan	Corporate Governance and Standards Committee	Victoria Worsfold 01483 444834
2020-21 Audited Statement of Accounts	To approve the 2020-21 Statement of Accounts	Corporate Governance and Standards Committee	Victoria Worsfold 01483 444834
Financial Monitoring 2021-22 Period 2 (April/May 2021)	To note the results of the Council's financial monitoring for the period April/May 2021	Corporate Governance and Standards Committee	Victoria Worsfold 01483 444834
Summary of Internal Audit Reports October 2020 – March 2021	To consider the summary of internal audit reports for the period October 2020 to March 2021, including an update on complaints to the Local Government Ombudsman for that period	Corporate Governance and Standards Committee	Neil Hewitson (KPMG) 0207 311 1791



# CORPORATE GOVERNANCE AND STANDARDS COMMITTEE: 12 MONTH ROLLING WORK PROGRAMME

**23 September 2021**

<b>Subject</b>	<b>Details of decision to be taken</b>	<b>Decision to be taken by</b>	<b>Contact Officer</b>
Planning Appeals	To monitor the Council's performance at appeals against refusal of planning permission by the Planning Committee (both in respect of officer recommendations for refusal and Committee overturns) including, where appeals are upheld, details of costs awarded against the Council and other associated legal/external adviser costs.	Corporate Governance and Standards Committee	Tim Dawes 01483 444650
Financial Monitoring 2021-22 Period 4 (April to July 2021)	To note the results of the Council's financial monitoring for the period April to July 2021	Corporate Governance and Standards Committee	Victoria Worsfold 01483 444834
Corporate Performance Monitoring	To receive a quarterly report setting out the Council's performance against its Key Performance Indicators	Corporate Governance and Standards Committee	Steve Benbough 01483 444052
Councillor Training and Development Update	To consider a report from the Councillors' Development Steering Group relating to councillor training and development	Corporate Governance and Standards Committee	Sophie Butcher 01483 444056
Data Protection and Information Security Update Report	To consider a six-monthly update on compliance with statutory requirements	Corporate Governance and Standards Committee	Ciaran Ward 01483 444072
Freedom of Information Compliance update	To consider the update report on the Council's performance in dealing with Freedom of Information requests (January to June 2021)	Corporate Governance and Standards Committee	Ciaran Ward 01483 444072
The Council's Constitution	To review and update Financial Procedure Rules	Corporate Governance and Standards Committee  Council: 5 October 2021	Victoria Worsfold 01483 444834

## CORPORATE GOVERNANCE AND STANDARDS COMMITTEE: 12 MONTH ROLLING WORK PROGRAMME

18 November 2021

<b>Subject</b>	<b>Details of decision to be taken</b>	<b>Decision to be taken by</b>	<b>Contact Officer</b>
Financial Monitoring 2021-22: Period 6 (April to October 2021)	To note the results of the Council's financial monitoring for the period April to October 2021	Corporate Governance and Standards Committee	Victoria Worsfold 01483 444834
Summary of internal audit reports (April to September 2021)	To consider the summary of internal audit reports and progress on the internal audit plan for April to September 2021, including update on complaints to the Local Government Ombudsman for that period.	Corporate Governance and Standards Committee	Neil Hewitson (KPMG) 0207 311 1791
Corporate Performance Monitoring	To receive a quarterly report setting out the Council's performance against its Key Performance Indicators	Corporate Governance and Standards Committee	Steve Benbough 01483 444052

Agenda item number: 8  
Appendix 1

# CORPORATE GOVERNANCE AND STANDARDS COMMITTEE: 12 MONTH ROLLING WORK PROGRAMME

20 January 2022

Subject	Details of decision to be taken	Decision to be taken by	Contact Officer
Annual Audit Letter 2020-21	To review the letter and make any comments to the Executive as appropriate.	Corporate Governance and Standards Committee Executive: 25 January 2022	Claire Morris 01483 444827
Capital and investment strategy (2022-23 to 2025-26)	To comment on various recommendations to the Executive and Council	Corporate Governance and Standards Committee Executive: 25 January 2022 Council: 9 February 2022	Victoria Worsfold 01483 444834
Financial Monitoring 2021-22 Period 8 (April to November 2021)	To note the results of the Council's financial monitoring for the period April to November 2021	Corporate Governance and Standards Committee	Victoria Worsfold 01483 444834
Gender Pay Gap Report 2022-23	To note the Council's gender pay gap report	Corporate Governance and Standards Committee	Francesca Smith 01483 444014
Corporate Performance Monitoring	To receive a quarterly report setting out the Council's performance against its Key Performance Indicators	Corporate Governance and Standards Committee	Steve Benbough 01483 444052
Freedom of Information Compliance - Annual Report 2021	To consider the annual report for 2021 on the Council's performance in dealing with Freedom of Information requests.	Corporate Governance and Standards Committee	Ciaran Ward 01483 444072

# CORPORATE GOVERNANCE AND STANDARDS COMMITTEE: 12 MONTH ROLLING WORK PROGRAMME

**24 March 2022**

Subject	Details of decision to be taken	Decision to be taken by	Contact Officer
Annual Governance Statement 2021-22	To adopt the Council's Annual Governance Statement 2021-22	Executive: 26 April 2022	John Armstrong 01483 444102
External Audit Plan and Audit Update 2021-22	To approve the external audit plan for 2021-22, and to note the content of the External Auditor's update report and make any appropriate comments.	Corporate Governance and Standards Committee	Claire Morris 01483 444827
Financial Monitoring 2021-22 Period 10 (April 2021 to January 2022)	To note the results of the Council's financial monitoring for period April 2020 to January 2021	Corporate Governance and Standards Committee	Victoria Worsfold 01483 444834
Corporate Performance Monitoring	To receive a quarterly report setting out the Council's performance against its Key Performance Indicators	Corporate Governance and Standards Committee	Steve Benbough 01483 444052
Audit Report on the Certification of Financial Claims and Returns 2020-21: Housing Benefit Subsidy and Pooling Housing Capital Receipts	To note the position regarding the certification of financial claims and returns for 2020-21	Corporate Governance and Standards Committee	Belinda Hayden 01483 444867
Planning Appeals	To monitor the Council's performance at appeals against refusal of planning permission by the Planning Committee (both in respect of officer recommendations for refusal and Committee overturns) including, where appeals are upheld, details of costs awarded against the Council and other associated legal/external adviser costs.	Corporate Governance and Standards Committee	Tim Dawes 01483 444650

# CORPORATE GOVERNANCE AND STANDARDS COMMITTEE: 12 MONTH ROLLING WORK PROGRAMME

21 April 2022

Subject	Details of decision to be taken	Decision to be taken by	Contact Officer
External Audit Plan and Audit Update 2021-22	To approve the external audit plan for 2021-22, and to note the content of the External Auditor's update report and make any appropriate comments.	Corporate Governance and Standards Committee	Claire Morris 01483 444827
Data Protection and Information Security Update Report	To consider a six-monthly update on compliance with statutory requirements	Corporate Governance and Standards Committee	Ciaran Ward 01483 444072
Freedom of Information Compliance - Annual Report 2021	To consider the annual report for 2020 on the Council's performance in dealing with Freedom of Information requests.	Corporate Governance and Standards Committee	Ciaran Ward 01483 444072
Equalities Scheme Action Plan	Annual monitoring report on the implementation of the actions in the Equalities Scheme action plan approved in January 2018	Corporate Governance and Standards Committee	Francesca Smith 01483 444014

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