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CONSORTIUM SECRETARY: JOHN SINNOTT, MA, Dipl. P.A.,
CHIEF EXECUTIVE, LEICESTERSHIRE COUNTY COUNCIL

Date: 27 February 2013
My Ref: PH/ESPO
Please ask for: Pete Hitchings
Direct Dialling: (0116) 305 6038
e-mail: peter.hitchings@leics.gov.uk

To: Members of the ESPO Management Committee

Dear Member,

ESPO MANAGEMENT COMMITTEE

A meeting of the Management Committee will be held at on Thursday, 7 March 2013 at 10.30 am in the Guthlaxton Committee Room, County Hall, Glenfield. Leicestershire.

A buffet lunch will be provided after the meeting. Please telephone or email me (details above) by Monday 4 March to confirm that you require lunch and, if so, whether you have any special dietary requirements.

Yours faithfully,

A handwritten signature in black ink, appearing to be 'John Sinnott', written over a light blue horizontal line.

for Consortium Secretary

AGENDA

<u>Item</u>	<u>Marked</u>
1. Minutes of the meeting held on 6 December 2012.	1 (Pages 1 – 6)
2. To advise of any items that the Chairman has decided to take as urgent elsewhere on the agenda.	
3. Declarations of interests in respect of items on this agenda.	
4. Forecast Outturn 2012/13 and Draft Medium Term Financial Strategy 2013/14 - 2016/17.	4 (Pages 7 - 38)

(Joint report of the Consortium Treasurer and Director)

During discussion of Item 4 above, the Chairman will be asked to consider Item 13 on the agenda which will involve the likely exclusion of the public.

- | | |
|--|----------------------------|
| 5. Consortium Agreement.

(Joint report of the Consortium Secretary and Treasurer) | 5

(Pages 39 -186) |
| 6. ESPO Change Programme Closure Report.

(Joint report of the Consortium Secretary and Treasurer) | 6

(Pages 187 - 202) |
| 7. Annual Review of Organisational Approach to Risk Management and Governance.

(Joint report of the Director, Consortium Secretary and Treasurer) | 7

(Pages 203 - 228) |
| 8. Progress Report of the Director.

(Report of the Director) | 8

(Pages 229 -242) |

During discussion of Item 8 above, the Chairman will be asked to consider Item 14 on the agenda which will involve the likely exclusion of the public.

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| 9. Public Procurement and Small & Medium-Sized Enterprises.

(Report of the Consortium Treasurer) | 9

(Pages 243 -250) |
| 10. Items referred by the Finance and Audit Subcommittee. | |
| 11. Date of Next Meeting - Thursday 27 June 2013 at 11 am. | |

The public are likely to be excluded from the meeting during the consideration of the following items of business in accordance with the provisions of Section 100 (A) (4) of the Local Government Act 1972 (Exempt Information).

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| 12. Medium Term Business Strategy - 18 Month Rolling Update.

(Report of the Director)

(Exempt under paragraphs 3 and 10 of Schedule 12(A)) | 12

(Pages 251 -262) |
| 13. Supplementary Information Informing the Forecast Outturn 2012/13 and Draft Medium Term Financial Strategy 2013/14 - 2016/17.

(Joint report of the Consortium Treasurer and Director)

(Exempt under paragraphs 3 and 10 of Schedule 12(A)) | 13

(Pages 263 -278) |
| 14. Supplementary Information Informing the Progress Report of the Director.

(Report of the Director)

(Exempt under Paragraphs 3, 5 and 10 of Schedule 12(A)) | 14

(Pages 279 -326) |



Minutes of a meeting of the ESPO Management Committee held at County Hall, Glenfield, Leicestershire on Thursday, 6 December 2012.

PRESENT

Cambridgeshire County Council

Cllr. B. Farrar; Cllr. J. Reynolds

Leicester City Council

Cllr. J. Thomas

Leicestershire County Council

Cllr. R. K. A Feltham; Cllr. M. B. Page

Norfolk County Council

Cllr. R. Smith

Peterborough City Council

Cllr. J. Holdich OBE (in the Chair)

Warwickshire County Council

Cllr. J. Whitehouse

Apologies for absence.

Apologies for absence were received from: Cllr. P. Hardy – Norfolk County Council, Cllr. R. Patel – Leicester City Council, Cllr. D.C. Hoyes MBE – Lincolnshire County Council, Cllr. S. Rawlins – Lincolnshire County Council, Cllr. D. Wright – Warwickshire County Council, Cllr. S. Count – Cambridgeshire County Council (Cllr. B. Farrar substituting) and Cllr. D. Seaton – Peterborough City Council.

150. Minutes.

The minutes of the meeting held on 27 September 2012, having previously been circulated, were taken as read, confirmed and signed as a correct record.

151. Urgent Items.

The Chairman reported that there were no urgent items for consideration.

152. Declarations of interests.

The Chairman invited those who wished to do so to declare an interest in respect of items on the agenda. No declarations were made.

153. External Audit Annual Plan 2012/13.

The Management Committee considered a joint report of the Director and Consortium Treasurer, the purpose of which was to provide details of the scope of the audit to be undertaken by ESPO's external auditor, PriceWaterhouseCoopers, for the audit year of 2012/13. A copy of the report, marked 'B', is filed with these minutes. The Chairman welcomed Mr Bacon and Mr Gibbs, of PwC, to the meeting.

Arising from discussion the following points were noted:

- (i) In respect of stock levels the external auditor monitored for fraud by determining what processes ESPO had in place to ensure that stock was not released other than through recorded transactions. He would make a judgement about which controls were most effective in mitigating fraud and then would check that these controls were being put into practice. On occasion the external auditor would be physically present for stock takes;
- (ii) ESPO experienced high levels of stock accuracy because it operated comprehensive stock monitoring practices. The Indigo Warehouse System electronically monitored stock and this was supported by a rolling process of stock checks and counts;
- (iii) Within the External Audit Plan 2012/13 a number of questions about how risk of fraud could be mitigated were asked, referred to on page 16 of the Plan. It was suggested that the Finance and Audit Subcommittee should give consideration to these questions;
- (iv) If circumstances arose where systematic errors were identified by the external auditor they would be brought to the attention of members through the standard reporting mechanisms;
- (v) The external auditor confirmed that it was felt sufficient arrangements were in place to ensure that ESPO operated best value processes;
- (vi) It was noted that the annual review of the effectiveness of the system of the Servicing Authority's internal audit service had been circulated to members of the Finance and Audit Subcommittee, which would consider the matter in more detail at a future meeting;
- (vii) The external auditor had reduced his fee level in line with fee structuring determined by the Audit Commission nationally. It was not envisaged that a reduction in the external auditor's fees would result in a reduction in the resource used for providing suitable audit services to ESPO. It was also noted that the Consortium Treasurer was responsible for ensuring a continued audit service for ESPO and that if any additional external auditing should be required over and above the Plan, charges would be agreed as appropriate.

The Chairman thanked Mr Bacon and Mr Gibbs for their contribution to the meeting.

RESOLVED:

- a) That the contents of the External Audit Plan 2012/13 be noted;
- b) That the Finance and Audit Subcommittee be requested to consider the questions raised in page 16 of the appendix to the report and report back to a future meeting.

154. Progress Report of the Director.

The Management Committee considered a report of the Director, the purpose of which was to provide an update to members on developments since the Committee last met on 27 September 2012. A copy of the report, marked 'E', is filed with these minutes. [Further details informing the Progress Report of the Director, of a commercially sensitive nature, were considered under exempt business in Minute 155 below]

Arising from discussion the following points were noted:

- (i) The Director gave a summary of his first three months in post. He felt that ESPO was a growing organisation, well-regarded and trusted by existing customers. ESPO faced a number of challenges in the future particularly in respect of competition from both the public and private sectors. Procurement markets continued to evolve, so too did traditional trading locations. It was important for ESPO to continue to be proactive in responding to such challenges;
- (ii) It was noted that the change programme, which included the re-drafting of ESPO's Partnership Agreement and Constitution, remained on schedule. It was intended for the revised partnership documents to be considered by the Management Committee at its next meeting.

RESOLVED:

That the progress report of the Director be noted.

155. Exclusion of the Public.

RESOLVED:

That under Section 100(A)(iv) of the Local Government Act 1972 the public be excluded from the meeting on the grounds that it will involve the likely disclosure of exempt information during consideration of the following item of business entitled 'Supplementary Report Informing the Progress Report of the Interim Director.' (Paper 'E') as defined in paragraphs 3, 5 and 10 of Schedule 12A of the Act; and, in all circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

156. Supplementary Information Informing the Progress Report of the Director.

The Management Committee received an exempt report of the Director, which set out further supplementary information to Item 9, Progress Report of the Director. A copy of the exempt report, marked 'E' is filed with these minutes.

The exempt report was not for publication by virtue of paragraphs 3, 5 and 10 of Section 12A of the Local Government Act 1972.

The Management Committee was advised that it was intended for an update on ESPO's approach to risk management and governance to be brought to its next meeting in March.

RESOLVED:

- (a) That the report and appendices be noted;
- (b) That a standing item 'items referred by the Finance and Audit Subcommittee' be added to the agenda for future Management Committee meetings;
- (c) That where available the Balanced Scorecard be incorporated as a standard appendix within future reports on 'Supplementary Information Informing the Progress Report of the Director';
- (d) That the Chief Officer Group be requested to consider the matter in respect of the tender exercise referred to in paragraphs 28 to 30 of the report and the outcome of this discussion be reported to the Management Committee in due course.

157. Progress on Efficiency Projects.

The Management Committee received a report and presentation of the Director providing an update on a number of efficiency projects being undertaken by ESPO. A copy of the report, marked 'D', and presentation slides are filed with these minutes.

Arising from discussion, the following points were noted:

- (i) A rolling review of current efficiency projects, whereby unviable projects were discontinued and new projects added, was welcomed;
- (ii) Projects were identified in a number of different ways through, for example, customer feedback, staff suggestions and identification by the Management Team or by members;
- (iii) It would be useful for the Finance and Audit Subcommittee to monitor the effectiveness of specific efficiency projects against projected savings from time to time;
- (iv) It would be useful in future for each project to include a timetable including spend to date;

- (v) The Director had set challenging internal targets to increase ESPO's capacity for electronic transactions, however it was noted that more traditional methods of business remained popular with customers. Whilst there was the potential for significant savings and process improvements to be achieved by encouraging culture change it was also important to ensure that adopting new methods of business did not jeopardise relationships with existing customers;
- (vi) Consideration would be given to the installation of photovoltaic cells on ESPO's warehouse roof. It was noted that not all such installations were viable given, for example, on-going maintenance costs. If this proved to be the case then the idea would be abandoned;
- (vii) As a part of an energy saving project, ESPO had implemented motion sensor, lower level lighting in its warehouse;
- (viii) Consideration would be given in the new year to fleet management arrangements;
- (ix) The more efficient provision of water was identified as a potential project which had proved successful in reducing costs for other large organisations such as Norfolk County Council.

RESOLVED:

- (a) That the report and presentation be noted;
- (b) That as part of a further update on efficiencies, officers be requested to report to a future meeting of the Management Committee on ESPO's approach to increasing the volume of electronic business transactions.

158. Dates of Future Meetings.

RESOLVED:

That the schedule of meetings in 2013 be approved as follows:

Thursday 7 March 2013 (at 10.30 am)
Thursday 27 June 2013 (at 11 am)
Thursday 26 September 2013 (at 10.30 am)
Thursday 5 December 2013 (at 10.30 am)

10.30 am - 12.35 pm
06 December 2012

CHAIRMAN

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ESPO MANAGEMENT COMMITTEE – 7 MARCH 2013

AGENDA ITEM 4

FORECAST OUTTURN 2012/13 AND DRAFT MTFS 2013/14 – 2016/17

**JOINT REPORT OF THE DIRECTOR AND
CONSORTIUM TREASURER**

Purpose of Report

1. To update the Management Committee on the financial implications of the Four Year Medium Term Financial Strategy (MTFS) for 2013/14 -2016/17.
2. To present the Forecast Outturn for 2012-13
3. To present the MTFS 2013/14 -2016/17 (draft 2013-14 budget and draft outline budgets for 2014-15, 2015-16 and 2016-17) for approval.

Background

4. The Forecast Outturn for 2011-12 and Budget for 2012-13 was approved by the Management Committee on 2 March 2012.
5. The intention to move to a four year Medium Term Financial Strategy was presented to the Finance and Audit Subcommittee and Management Committee in June 2012, together with a draft outline budget for 2013-14, 2014-15 and 2015-16.
6. The assumptions underlying this budget and MTFS were considered by the Finance and Audit Sub Committee on 20 November 2012.
7. The draft 2013-14 budget and the MTFS were presented to the Finance and Audit Subcommittee on 18 February 2013. The reports were considered in detail and an extract of the minutes of this discussion is attached to this report marked as Appendix 2.

Updated Outline ESPO Four Year Strategy 2013/14 – 2016/17

8. The financial implications of the four year strategy document along with the key assumptions can be summarised in the following table:

ESPO BUSINESS PLAN MODEL		SUMMARY					
	2010/11 Actual	2011/12 Actual	2012/13 Forecast	2013/14 Year 1	2014/15 Year 2	2015/16 Year 3	2016/17 Year 4
	£m	£m	£m	£m	£m	£m	£m
PROJECTED USE OF ESPO SERVICES							
INVOICED SALES	86.6	86.5	91.6	94.5	96.6	99.7	102.4
CONTRACTS & COMMISSIONING	449.1	1009.0	445.0	499.0	514.0	529.0	534.3
TOTAL	535.7	1095.5	536.6	593.5	610.6	628.7	636.7
TRADING INCOME	18.1	17.8	17.9	17.8	17.8	17.9	17.9
TRADING SURPLUS	3.1	2.6	2.7	1.8	1.9	2.2	2.3
MEMBERS' DIVIDEND	1.0	1.7	1.5	1.1	1.2	1.4	1.6
USABLE CASH RESERVES	5.9	6.6	7.8	8.0	8.7	9.4	10.2
NET WORTH	6.8	8.5	9.6	10.5	11.2	11.9	12.7
PROPERTY, PLANT AND EQUIPMENT	11.0	11.2	11.0	11.1	11.9	11.9	11.9
LOAN LIABILITY	-9.5	-9.0	-8.5	-8.0	-7.5	-7.0	-6.5
FORECAST ASSUMPTIONS:							
Price Inflation - Energy		0.2%	15.0%	5.0%	6.0%	2.0%	2.0%
Stores Income Growth		3.8%	8.1%	3.7%	5.3%	3.3%	2.0%
Stores Price Inflation		3.0%	1.9%	1.5%	1.0%	1.0%	1.0%
Stores Volume Growth		-3.3%	6.2%	2.2%	4.3%	2.3%	1.0%
Wage Inflation		0.0%	0.0%	1.0%	1.0%	1.0%	1.0%
Headcount - Stores Average FTE		196.4	192.0	189.4	188.4	188.4	188.4
- Procurement Average FTE		150.9	149.2	170.7	179.9	179.9	179.9
-Total		347.3	341.2	360.1	368.2	368.2	368.2
Cumulative Indigo Warehouse Efficiencies £k			0	200	400	600	800
Other Project Efficiencies			100	150	350	650	900
Warehouse Payroll Costs as % of Stores T/O		11.52%	11.19%	9.97%	9.43%	9.21%	9.10%

9. The figures for 2012-13 represent the forecasted out turn for this financial year. The figures for 2013-14 represent the draft budget as it currently stands. A detailed scenario analysis has been prepared to allow members to see the impact of various events and allow consideration as to whether they should be included in the draft budget for 2013-14. This information is of a commercially sensitive nature and it is thus included in the exempt report elsewhere on the agenda in Appendix 1E.

10. The original draft outline Four Year MTFs presented in June 2012 was as follows:

ESPO BUSINESS PLAN MODEL		SUMMARY					
		2010/11 Actual	2011/12 Year 1	2012/13 Year 2	2013/14 Year 3	2014/15 Year 4	2015/16 Year 5
		£m	£m	£m	£m	£m	£m
PROJECTED USE OF ESPO SERVICES							
INVOICED SALES		86.5	83.9	92.4	90.6	95.3	98.8
CONTRACTS & COMMISSIONING		449.1	452.0	445.0	499.0	514.0	529.0
TOTAL		535.6	535.9	537.4	589.6	609.3	627.8
TRADING INCOME							
		18.1	17.0	17.4	17.6	18.1	18.6
TRADING SURPLUS							
		3.1	1.8	1.5	1.4	1.6	1.9
MEMBERS' DIVIDEND							
		1.0	1.4	1.2	1.1	1.3	1.5
USABLE CASH RESERVES							
		5.9	6.1	6.2	5.9	5.9	6.4
NET WORTH							
		6.8	7.7	8.4	8.6	9.6	10.7
PROPERTY, PLANT AND EQUIPMENT							
		11.0	10.8	10.9	11.4	11.9	11.9
LOAN LIABILITY							
		-9.5	-9.0	-8.5	-8.0	-7.5	-7.0
FORECAST ASSUMPTIONS:							
Price Inflation - Energy			0.2%	15.0%	5.0%	6.0%	2.0%
Stores Income Growth			3.8%	7.5%	5.0%	5.0%	3.8%
Stores Price Inflation			3.0%	1.9%	0.3%	0.3%	0.3%
Stores Volume Growth			-3.3%	5.4%	4.7%	4.7%	3.5%
Wage Inflation			0.0%	0.0%	1.0%	1.0%	1.0%
Headcount - Stores			196.4	192.8	191.0	192.0	195.5
- Procurement			150.9	168.1	170.2	170.2	170.2
-Total			347.3	360.8	361.2	362.2	365.7
Cumulative Warehouse Efficiencies £k				-160	-490	-830	-1180
Warehouse Payroll Costs as % of Stores T/O		11.76%		10.78%	10.22%	9.71%	9.36%

11. Key financial drivers for the strategy over the next four years remain as follows:

- ESPO commitment to value for money; the organisation's main objective;
- Clear focus on achieving cost efficiencies, being transferred in to business growth initiatives and sustained lower prices;
- Secure and adapt to maintain core business
 - Grow Stores volume by 20% through competitive pricing and outstanding service;
 - Growth in rebate income by 25% through greater control and supply chain management
- Development staff capabilities and new skill sets;
- Expand the services offered to customers thus broadening the offering and hence the customer base.

- Spread the benefit of ESPO to all users in the form of competitive pricing;
- A fair return to members relative to the risk they take;
- Grow the net worth of the business;
- Minimise risk and maximise opportunities by growing ESPO capability and unique skills.

As with all strategies ESPO will be flexible to the impact of external events and will respond accordingly should the need arise.

12. A critical contribution underpinning the financial strategy will be the use of the forty efficiency projects identified in September 2011 (and updated to Management Committee on 6 December 2012) to support the sub inflationary price rises predicted over the next four years. In simple terms the efficiencies will support the margin which would otherwise have been eroded by unavoidable supplier price increases. This supports the value for money key objective and maintains the appropriate surplus level.
13. The Indigo warehouse efficiency savings are shown separately and over the 4 year period amount to a cumulative total of £0.8m.
14. Beyond the headcount increases allowed for in the 2012-13 budgets and rolled forward in to the 2013-14 budget, there are no significant further increases built in. Payroll inflation has been kept at minimal levels throughout the 4 year period.
15. As a result of the tight headcount controls, minimal wage inflation, new systems and a policy of driving volume through the warehouse, the warehouse payroll costs as a percentage of stores turnover decreases from 11.52% in 2011-12 to 9.10% in 2016-17.
16. The financial model includes allowance for the training and development of staff in both procurement and finance. Structured training schemes are in place in both areas to ensure staff have the best and latest capabilities and skills.
17. The model has been structured to generate a surplus of around £2m per annum of which 80% each year would be distributed as a dividend to Member Authorities. In total over the four year period 2012-16 £5.2m is forecast to be distributed to members compared to £5.1m in the original presentation in June 2012. This is after allowing £0.4m each year for the building replacement fund which was not included in the original indicative MTFs presented in June 2012.
18. In 2014-15 net debt will be zero as cash will be greater than the outstanding loan liability. The business will thus have zero net gearing and this represents a strong balance sheet for ESPO going forward.

Detailed Review of Forecast Outturn 2012-13 Compared to Budget

Income

19. A breakdown of the Forecast Income for 2012-13 compared to budget is show below

	2012/13 Budget £'000	2012/13 Forecast £'000
<u>Committee Summary</u>		
<u>Stores</u>		
Sales	39,682	40,738
Oncost	30,218	30,890
Margin	<u>9,464</u>	<u>9,848</u>
Other Income	60	30
Catalogue Advertising	898	901
Direct Order Oncost	0	0
Gas Oncost	0	0
Rebates from Suppliers	<u>252</u>	<u>464</u>
	<u>1,209</u>	<u>1,395</u>
<u>Central Purchasing</u>		
Other Income	122	163
LCC Recharges	0	0
Catalogue Advertising	0	0
Direct Order Oncost	2,099	2,238
Gas Oncost	395	364
Major Projects Income	165	110
Rebates from Suppliers	<u>3,981</u>	<u>3,758</u>
	<u>6,761</u>	<u>6,633</u>
Total	<u>17,434</u>	<u>17,876</u>

20. Total Income is 2.5% ahead of budget or £442k. The key positive variance is in store sales margin which is £384k ahead of budget driven by higher than budget volumes (2.6% ahead of budget) and mark-up being 0.6% ahead of budget due to a favourable sales mix.
21. Total Rebates at £4.2m are in line with budget.
22. Direct Order Oncost is £139k ahead of budget driven by higher Directs business in particular in furniture and food.
23. Other income includes bank interest which is higher than budget due to maintaining a higher average cash balance than expected.
24. Major projects income is below budget mainly due to the team being disbanded partway through the year and allocated to different duties, in particular to focus services being offered to Academies.
25. A more detailed breakdown including comparison with the prior year has been prepared and is included in Appendix 1D.

Employee Expenditure

26. A breakdown of Employee Expenditure for 2012-13 compared to budget is shown below.

	ORIGINAL BUDGET 2012-2013 £'000	FORECAST OUTTURN 2012-2013 £'000
EMPLOYEES		
Salaries & Wages	8,077	7,868
National Insurance	524	471
Pension Fund Contributions	1,199	1,062
	9,799	9,401

27. The 2012-13 budget included an allowance of £0.6m for the implementation of the Procurement and Marketing restructure. This is being implemented now, and hence the financial impact will be felt in the 2013-14 budget.
28. Included in employee expenditure are agency costs. These are running £240k ahead of budget due to the delayed implementation of Indigo and a heightened focus on ensuring that store business is delivered as far as possible in line with customer expectations during peak trading periods despite the increased volume.
29. Total average FTE is expected to end the year at 341.2 compared to a budget of 356.1.
30. A more detailed breakdown of Employee Expenditure and Headcount has been prepared. This information is of a commercially sensitive nature and it is thus included in the exempt report elsewhere on the agenda in Appendix 1A.

Non Employment Expenditure

31. The summary position for non-employment expenditure for 2012-13 compared to budget is shown below:

	ORIGINAL BUDGET 2012-2013 £'000	FORECAST OUTTURN 2012-2013 £'000
Non Employment Expenditure	6,140	5,765

32. In total non-employment expenditure is £375k below budget. The key positive variances are in IT (£155k), Catalogue production (£42k), Staff training (£60k) and Transport (£102k).

A more detailed breakdown including comparison with the prior year has been prepared and is included in Appendix 1A.

Surplus

33. As a result of the additional income (£442k), lower employment costs (£398k) and lower non employment costs (£375k) the surplus for 2012-13 will be £1,215k ahead of budget at £2,710k. This compares with an outturn last year of £2,664k.

Efficiencies

34. The total number of projects supporting the efficiency drive total 45 and when fully implemented will generate £1.1m of annual savings on a cost base budget for 2012-13 of £15.9m, a target saving of 7%. To date 25 projects have been implemented, 3 cancelled and 1 added (water efficiency). To date these will deliver £233k of annual efficiencies with the remaining projects (Indigo, Stock replenishment, E Orders, E invoicing etc.) on track to deliver the remaining efficiencies.
35. A full breakdown of the latest status on the efficiency projects has been prepared. This information is of a commercially sensitive nature and it is thus included in the exempt report elsewhere on the agenda in Appendix 1D.

Balance Sheet

36. A summary balance sheet compared to the prior year is detailed below:

	ACTUAL 2011-12 £'000	FORECAST OUTTURN AT 2012-13 £'000
FIXED ASSETS		
Land & Buildings	10,000	9,915
Other Fixed Assets	1,506	1,045
	<u>11,506</u>	<u>10,960</u>
CURRENT ASSETS		
Stocks	4,441	4,800
Sales Ledger Debtors	8,828	9,360
Other Debtors	1,451	1,510
Cash & Cash Equivalents	7,229	6,143
	<u>21,949</u>	<u>21,813</u>
CURRENT LIABILITIES		
Purchases Creditors	(6,309)	(6,880)
Members Dividend	(3,496)	(1,506)
Other Creditors	(6,150)	(6,270)
Bank Overdraft	0	0
	<u>(15,955)</u>	<u>(14,656)</u>
NET CURRENT ASSETS	<u>5,994</u>	<u>7,157</u>
LONG TERM LIABILITIES		
Long Term Creditor	(9,000)	(8,500)
	<u>8,500</u>	<u>9,617</u>
<u>FINANCED BY:</u>		
RETAINED RESERVES		
General Fund	2,569	2,946
Earmarked Reserves	1,648	1,496
Vehicles & Equipment Reserve	1,765	2,276
Stores Maintenance Reserve	617	1,044
	<u>6,599</u>	<u>7,762</u>
NON-CASH BACKED RESERVES		
Revaluation Reserve	2	0
Capital Adjustment Account	1,899	1,855
	<u>1,901</u>	<u>1,855</u>
<u>TOTAL NET WORTH</u>	<u>8,500</u>	<u>9,617</u>

37. Stock has increased by 8% in line with the increase in stores turnover.
Stock turn will end the year at approximately 9 times with a key target next

year to increase this to 10 times.

38. Debtor days are expected to outturn at 37.24, a fractional decrease on the prior year of 37.29.
39. At year end the land and buildings will be re-valued as normal, the above balance represents last year's valuation less depreciation.
40. During the year £3.496m was paid to members for prior years dividends and it is forecast that a provision will be required for £1.506m this year.
41. Other creditors represents, Pro 5 liabilities on Phonics, VAT, Climate Change Levy, specific accruals, PAYE/NI, Directs/Gas not invoiced etc.
42. Over the year the Net Worth of the business as measured by net assets has increased by £1.1m.

Cash Flow

43. A summary cash flow for the one year period to 31/3/13 is presented below

FORECAST
OUTTURN
AT 2012-13

REVENUE ACTIVITIES:

Cash outflows -	
Cash paid to and on behalf of employees	9,838
Cash paid for goods and services	66,701
Other operating cash payments	4,399
Cash inflows -	
Cash received for goods and services	<u>(84,205)</u>
Revenue Activities Cash Flow	<u>(3,267)</u>

RETURNS ON INVESTMENTS AND SERVICING OF FINANCE:

Cash outflows -	
Dividends paid	3,496
Interest paid	425
Cash inflows -	
Interest received	<u>(75)</u>
	<u>3,846</u>

CAPITAL ACTIVITIES:

Cash outflows -	
Purchase of fixed assets	7
Cash inflows -	
Sale of fixed assets	<u>0</u>
	<u>7</u>

NET (INFLOW) / OUTFLOW BEFORE FINANCING:	586
Repayment of Building Loan	500
<u>(INCREASE) / DECREASE IN CASH:</u>	<u>1,086</u>

	Forecast
	31-Mar
<u>MOVEMENTS IN CASH BALANCES</u>	<u>2012</u>

Cash in hand and at bank	6,143
	<u>6,143</u>
<u>NET (INCREASE) / DECREASE IN CASH:</u>	<u>1,086</u>

44. The key driver behind the net cash outflow of £1,086k was the payment of the dividend of £3,496k in December 2012. This has been partly offset by minimal capital expenditure payments, generation of above budget surplus and working capital management.

Service Line Analysis

45. One of the requirements of the ESPO strategic review was the production of a detailed service line analysis; this has been prepared for 2012/13. This information is of a commercially sensitive nature and it is thus included in the exempt report elsewhere on the agenda in Appendix 1B.

Capital Expenditure

46. There has been minimal capital expenditure during the year and this has been reflected in the budget for next year to maintain the organisations infrastructure and capability.

DETAILED REVIEW OF 2013-2014 BUDGET**Income**

47. A breakdown of the Forecast Income for 2013-14 compared to the prior year is show below:

	2012/13	2013/14
<u>Committee Summary</u>	Forecast	Budget
<u>Stores</u>	£'000	£'000
Sales	40,738	42,254
Oncost	30,890	32,038
Margin	9,848	10,216
Other Income	30	30
Catalogue Advertising	901	896
Direct Order Oncost	0	0
Gas Oncost	0	0
Rebates from Suppliers	464	248
	1,395	1,174
<u>Central Purchasing</u>		
Other Income	163	172
LCC Recharges	0	0
Catalogue Advertising	0	0
Direct Order Oncost	2,238	2,098
Gas Oncost	364	336
Major Projects Income	110	0
Rebates from Suppliers	3,758	3,826
	6,633	6,432
Total	17,876	17,822

48. Total Income is flat compared to the prior year. Store sales are budgeted to grow by 3.7% next year compared to 8.1% the prior year reflecting a flattening of performance seen in quarter 3 and quarter 4 this year. It also reflects the further tightening of public sector funds.
49. Total Rebates at £4.1m show a small decrease (£0.1m) on the prior year reflecting some changes in rebate arrangements with GPS on multi-function devices and possible other changes with paper suppliers yet to be finalised.
50. Direct Order Oncost budgeted to fall by £140k due to the DofE Phonics initiative coming to an end in October 2013.
51. Other income includes bank interest and sales of fixed assets which are expected to increase on the prior year as a result of the planned capital investment programme.
52. Major projects income is zero due to the team being disbanded partway through the year and allocated to different duties, in particular to focus on the Academies.
53. A more detailed breakdown including comparison with the prior year has been prepared and is included in Appendix 1D.

Employee Expenditure

54. A breakdown of Employee Expenditure for 2013-14 compared to budget is shown below.

	FORECAST OUTTURN 2012-2013 £'000	BUDGET 2013-2014 £'000
EMPLOYEES		
Salaries & Wages	7,868	8,108
National Insurance	471	622
Pension Fund Contributions	1,062	1,421
	9,401	10,152

55. The 2012-13 budget included an allowance of £0.6m for the implementation of the Procurement and Marketing restructure. This is now expected to be implemented during 2013-14 and has been rolled forward in to this budget. The benefits of the restructure will be:

- Additional services to members as outlined in the ESPO strategic review at no additional cost;
- Lower risk;
- Growth in the number of framework contracts available to members and non-members and hence directs/rebates;
- Sustained growth in the stores operation;
- Strong marketing function supporting a national procurement operation leading to further growth.

56. It is assumed that Indigo will be implemented and that efficiency savings in agency labour of £0.2m will be achieved.

57. Included in this is an assumption of 1% pay award across all grades at a cost of £0.1m for each year of the MTFs. This is subject to the local government pay settlement and decision of the Servicing Authority's Employment Committee.

58. Total average FTE is expected to end the year at 360.2. The movement in FTE over the previous 4 years has been as follows

2010-11	354.1
2011-12	346.4
2012-13	341.2
2013-14	360.2

59. A more detailed breakdown of Employee Expenditure and Headcount has been prepared. This information is of a commercially sensitive nature and it is thus included in the exempt report elsewhere on the agenda in Appendix 1A.

Non Employment Expenditure

60. The summary position for non-employment expenditure for 2013-14 compared to prior year is shown below:

	FORECAST	
	OUTTURN	BUDGET
	2012-2013	2013-2014
	£'000	£'000
Non Employment Expenditure	5,765	5,854

61. In total non-employment expenditure is budgeted to increase by 1.5% which is sub inflationary and is reflective of the delivery of some of the 45 efficiency projects.

A more detailed breakdown including comparison with the prior year has been prepared and is included in Appendix 1A.

Surplus

62. As a result of the lower income (£54k), higher employment costs (£751k) and higher non employment costs (£89k) the surplus for 2013-14 will be £894k lower than prior year at £1,816k.

Efficiencies

63. The total number of projects supporting the efficiency drive total 45 and when fully implemented will generate £1.1m of annual savings on a cost base budget for 2012-13 of £15.9m, a target saving of 7%. By 31/3/2014 it is expected that all of the 45 projects that can be delivered will have been implemented though the full savings will be realised in subsequent years. In the 4 year plan by 2016-17 Non Employment expenditure is forecast to fall by £537k compared to the 2013/14 budget, the balance of the £1.1m target efficiency saving is reflected in the fall in warehouse payroll costs as a percentage of sales to 9.10% in 2016-17 from 11.19% in 2012/13

Further efficiency projects will evolve during the year, as the current efficiency activity nears completion.

Balance Sheet

64. A summary balance sheet compared to prior year is detailed below:

	FORECAST OUTTURN AT 2012-13 £'000	DRAFT BUDGET AT 2013-14 £'000
FIXED ASSETS		
Land & Buildings	9,915	9,830
Other Fixed Assets	1,045	1,287
	<u>10,960</u>	<u>11,117</u>
CURRENT ASSETS		
Stocks	4,800	4,225
Sales Ledger Debtors	9,360	8,971
Other Debtors	1,510	1,490
Cash & Cash Equivalents	6,143	7,229
	<u>21,813</u>	<u>21,915</u>
CURRENT LIABILITIES		
Purchases Creditors	(6,880)	(7,211)
Members Dividend	(1,506)	(953)
Other Creditors	(6,270)	(6,400)
Bank Overdraft	0	0
	<u>(14,656)</u>	<u>(14,564)</u>
NET CURRENT ASSETS	<u>7,157</u>	<u>7,351</u>
LONG TERM LIABILITIES		
Long Term Creditor	(8,500)	(8,000)
	<u>9,617</u>	<u>10,468</u>
<u>FINANCED BY:</u>		
RETAINED RESERVES		
General Fund	2,946	3,309
Earmarked Reserves	1,496	791
Vehicles & Equipment Reserve	2,276	2,387
Stores Maintenance Reserve	1,044	1,469
	<u>7,762</u>	<u>7,956</u>
NON-CASH BACKED RESERVES		
Revaluation Reserve	0	0
Capital Adjustment Account	1,855	2,512
	<u>1,855</u>	<u>2,512</u>
<u>TOTAL NET WORTH</u>	<u>9,617</u>	<u>10,468</u>

65. Stock has decreased by £575k in line with the target stock turn of 10 times. This will be one of the benefits of the new stock optimisation team implemented as part of the restructure with no adverse impact on stock availability.
66. Debtor days are expected to outturn at 34.64, a decrease on the prior year of 37.24 of 2.6 days. This will be achieved by increased use of Direct Debit payment methods and increased targeting of finance resource on debt collection.
67. At year end the land and buildings will be re-valued as normal, the above balance represents the prior year's valuation less depreciation.
68. Other creditors represents, Pro 5 liabilities on Phonics, VAT, Climate Change Levy, specific accruals, PAYE/NI, Directs/Gas not invoiced etc.
69. Over the year the Net Worth of the business as measured by net assets has increased by £0.85m.

Cash Flow

70. A summary cash flow for the one year period to 31/3/14 is presented below

DRAFT
BUDGET
AT 2013-14
£'000

REVENUE ACTIVITIES:

Cash outflows -	
Cash paid to and on behalf of employees	10,164
Cash paid for goods and services	65,449
Other operating cash payments	4,542
Cash inflows -	
Cash received for goods and services	(84,413)
Revenue Activities Cash Flow	<u>(4,258)</u>

RETURNS ON INVESTMENTS AND SERVICING OF FINANCE:

Cash outflows -	
Dividends paid	1,506
Interest paid	403
Cash inflows -	
Interest received	(75)
	<u>1,834</u>

CAPITAL ACTIVITIES:

Cash outflows -	
Purchase of fixed assets	887
Cash inflows -	
Sale of fixed assets	(50)
	<u>837</u>

NET (INFLOW) / OUTFLOW BEFORE FINANCING: (1,586)

Repayment of Building Loan 500

(INCREASE) / DECREASE IN CASH: (1,086)

Budget
31-Mar
2014

MOVEMENTS IN CASH BALANCES

Cash in hand and at bank 7,229

7,229

NET (INCREASE) / DECREASE IN CASH: (1,086)

71. The key driver behind the net cash inflow of £1,086k is the working capital management measures mentioned in the balance sheet. This offsets the £1,086k cash outflow in the prior year even after the planned capital investment programme that has been budgeted for.

Service Line Analysis

72. One of the requirements of the ESPO strategic review was the production of detailed service line analysis; this has been prepared for 2013/14. This information is of a commercially sensitive nature and it is thus included in the exempt report elsewhere on the agenda in Appendix 1C.

Capital Expenditure

73. There had been minimal capital expenditure in the prior year but draft budgetary provision has been made as follows – this expenditure will be managed in line with the ‘standing orders’ set out in the constitution.

	£'000
IT Projects (see below)	463
Servers & printers	20
Vans	320
Counter balance truck	54
Generator	30
	887
IT Projects	
Demand Planning	143
E Tendering / E Procurement	100
Rebates system	100
GEMS 2	120
	463

Performance Management Framework

74. To ensure the successful delivery of this budget a performance management framework will be implemented around the recently introduced balanced scorecard. This will include a number of specific procurement measures as well as the balance sheet and cash flow targets mentioned earlier in this paper. These will flow down in to the PDR's of the Senior Management team, their direct reports, and through the business.

Detailed Scenario Analysis of 2013-14 Budget

75. A detailed scenario analysis has been prepared as follows for members to consider alongside this budget. This will allow members to review alternative financial solutions for ESPO, but also to be satisfied that risk scenarios have been considered throughout this exercise. Each scenario can be considered in isolation or grouped. The full impact of each scenario on its own has been assessed though the impact of several being implemented may not be a simple sum of the parts.
76. The detailed scenario analysis has been prepared. This information is of a commercially sensitive nature and it is thus included in the exempt report elsewhere on the agenda in Appendix 1E.

Supplementary Information Informing the Budget

77. Further information which informs the budget, of a commercially sensitive nature, is contained in Item 13 (Exempt Report I), elsewhere on the agenda.

Resources Implications

78. The Medium Term Financial Strategy is the key financial plan for ESPO.

Recommendation

79. Members are asked to:
- a) Note the forecast outturn for 2012/13;
 - b) Approve the draft four year medium term financial strategy which includes the draft budgets for 2013-14, 2014-15, 2015-16 and 2016-17;

Equal Opportunities Implications

80. None

Risk Assessment

81. None identified

Officers to Contact

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Mr J Doherty – Director (Tel: 0116 265 7931)

Mr B Roberts – Consortium Treasurer (Tel: 0116 305 7831)

Appendix 1

Appendix 1A - Detailed 4 Year Income and Expenditure Analysis

Appendix 1B - Detailed Balance Sheet

Appendix 1C - Detailed Cash Flow

Appendix 1D - Detailed Full Income Analysis 2012-13

Appendix 2 - Extract from the minutes of the meeting of the Finance and Audit
Subcommittee held on 18 February 2013

APPENDIX 1A

ACTUAL 2011-2012 £		FORECAST OUTTURN 2012-2013 £	BUDGET 2013-2014 £	FORECAST 2014-2015	FORECAST 2015-2016	FORECAST 2016-2017
INCOME						
37,680,373	Stores Sales	40,738,000	42,254,000	44,510,000	45,965,000	46,884,300
28,639,146	Less stores Cost of Sales	30,890,000	32,038,000	33,925,889	35,173,732	36,023,095
<u>9,041,227</u>	STORES TRADING SURPLUS	<u>9,848,000</u>	<u>10,216,000</u>	<u>10,584,111</u>	<u>10,791,268</u>	<u>10,861,205</u>
31.6%		31.9%	31.9%	31.2%	30.6%	30.0%
4,814,411	Rebates and Fees	4,221,109	4,073,770	3,864,748	3,807,356	3,769,898
2,166,201	Direct Orders	2,601,990	2,434,410	2,309,502	2,275,206	2,252,822
659,171	BSF Partnership Income	110,470	0	0	0	0
905,566	Catalogue Advertising	900,914	896,275	850,288	837,661	829,420
234,054	Other Income	193,705	201,700	191,351	188,509	186,655
<u>8,779,403</u>	CUSTOMER & CLIENT RECEIPTS	<u>8,028,188</u>	<u>7,606,155</u>	<u>7,215,889</u>	<u>7,108,732</u>	<u>7,038,795</u>
<u>17,820,630</u>	TOTAL INCOME	<u>17,876,188</u>	<u>17,822,155</u>	<u>17,800,000</u>	<u>17,900,000</u>	<u>17,900,000</u>
EXPENDITURE						
EMPLOYEES						
7,616,688	Salaries & Wages	7,867,996	8,107,852	8,028,018	8,102,569	8,177,866
475,949	National Insurance	471,096	622,480	616,351	622,074	627,855
1,034,352	Pension Fund Contributions	1,062,277	1,421,451	1,407,455	1,420,525	1,433,726
<u>9,126,989</u>		<u>9,401,369</u>	<u>10,151,783</u>	<u>10,051,824</u>	<u>10,145,168</u>	<u>10,239,447</u>
OTHER EMPLOYEE EXPENSES						
51,163	Staff Training	45,390	64,697	64,144	61,454	58,755
35,710	Staff Advertising	74,020	75,870	75,221	72,068	68,901
33,678	Additional Pension Costs	39,940	40,940	40,590	38,888	37,180
32,284	Other Allowances & Payments	17,270	17,570	17,420	16,689	15,956
60,356	Insurance	60,850	62,370	61,837	59,244	56,641
PREMISES						
154,701	Repair, Maintenance & Insurance	153,263	161,340	159,961	153,254	146,521
93,912	Lighting & Heating	94,332	90,016	89,247	85,505	81,748
934,360	Property Mortgage and Rent	914,966	896,617	888,952	851,680	814,264
332,032	Rates	350,380	365,500	362,376	347,182	331,929
20,278	Water	21,813	23,461	23,261	22,286	21,306
TRANSPORT						
1,384,272	Carriage and Distribution	1,477,214	1,516,420	1,503,457	1,440,419	1,377,140
370,000	Renewals Fund Contribution	372,000	383,000	379,726	363,805	347,822
190,926	Lease Car Scheme	140,251	143,362	142,137	136,177	130,195
EQUIPMENT						
572,107	IT Equipment & Services	428,421	455,235	451,343	432,419	413,422
149,000	IT Renewals Fund Contribution	157,000	166,550	165,126	158,203	151,253
242,279	Warehouse and office equipment	167,390	199,627	197,920	189,622	181,291
OFFICE EXPENSES						
177,843	Printing & stationery	166,935	161,906	160,522	153,792	147,035
142,651	Postage	146,790	118,120	117,110	112,200	107,271
39,684	Telephones	38,990	40,270	39,926	38,252	36,571
OTHER EXPENSES						
462,852	Catalogues & Marketing	473,120	472,660	468,620	448,971	429,247
79,755	BSF Partnership Fees	0	0	0	0	0
0	Bank Interest	0	0	0	0	0
40,983	Travel & Subsistence	33,344	35,023	34,724	33,268	31,806
42,755	Subscriptions	36,788	37,625	37,303	35,739	34,169
84,814	Provision for bad debts	30,000	30,750	30,487	29,209	27,926
32,745	Miscellaneous Expenses	36,815	62,734	62,198	59,590	56,972
21,776	Audit fees	14,000	14,350	14,227	13,631	13,032
100,435	Consultancy & Professional Fees	100,896	57,821	57,327	54,923	52,510
CENTRAL CHARGES						
145,955	Support services	172,368	160,000	158,632	151,981	145,304
<u>15,156,295</u>	TOTAL EXPENDITURE	<u>15,165,914</u>	<u>16,005,616</u>	<u>15,855,616</u>	<u>15,705,616</u>	<u>15,555,616</u>
2,664,335	OPERATING SURPLUS	2,710,274	1,816,539	1,944,384	2,194,384	2,344,384
ALLOCATIONS FROM OPERATING SURPLUS:						

400,000	Building Capital Provision	400,000	400,000	400,000	400,000	400,000
100,000	Warehouse Efficiency Project	0	100,000			
0	Earmarked Projects	572,300	0			
0	Pay Harmonisation	-144,608	0			
<u>2,164,335</u>	NET SURPLUS FOR YEAR	<u>1,882,582</u>	<u>1,316,539</u>	<u>1,544,384</u>	<u>1,794,384</u>	<u>1,944,384</u>
	Non Employment Expenditure	5,764,545	5,853,834	5,803,793	5,560,448	5,316,170
£k		FORECAST OUTTURN 2012-2013	BUDGET 2013-2014			
	Non Employment Expenditure	5,765	5,854			

DRAFT BALANCE SHEET FORECAST 2012-2014**APPENDIX 1B**

ACTUAL		ORIGINAL BUDGET AS AT	FORECAST OUTTURN AS AT	DRAFT BUDGET AS AT
31 March 2012	£'000	31 March 2013	31 March 2013	31 March 2014
FIXED ASSETS				
10,000	Land & Buildings	9,326	9,915	9,830
1,506	Other Fixed Assets	1,253	1,045	1,287
<u>11,506</u>		<u>10,579</u>	<u>10,960</u>	<u>11,117</u>
CURRENT ASSETS				
4,441	Stocks	4,750	4,800	4,225
8,828	Sales Ledger Debtors	7,120	9,360	8,971
1,451	Other Debtors	890	1,510	1,490
7,229	Cash & Cash Equivalents	8,879	6,143	7,229
<u>21,949</u>		<u>21,639</u>	<u>21,813</u>	<u>21,915</u>
CURRENT LIABILITIES				
(6,309)	Purchases Creditors	(9,420)	(6,880)	(7,211)
(3,496)	Members Dividend	(4,337)	(1,506)	(953)
(6,150)	Other Creditors	(1,370)	(6,270)	(6,400)
0	Bank Overdraft	0	0	0
<u>(15,955)</u>		<u>(15,127)</u>	<u>(14,656)</u>	<u>(14,564)</u>
<u>5,994</u>	NET CURRENT ASSETS	<u>6,512</u>	<u>7,157</u>	<u>7,351</u>
LONG TERM LIABILITIES				
(9,000)	Long Term Creditor	(8,700)	(8,500)	(8,000)
<u>8,500</u>		<u>8,391</u>	<u>9,617</u>	<u>10,468</u>
FINANCED BY:				
RETAINED RESERVES				
2,569	General Fund	2,780	2,946	3,309
1,648	Earmarked Reserves	1,094	1,496	791
1,765	Vehicles & Equipment Reserve	2,098	2,276	2,387
617	Stores Maintenance Reserve	261	1,044	1,469
<u>6,599</u>		<u>6,233</u>	<u>7,762</u>	<u>7,956</u>
NON-CASH BACKED RESERVES				
2	Revaluation Reserve	0	0	0
1,899	Capital Adjustment Account	2,159	1,855	2,512
<u>8,500</u>	TOTAL NET WORTH	<u>8,392</u>	<u>9,617</u>	<u>10,468</u>

DRAFT CASH FLOW FORECAST 2012 - 2014

APPENDIX 1C

ACTUAL		ORIGINAL BUDGET AS AT	FORECAST OUTTURN AS AT	DRAFT BUDGET AS AT
31 March 2012	£'000	31 March 2013	31 March 2013	01 April 2014
REVENUE ACTIVITIES:				
Cash outflows -				
8,175	Cash paid to and on behalf of employees	10,069	10,038	10,814
67,035	Cash paid for goods and services	68,837	64,201	65,449
4,250	Other operating cash payments	5,342	4,999	5,042
Cash inflows -				
(83,283)	Cash received for goods and services	<u>(87,545)</u>	<u>(82,505)</u>	<u>(85,563)</u>
(3,823)	Revenue Activities Cash Flow	<u>(3,297)</u>	<u>(3,267)</u>	<u>(4,258)</u>
RETURNS ON INVESTMENTS AND SERVICING OF FINANCE:				
Cash outflows -				
0	Dividends paid	0	3,496	1,506
446	Interest paid	410	425	403
Cash inflows -				
(20)	Interest received	<u>(35)</u>	<u>(75)</u>	<u>(75)</u>
426		<u>375</u>	<u>3,846</u>	<u>1,834</u>
CAPITAL ACTIVITIES:				
Cash outflows -				
607	Purchase of fixed assets	496	7	887
Cash inflows -				
(79)	Sale of fixed assets	<u>(40)</u>	<u>0</u>	<u>(50)</u>
528		<u>456</u>	<u>7</u>	<u>837</u>
(2,869)	NET (INFLOW) / OUTFLOW BEFORE FINANCING:	<u>(2,466)</u>	<u>586</u>	<u>(1,586)</u>
624	Repayment of Building Loan	500	500	500
(2,245)	<u>(INCREASE)/ DECREASE IN CASH:</u>	<u>(1,966)</u>	<u>1,086</u>	<u>(1,086)</u>
Actual 31-Mar 2012	<u>MOVEMENTS IN CASH BALANCES</u>	Budget 31-Mar 2012	Forecast 31-Mar 2012	Budget 31-Mar 2013
7,229	Cash in hand and at bank	8,879	6,143	7,229
7,229		<u>8,879</u>	<u>6,143</u>	<u>7,229</u>
	<u>NET (INCREASE)/ DECREASE IN CASH:</u>		<u>1,086</u>	<u>(1,086)</u>

	2012-13	2012-14
Leased cars	16,758	17,500 est
Leased non cars	1,079	1,160 7.5% as per p
Building	406,825	384,767 act calcs
	424,663	403,427

rior year increases

FORECAST INCOME FOR 2012/13 AND BUDGET FOR 2013/14					Appendix 1D		
		2012/13 Budget	2012/13 Actual To Oct 12	2012/13 Revised Forecast	2013/14 Budget	Change on 2012/13 Revised	
						£	%
PURCHASING SECTIONS							
Fees							
	Highways/Car Leasing	72,000	85,812	115,810	68,000	(47,810)	(41.3%)
	Energy	0	0	0	0	0	#DIV/0!
	ICT	40,000	0	17,020	32,000	14,980	88.0%
	SP & C	323,640	91,017	156,030	285,250	129,220	82.8%
	Major Projects	55,000	5,665	9,710	0	(9,710)	(100.0%)
		<u>490,640</u>	<u>182,494</u>	<u>298,570</u>	<u>385,250</u>	<u>86,680</u>	<u>29.0%</u>
Strategic Division Rebates							
	Food	353,300	183,498	293,500	251,160	(42,340)	(14.4%)
	Highways/Car Leasing	320,700	295,917	389,924	239,000	(150,924)	(38.7%)
	Energy	685,000	460,075	738,950	726,000	(12,950)	(1.8%)
	ICT	325,800	127,013	170,830	157,180	(13,650)	(8.0%)
	SP & C	630,070	461,830	472,780	545,260	72,480	15.3%
		<u>2,314,870</u>	<u>1,528,333</u>	<u>2,065,984</u>	<u>1,918,600</u>	<u>(147,384)</u>	<u>(7.1%)</u>
Corporate Rebates							
	Highways/Car Leasing	37,500	173,930	188,875	45,000	(143,875)	(76.2%)
	ICT	467,200	160,615	509,050	620,640	111,590	21.9%
	SP & C	0	0	0	0	0	#DIV/0!
		<u>504,700</u>	<u>334,545</u>	<u>697,925</u>	<u>665,640</u>	<u>(32,285)</u>	<u>(4.6%)</u>
Trading Division Rebates							
	Furniture	229,000	95,223	280,800	275,290	(5,510)	(2.0%)
	Hardware	322,800	214,701	322,800	431,080	108,280	33.5%
	Stationery	118,500	48,766	101,220	149,930	48,710	48.1%
		<u>670,300</u>	<u>358,690</u>	<u>704,820</u>	<u>856,300</u>	<u>151,480</u>	<u>21.5%</u>
Sales Invoicing Oncost							
Direct Orders & BSF:							
	Furniture	909,370	707,800	1,155,090	1,156,770	1,680	0.1%
	Hardware	468,700	264,880	463,790	433,750	(30,040)	(6.5%)
	Stationery	699,000	399,460	598,420	486,630	(111,790)	(18.7%)
	Major Projects	165,000	100,760	100,760	0	(100,760)	(100.0%)
	ICT	21,700	13,020	20,520	21,000	480	2.3%
Gas:							
	Energy	395,000	175,260	364,170	336,260	(27,910)	(7.7%)
		<u>2,658,770</u>	<u>1,661,180</u>	<u>2,702,750</u>	<u>2,434,410</u>	<u>(268,340)</u>	<u>(9.9%)</u>
Other Purchasing Income							
	Lease car sales income	46,400	29,811	51,105	46,400	(4,705)	(9.2%)
	User Contributions	30,800	13,998	23,997	30,800	6,803	28.4%
	Miscellaneous Income	44,500	86,192	88,151	94,500	6,349	7.2%
		<u>121,700</u>	<u>130,001</u>	<u>163,252</u>	<u>171,700</u>	<u>8,448</u>	<u>5.2%</u>
TOTAL PURCHASING INCOME		6,760,980	4,195,243	6,633,302	6,431,900	(201,402)	(3.0%)
STORES TRADING							
Sales Value			Actual to Oct-12				
	Stores	39,682,000	25,962,000	40,738,000	42,254,000	1,516,000	3.7%
		<u>39,682,000</u>	<u>25,962,000</u>	<u>40,738,000</u>	<u>42,254,000</u>	<u>1,516,000</u>	<u>3.7%</u>
Sales Invoicing Oncost							
	Stores	9,464,000	6,584,000	9,848,000	10,216,000	368,000	3.7%

		<u>9,464,000</u>	<u>6,584,000</u>	<u>9,848,000</u>	<u>10,216,000</u>	<u>368,000</u>	<u>3.7%</u>
	% Oncost	31.3%	34.0%	31.9%	31.9%		
<u>Stores Rebates</u>							
	Furniture	7,500	88	0	110	110	0.0%
	Hardware	29,500	3,558	29,500	21,400	(8,100)	(27.5%)
	Stationery	210,100	10,811	430,520	222,660	(207,860)	(48.3%)
	ICT	4,500	2,093	3,500	3,810	310	8.9%
		<u>251,600</u>	<u>16,550</u>	<u>463,520</u>	<u>247,980</u>	<u>(215,850)</u>	<u>(46.6%)</u>
<u>Catalogue Advertising</u>							
	Marketing (Sustainable)	0	0	0	0		
	Furniture	425,000	446,608	446,608	450,000	3,392	0.8%
	Hardware	157,770	149,872	149,872	151,275	1,403	0.9%
	Stationery	275,000	240,443	267,884	275,000	7,116	2.7%
	ICT	40,000	36,550	36,550	20,000	(16,550)	(45.3%)
		<u>897,770</u>	<u>873,473</u>	<u>900,914</u>	<u>896,275</u>	<u>(4,639)</u>	<u>(0.5%)</u>
<u>Misc Income</u>							
	Misc sales etc	60,000	17,764	30,453	30,000	(453)	(1.5%)
<u>Total Stores Income</u>							
		<u>10,673,370</u>	<u>7,491,787</u>	<u>11,242,887</u>	<u>11,390,255</u>	147,368	1.3%
<u>COMBINED INCOME</u>							
		<u>17,434,350</u>	<u>11,687,030</u>	<u>17,876,188</u>	<u>17,822,155</u>	<u>(54,033)</u>	<u>(0.3%)</u>



Extract from the Minutes of a meeting of the ESPO Finance and Audit Subcommittee held at County Hall, Glenfield, Leicestershire on Monday, 18 February 2013.

PRESENT

Cambridgeshire County Council

Cllr. J. Reynolds (in the Chair)

Leicestershire County Council

Mr. M.B. Page CC

Lincolnshire County Council

Cllr. S. Rawlins

Peterborough City Council

Cllr. D. Seaton

43. Exclusion of the Public.

RESOLVED:

That under Section 100(A)(iv) of the Local Government Act 1972 the public be excluded from the meeting on the grounds that it will involve the likely disclosure of exempt information during consideration of the following item of business entitled:

'Forecast Outturn 2012/13 and Draft Medium Term Financial Strategy 2013/14 - 2016/17' (Paper 'E') as defined in paragraphs 3 and 10 of Schedule 12A of the Act; and, in all circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

44. Forecast Outturn 2012/13 and Draft Medium Term Financial Strategy 2013/14 - 2016/17.

The Subcommittee received an exempt joint report of the Consortium Treasurer and Director which presented the Forecast Outturn 2012/13 and Draft Medium Term Financial Strategy 2013/14 - 2016/17. A copy of the exempt report, marked 'E', is filed with these minutes.

The exempt report was not for publication by virtue of paragraphs, 3 and 10 of Section 12A of the Local Government Act 1972.

Arising from discussion the following points were noted:

- (i) The Subcommittee indicated its satisfaction at the level of information provided in the report and in particular the detailed scenario analysis

which had been prepared;

- (ii) The Subcommittee was pleased to note the projected performance summarised within the forecast outturn 2012/13;
- (iii) Building knowledge and awareness of the market was a key part of the role of ESPO's Director. He had made recent visits to each of the Consortium Authorities with the exception of Leicester City Council and Lincolnshire County Council, but would be visiting these Consortium Authorities shortly;
- (iv) Competition would be a key challenge for ESPO over the coming years and there was a need for the Organisation to develop its approach in this regard;
- (v) In the future ESPO would need to develop its marketing practices, and would undertake reviews of its category management to ensure that customer requirements continued to be met;
- (vi) It was intended for provision to be made for ESPO to react more quickly to customer requests, e.g. utilizing e-communications. This was to support ESPO's growing number of customers;
- (vii) The Indigo warehouse project had been put on hold because further training on the new system for staff was required. Adjustments to the software to improve its accessibility by users were also being discussed with the developer. Re-implementation of the Indigo system was expected prior to the end of the current financial year, at an appropriate time at which demand for ESPO services was at a lull;
- (viii) The Servicing Authority's Internal Audit Service, as part of its remit, would review ESPO's existing warehouse processes;
- (ix) In respect of consulting services offered by ESPO a more robust time capture cost recovery system needed to be developed. It was suggested that it was important for client contracts to clearly state all charging arrangements.

RESOLVED:

- (a) That the forecast outturn for 2012/13, and draft four year medium term financial strategy 2013/14-2016/17, be noted;
- (b) That the Management Committee be recommended to note the forecast outturn and approve the draft MTFs 2013/14-2016/17, on 7 March 2013.



ESPO MANAGEMENT COMMITTEE – 7 MARCH 2013

AGENDA ITEM 5

REPORT OF THE CONSORTIUM SECRETARY AND CONSORTIUM TREASURER

CONSORTIUM AGREEMENT

Purpose of Report

1. To present the draft Consortium Agreement and its schedules (including the ESPO Constitution) to Management Committee, for approval.

Background

2. Following approval at a special meeting of the Management Committee on 24 September 2010 and through to June 2011, a fundamental review of the role and purpose of ESPO was undertaken through a Member led Business Strategy Review, which resulted in a revised Vision and service model, together with a number of recommendations to improve the operational efficiency and effectiveness of ESPO.
3. An Outline Implementation Programme was approved at the 24 June 2011 meeting followed by a Programme Initiation Document on 3 November 2011 which set out the scope, approach and delivery plan for the implementation of the ESPO Change Programme. A separate report setting out the conclusion of the Change Programme and recommending its formal closure is elsewhere on the agenda for this meeting.
4. The ESPO Change Programme introduced within the Programme Initiation Document (PID) a key priority to reduce Member Authorities' exposure to risk and provide greater transparency and accountability for decision making (Priority 2).
5. The PID tasked a Law and Governance SubGroup, led by Warwickshire County Council, with preparing a clear set of governance documents to support this priority which are supplied at **Appendix A** to this Report comprising:
 - (a) Consortium Agreement: Underpinning the fundamental principles of the Consortium and setting out the relationship between the Member Authorities in relation to functions, responsibilities and liability.
 - (b) Schedule 1 to the Consortium Agreement: ESPO Constitution, setting out clear responsibilities for key decision making, detailing remit and powers

of the decision makers and incorporating the Terms of Reference for the Finance and Audit Committee (Appendix 1), the Terms of Reference of the Chief Officers' Group (Appendix 2), the Delegations to the Consortium Secretary and Consortium Treasurer (Appendix 3), the Functions and Delegations to the Director of ESPO (Appendix 4), the Procedural Standing Orders of the Management Committee (Appendix 5), the Financial Regulations of the Management Committee including the Standard Financial Instructions (Appendix 6) and the Contract Procedure Rules (Appendix 7).

(c) Schedule 2: ESPO Services to be delivered through ESPO to the Member Authorities and Customers.

(d) Schedule 3: Functions of the Servicing Authority.

6. **Appendix B** to this Report summarises the key provisions of the new Consortium Agreement. This paper also summarises how the new ESPO governance model is strengthened covering performance management, the risk management framework and the transparency of decision making. This paper should give assurance to the Management Committee that Priority 2 has been achieved.

Consideration by the Chief Officer Group

7. The Chief Officer Group, as the Change Programme Board, has directed the development of the new Partnership Agreement and Constitution over the last 12 months, undertaken through the Legal and Governance SubGroup, led by Warwickshire County Council. On 5 February 2013 the Chief Officer Group considered a final draft of the Partnership Agreement, and subject to minor drafting amendments, its submission to the Management Committee for approval, subject to the raising of the following final outstanding issues for resolution:

Outstanding Issues

Consortium Agreement, Clause 14.3 (Liabilities and Indemnities)

8. Six of the Consortium authorities are satisfied with the wording proposed by the Law and Governance Group to address where an individual Member Authority feels it has suffered loss due to the activities of ESPO, i.e. to be referred for dispute resolution under clause 18, but that Leicester City Council remains dissatisfied;

Schedule 1 (Constitution), Appendix 5 (Procedural Standing Orders)

9. Leicester City Council is of the view that the principle of officers being able to speak on behalf of Consortium Authorities at meetings of the Management Committee, or for Members to call for an adjournment to enable advice to be taken from such officers, should be included in the Procedural Standing Orders. This is considered to be inappropriate by other Authorities as it is a Member level body, with the forum for officers to raise their views being at the COG and

SOG. However, it is noted that the Procedural Standing Orders contain a clause providing the Chair with the full power to conduct the meeting in the way he or she considered most expedient and can call on any person present to speak if considered appropriate or necessary;

Approval Process

10. Subject to final approval by Management Committee, the Partnership Agreement and its schedules, approval will then need to be sought from each Consortium Authority's appropriate Executive body prior to its execution.

Resources Implications

11. Implementation of the Change Programme, of which preparation of this Consortium Agreement formed a part, was mainly provided through a combination of existing resources, both financial and staff, of ESPO and Member Authorities.
12. A specific budget of £400,000 was set aside by the Management Committee on 24 June 2011 to support its implementation. In terms of the Consortium Agreement, only a small proportion of this budget was required through the use of specialist resources (a locum to support the development of legal documentation). The overall cost of the Programme, inclusive of the locum was £57,350.

Recommendation

13. That the Management Committee:
 - (a) considers and resolves the outstanding issues outlined in paragraphs 8 and 9 of this report;
 - (b) subsequent to (a) above, approves the Consortium Agreement and its schedules, attached as Appendix A to this report, and recommend it to the individual Consortium Authorities for their Agreement;
 - (c) authorises the Consortium Secretary to:
 - i) make any necessary final drafting amendments to the Agreement arising from this meeting;
 - ii) Liaise with individual Consortium Authorities in order that the Agreement be considered for approval by their appropriate Executive body;
 - iii) Subject to ii) above, arrange for the timely execution of the Partnership Agreement.

Background Papers

Joint Report of the Consortium Secretary and Treasurer to the ESPO Management Committee, 'Review of the Business Strategy for ESPO', 24th September 2010.

Joint Report of the Consortium Secretary and Treasurer to the ESPO Management Committee Business Strategy Review: Outline Implementation Programme, 24 June 2011.

Joint Report of the Consortium Secretary and Treasurer to the ESPO Management Committee - ESPO Change Programme Progress Report, 3 November 2011.

Officers to Contact:

John Sinnott
Consortium Secretary
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Tel: 0116 305 6000

Brian Roberts
Consortium Treasurer
brian.roberts@leics.gov.uk
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Victoria Newbold – Legal and Governance Workstream Lead
Senior Solicitor, Warwickshire County Council
victorianewbold@warwickshire.gov.uk
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Equal Opportunities Implications

14. An Equality Impact Assessment (EIA) was undertaken as part of the ESPO wider Change Programme during the implementation phase (which included both service design performance and employment) to help identify any equality issues. Equality Impact Assessments have also been identified as a key operational document going forward to help monitor, scrutinise and manage ESPO's operations.

Risk Assessment

15. Appendix B to this report summarises the key provisions of the new Consortium Agreement and which also summarises how the new ESPO governance model is strengthened covering performance management, the risk management framework and the transparency of decision making.

Appendices

- Appendix A** - Draft Consortium Agreement including Constitution
Appendix B - Briefing Note on the Key Provisions of the Consortium Agreement

DATED

[] 2013

EASTERN SHIRES PURCHASING ORGANISATION (ESPO)**CONSORTIUM AGREEMENT****THE PARTIES:**

1. CAMBRIDGESHIRE COUNTY COUNCIL
2. LEICESTER CITY COUNCIL
3. LEICESTERSHIRE COUNTY COUNCIL
4. LINCOLNSHIRE COUNTY COUNCIL
5. NORFOLK COUNTY COUNCIL
6. PETERBOROUGH CITY COUNCIL
7. WARWICKSHIRE COUNTY COUNCIL

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Schedule 1	<p>Constitution of the ESPO Management Committee comprising:</p> <p>Appendix 1: Terms of Reference of the ESPO Finance and Audit Committee</p> <p>Appendix 2: Terms of Reference of the ESPO Chief Officers' Group</p> <p>Appendix 3: Delegations to the ESPO Consortium Secretary and ESPO Consortium Treasurer</p> <p>Appendix 4: Functions of, and Delegations to, the Director of ESPO</p> <p>Appendix 5: Procedural Standing Orders of the ESPO Management Committee</p> <p>Appendix 6: Financial Regulations of the ESPO Management Committee (including the Standard Financial Instructions)</p> <p>Appendix 7: Contract Procedure Rules of the ESPO Management Committee</p>
Schedule 2	ESPO Services
Schedule 3	Functions of the Servicing Authority

THIS AGREEMENT is made the day of 2013

BETWEEN:

- (1) **CAMBRIDGESHIRE COUNTY COUNCIL** of Shire Hall, Castle Hill, Cambridge CB3 0AP;
- (2) **LEICESTER CITY COUNCIL** of New Walk Centre, Welford Place, Leicester LE1 6ZG;
- (3) **LEICESTERSHIRE COUNTY COUNCIL** of County Hall, Glenfield, Leicester LE3 8RA;
- (4) **LINCOLNSHIRE COUNTY COUNCIL** of County Offices, Newland, Lincoln LN1 1BR;
- (5) **NORFOLK COUNTY COUNCIL** of County Hall, Martineau Lane, Norwich NR1 2DH;
- (6) **PETERBOROUGH CITY COUNCIL** of Town Hall, Bridge Street, Peterborough PE1 1HF; and
- (7) **WARWICKSHIRE COUNTY COUNCIL** of Shire Hall, Warwick CV34 4RL

(the 'Member Authorities' or 'Parties').

WHEREAS:

- A. The Member Authorities hereby agree to enter into a new consortium agreement ('the Agreement') in connection with the consortium known as the Eastern Shires Purchasing Organisation ('ESPO') which was originally established by Agreement dated 25 February 1988.
- B. The Member Authorities agree that this Agreement shall supersede all Previous Agreements between some or all of the Member Authorities relating to ESPO provided that the rights, obligations and liabilities of the Member Authorities under those Previous Agreements shall remain in full force and effect only to the extent necessary to enforce those rights and obligations and discharge liabilities under those Previous Agreements.
- C. **Openness and Trust:** The Member Authorities agree to be open and trusting in their dealings with each other, making information and analysis available to each other including the sharing of procurement strategies, discussing and developing ideas openly and contributing fully to maximise the effectiveness of joint working in relation to ESPO.
- D. **Commitment and Drive:** The Member Authorities agree to remain fully committed to joint working in relation to ESPO and to motivate all those engaged in the delivery

of ESPO's objectives to do so with drive, enthusiasm and a determination to succeed in delivering the ESPO Services in a manner which demonstrates Best Value.

- E. **Skills and Creativity:** The Member Authorities recognise the complementary skills and knowledge that each Member Authority brings to ESPO and agree to apply creatively such skills and knowledge to ensure the delivery of the Member Authorities' objectives in relation to ESPO and to resolve any disputes and differences should they arise.
- F. **Effective Roles, Responsibilities and Relationships:** The Member Authorities agree to develop clear roles and responsibilities to be delivered at appropriate levels within the organisational structure of each Member Authority to ensure effective working relationships in relation to ESPO, including facilitating easy access to their respective members, officers and personnel.
- G. **Developing and Adapting:** The Member Authorities recognise that they are engaged in what could be a long-term arrangement in relation to ESPO which may need to develop and adapt over time, and agree that they will use all reasonable endeavours to develop and maintain effective processes and practices that are in the best interests of themselves and ESPO.
- H. **Reputation and Standing:** The Member Authorities agree that in relation to this Agreement and to ESPO generally they shall pay due regard to the reputation and standing of one another and shall not do or fail to do anything which may bring the reputation or standing of it and any other Member Authority into disrepute or attract adverse publicity to it or another Member Authority.
- I. **Reasonableness of Decision Making:** All decisions made by any Member Authority pursuant to this Agreement and in relation to ESPO generally shall be made reasonably and in good faith.
- J. **Members, Officers and Personnel:** Each Member Authority shall use all reasonable endeavours to procure that their respective members, officers and personnel who are involved in delivering services or functions pursuant to this Agreement shall at all times act in the best interests of that Member Authority, the Member Authorities and ESPO.
- K. **Necessary Consents:** Each Member Authority has obtained all necessary consents sufficient to ensure the delegation of functions and responsibilities provided for in this Agreement.
- L. **Resolving Disputes:** The Member Authorities will pursue a positive approach towards dispute resolution in relation to ESPO to identify solutions, avoid legal proceedings where at all possible and maintain a strong working relationship between the Member Authorities.

AND IT IS AGREED as follows:

1. DEFINITIONS

In this Agreement and accompanying Schedules and Appendices, the terms below shall have the following meanings:

- 1.1 **Agreement** - This agreement comprising the terms and conditions together with the attached schedules and appendices.
- 1.2 **Annual Report** - The report containing the activities and financial performance of ESPO for the preceding Financial Year presented by the Director of ESPO to the Management Committee each Financial Year for its approval and, once approved, provided by the Director of ESPO to each Member Authority.
- 1.3 **Assets** - Those assets, or interests in assets, listed in the Assets Register (including for the avoidance of doubt property, trading surpluses, Intellectual Property and the ESPO HQ building at Grove Park Commercial Centre, Leicester) held by the Servicing Authority on trust for the Member Authorities in equal shares.
- 1.4 **Assets Register** - A comprehensive list of all Assets (which shall be kept up to date by the Servicing Authority). The Financial Regulations and Financial Instructions of the Management Committee in **Schedule 1, Appendix 6** to this Agreement sets out the requirements for information to be included in the Assets Register.
- 1.5 **Best Value** - As described in Section 3 of the Local Government Act 1999 namely arrangements to secure the continuous improvement in the way in which functions are exercised having regard to a combination of economy, efficiency and effectiveness.
- 1.6 **Chief Officers' Group ('COG')** - The group comprising of a chief officer of each Member Authority so designated by that Member Authority the membership and terms of reference for which are set out in **Schedule 1, Appendix 2** to this Agreement.
- 1.7 **Commencement Date** - The date of this Agreement.
- 1.8 **Confidential Information** - Any information which has been designated as confidential by any Member Authority in writing or that ought to be considered as confidential (however it is conveyed or on whatever media it is stored) including information the disclosure of which would, or would be likely to, prejudice the commercial interests of any Member Authority, trade secrets, Intellectual Property rights and know-how of any Member Authority and all personal data and sensitive personal data within the meaning of the Data Protection Act 1998. Confidential Information shall not include information which:

- i. was public knowledge at the time of disclosure (otherwise than by breach of clause 19 of this Agreement);
- ii. was in the possession of the receiving Member Authority, without restriction as to its disclosure, before receiving it from the disclosing Member Authority;
- iii. is received from a third party (who lawfully acquired it) without restriction as to its disclosure; or
- iv. is independently developed without access to the Confidential Information.

- 1.9 **Constitution** - The document in **Schedule 1** to this Agreement which sets out the governance structure, scheme of delegation, Financial Regulations and Instructions, procedural standing orders and contract procedure rules of the Management Committee.
- 1.10 **Customer** - A public body (or school or Academy) receiving goods and/or services from ESPO.
- 1.11 **Director of ESPO** – The individual approved by the Management Committee to act as Director of ESPO.
- 1.12 **ESPO** - The Eastern Shires Purchasing Organisation being the trading name of the consortium of Member Authorities the functions of which are set out in clause 4 of this Agreement. For the avoidance of doubt the term “ESPO” is used in this Agreement to describe the functions, purposes and objectives of the consortium of the Member Authorities.
- 1.13 **ESPO Services** - The services that are to be provided through ESPO to Member Authorities (and Customers where applicable) based on their requirements comprising of (1) ‘**Existing ESPO Core Services**’ that from the date of this Agreement are *guaranteed* to be provided to Member Authorities (and Customers through subscription); (2) ‘**Additional ESPO Services**’ that from the date of this Agreement *may be* provided through ESPO to a Member Authority (or Authorities) (or Customers); and (3) ‘**Developing ESPO Services**’ that are not currently available to Member Authorities (or Customers) but are recognised as being desirable to be provided through ESPO to them at a later date (subject to agreement on funding and delivery timescales). The ESPO Services are detailed in **Schedule 2** to this Agreement.
- 1.14 **Financial Year** - A period of 12 months from 1 April in one year to 31 March in the next.
- 1.15 **Financial Regulations and Financial Instructions** – Those Financial Regulations and Instructions of the Management Committee which appear at **Appendix 6** of the Constitution.
- 1.16 **Implementation Plan** – A plan and timetable for addressing the consequences of the Member Authorities unanimously agreeing to discontinue the Management

Committee and operation of ESPO pursuant to clause 12.1 of this Agreement, or for addressing the consequences of any Member Authority (or group of Member Authorities) terminating its membership of the Management Committee pursuant to clause 15.1 of this Agreement.

- 1.17 **Intellectual Property**– All patents, inventions, trademarks, service marks, logos, design rights (whether registrable or otherwise), applications for any of the foregoing, copyright, database rights, domain names, trade or business names, moral rights and other similar rights or obligations whether registrable or not in any country (including but not limited to the United Kingdom) and the right to sue for passing off.
- 1.18 **Management Committee** - The joint committee already established by the Member Authorities pursuant to Sections 101(5) and 102 of the Local Government Act 1972 Section 9EB of the Local Government Act 2000 and Section 1 of the Local Authorities (Goods and Services) Act 1970 to act as a central purchasing body for the purposes of the Public Contracts Regulations 2006 and continuing under this Agreement and bearing the trading name “ESPO”. For the avoidance of doubt all references to the Management Committee in this Agreement shall (unless the context otherwise indicates) refer to the joint committee bearing that name.
- 1.19 **Member Authorities** - The parties to this Agreement being Cambridgeshire County Council, Leicester City Council, Leicestershire County Council, Lincolnshire County Council, Norfolk County Council, Peterborough City Council and Warwickshire County Council each known for the purposes of this Agreement as a ‘Member Authority’ and collectively as ‘Member Authorities’.
- 1.20 **Parties** – The Member Authorities.
- 1.21 **Previous Agreements** – All previous written agreements relating to ESPO entered into by some or all of the Member Authorities including those agreements dated 25/2/1988, 16/12/1991, 17/3/1998, 1/4/1998, 21/4/1999 and 27/4/2005.
- 1.22 **Prohibited Acts** – As defined in clause 23.1 of this Agreement.
- 1.23 **Request for Information** - A request for information or data under the Freedom of Information Act 2000, the Environmental Information Regulations 2004 or the Data Protection Act 1998.
- 1.24 **Senior Officers’ Group (‘SOG’)** – The group comprising senior officers of each Member Authority.
- 1.25 **Servicing Authority** - The Member Authority appointed by the Management Committee from time to time to fulfil the role of Servicing Authority in accordance with clause 11 of this Agreement and to undertake the functions set out in **Schedule 3** to this Agreement.

- 1.26 **Term** – The term of this Agreement commencing on the Commencement Date and continuing until such time as the Member Authorities agree to terminate this Agreement.
- 1.27 **Working Day** - Any days on which the banks are normally open for business (excluding Saturdays, Sundays and Bank Holidays).

2. INTERPRETATION

In this Agreement unless where otherwise specified:

- 2.1 Reference to the singular shall include the plural and vice versa and reference to one gender includes references to all genders.
- 2.2 References to a clause, sub-clause, paragraph, schedule or appendix are to a clause, sub-clause, paragraph, schedule or appendix within this Agreement unless otherwise stated.
- 2.3 The headings are for convenience only and shall not affect its interpretation.
- 2.4 The schedules and appendices to this Agreement form part of this Agreement and shall have effect as if set out in the body of this Agreement and any reference to this Agreement includes the schedules and appendices.
- 2.5 Any phrase introduced by the term “including”, “include”, “in particular” or any similar expression shall be construed as illustrative and the words following any of those terms shall not limit the sense of the words preceding those terms.
- 2.6 The words “in writing” and “written” mean “in documented form” whether electronic or hard copy unless otherwise stated.
- 2.7 Any reference to a person shall be to a legal person of whatever kind whether incorporated or unincorporated and to its successors, admitted assigns and transferees.
- 2.8 Words shall not be given any restrictive interpretation by reason only of their being preceded or followed by words indicating a particular class of acts matters or things.

- 2.9 Any reference to a decision, notice, consent, approval, agreement and/or permission being required under this Agreement shall unless expressed to the contrary in this Agreement be given in writing.
- 2.10 Any reference to a statute shall include references to such statute as it may have been, or may from time to time be amended, consolidated or re-enacted and to any regulation or subordinate legislation made under it (or under such an amendment, consolidation or re-enactment).
- 2.11 In the event of any ambiguities or discrepancies in this Agreement then the documents that make up this Agreement are deemed to be mutually explanatory and except as otherwise expressly provided are to be read as a whole.
- 2.12 Any item in this Agreement requiring the majority or unanimous decision of all Member Authorities shall not be put on any Management Committee agenda otherwise than with the full notice to each Member Authority provided for under the Access to Information provisions in the Local Government Act 1972.

3. PURPOSE OF AGREEMENT

- 3.1 By this AGREEMENT the Member Authorities agree to continue to constitute the joint committee (known as the 'Management Committee') having previously been constituted under Previous Agreements (which this Agreement now supersedes) in accordance with Sections 101(5) and 102 of the Local Government Act 1972, Section 9EB of the Local Government Act 2000 and Section 1 of the Local Authorities (Goods and Services) Act 1970 to act as a central purchasing body for the purposes of the Public Contracts Regulations 2006 with effect from the Commencement Date for the Term on all the terms and conditions set out in this Agreement.

4. FUNCTIONS OF ESPO

- 4.1 The Member Authorities agree to continue to operate ESPO on the terms and conditions set out in this Agreement and shall undertake the following functions on the terms set out in this Agreement:
- 4.1.1 to provide a comprehensive cost effective professional purchasing service to the Member Authorities (and available to Customers on a subscription basis);

4.1.2 to maintain effective efficient and economical arrangements for the supply of goods and/or services by:

4.1.2.1 negotiating terms for the supply of goods and/or services;

4.1.2.2 purchasing, storing and distributing items in common use where it is practical and economical to do so;

4.1.2.3 advising on standards and specifications;

4.1.2.4 providing professional and technical expertise;

4.1.2.5 providing specialist goods and/or services, and

4.1.2.6 investigating areas of joint purchasing;

based on the overall requirements of the Member Authorities (and Customers where applicable);

4.1.3 to achieve overall cost savings and efficiencies for the Member Authorities by providing them with a simple effective system for the supply of goods and/or services;

4.1.4 to provide timely and relevant information to the Member Authorities based on their requirements; and

4.1.5 to provide the ESPO Services to the Member Authorities (and Customers where applicable) based on their requirements.

4.2 The Management Committee shall ensure that the ESPO Services are delivered to the Member Authorities (and Customers where applicable) through ESPO.

5. MEMBERSHIP OF THE ESPO MANAGEMENT COMMITTEE

5.1 From the Commencement Date each Member Authority shall continue to be a member of the Management Committee.

6. CONSTITUTION

6.1 The Constitution of the Management Committee is set out in **Schedule 1** to this Agreement. Each Member Authority (including, for the avoidance of doubt, the Servicing Authority acting in that capacity) agrees to be bound by the decision making structures, scheme of delegation, standing orders, Financial Regulations and Instructions, procedural standing orders and contract procedure rules of the Management Committee.

6.2 In accordance with the Procedural Standing Orders attached at **Schedule 2, Appendix 5** to this Agreement, all decisions of the Management Committee shall be decided by majority of the Members unless where this Agreement specifies otherwise.

7. STATUS OF AGREEMENT

7.1 Each Member Authority agrees that this Agreement shall be fully legally binding between the Parties.

7.2 This Agreement sets out the entire agreement between the Member Authorities and supersedes all Previous Agreements PROVIDED THAT all rights, obligations and liabilities of the Member Authorities under the Previous Agreements shall remain in full force and effect to the extent necessary to enforce those rights and obligations and discharge liabilities under the Previous Agreements.

8. MEMBER AUTHORITY OBLIGATIONS

8.1 Each Member Authority shall regularly review its purchasing policies and practices to ensure that the ESPO Services are effectively utilised on an appropriate basis by that Member Authority.

8.2 Notwithstanding clause 8.1, the Management Committee shall ensure that the Director of ESPO produce an Annual Report in relation to ESPO for the preceding Financial Year no later than at the end of the second financial quarter in each Financial Year which is presented to the Management Committee for its approval. Member Authorities shall have the power to request (in writing) that the Director of ESPO add further relevant information to the Annual Report prior to its presentation to the Management Committee.

8.3 Each Member Authority (including for the avoidance of doubt that Member Authority acting as the Servicing Authority at any time) shall be responsible for ensuring that the relevant provisions and obligations of this Agreement are properly drawn to the attention of their members, officers and personnel.

8.4 The Management Committee shall require that the Director of ESPO shall be responsible for ensuring that the relevant provisions and obligations of this Agreement are properly drawn to the attention of members of personnel under their direction and control.

9. ASSETS

9.1 All Assets required for delivering the functions of the Management Committee in relation to ESPO (including, for the avoidance of doubt, the ESPO HQ building at Grove Park Commercial Centre, Leicester) shall be held by the Servicing Authority on trust for the Member Authorities in equal shares.

9.2 The Servicing Authority shall compile maintain and make available to the Management Committee on an annual basis (or at any other time as directed by the Management Committee providing reasonable notice to the Servicing Authority) a comprehensive and up to date list of all Assets (which shall include their latest audited value) held by the Servicing Authority on trust for the Member Authorities in the form of an Assets Register.

9.3 The Servicing Authority shall make available an up to date version of the Assets Register to any Member Authority upon the provision of reasonable notice.

9.4 In the event of a change in the Servicing Authority and, in any event, on every fifth (5th) anniversary of the Commencement Date (or any other time as directed by the Management Committee) an independent valuation of the Assets shall take place. This valuation shall be carried out as directed by the Management Committee and the costs of it shall be borne by ESPO.

9.5 The Member Authorities agree that subject to the terms of this Agreement any liabilities, claims and costs incurred by the Management Committee shall be repaid in the first instance (and where applicable) from the application of any insurance compensation received by the Servicing Authority on behalf of the Member

Authorities, and only then from the Assets held by the Servicing Authority on trust for the Member Authorities.

10. FINANCIAL ARRANGEMENTS

- 10.1 The current Financial Regulations and Financial Instructions of the Management Committee are set out in Schedule 1, Appendix 6 of this Agreement.
- 10.2 The Member Authorities agree that ESPO shall be self-financing and that save as provided for in this Agreement no capital contribution shall be demanded from the Member Authorities.
- 10.3 At the end of each Financial Year the Management Committee shall both determine and approve a distributable trading surplus (after meeting approved operational costs and deficits from previous Financial Years) which shall be distributed between the Member Authorities in proportion to their level of purchasing through ESPO in that Financial Year.

11. APPOINTMENT AND RESIGNATION OF SERVICING AUTHORITY

- 11.1 From the Commencement Date Leicestershire County Council shall continue to be appointed and to act as the Servicing Authority to ESPO on behalf of the Member Authorities and shall perform the functions set out in Schedule 3 of this Agreement.
- 11.2 The Management Committee may at any time unanimously agree to appoint another Member Authority to act as Servicing Authority giving such notice to that Member Authority currently performing the role as may be agreed by the Management Committee. That Member Authority must resign if given notice to do so by the Management Committee and in the manner reasonably required by the Management Committee.
- 11.3 The Member Authorities through the Management Committee may at any time require that the Member Authority currently acting as Servicing Authority resign from that role where the Management Committee has clear evidence that there has been negligence, misconduct or a persistent breach of the law on the part of that Member Authority in the performance of its Servicing Authority functions set out in Schedule 3 of this Agreement giving such notice to that Member Authority currently performing the role as may be agreed by the Management Committee. That Member Authority

must resign as Servicing Authority if given notice to do so by the Management Committee and in a manner reasonably required by the Management Committee.

- 11.4 The Member Authority acting as Servicing Authority at any time may resign from the role by giving at least 12 months' notice (or other period as may be agreed by majority of the Management Committee) to the Management Committee (c/o the Director of ESPO) expiring at the end of any Financial Year (or other period as may be agreed by majority of the Member Authorities).
- 11.5 Where a Member Authority resigns as the Servicing Authority pursuant to this clause 11 an extraordinary meeting of the Management Committee shall be convened and the Member Authorities (including, for the avoidance of doubt, the outgoing Servicing Authority) shall by majority agreement to appoint another Member Authority to act as Servicing Authority provided that no Member Authority shall be required to act as Servicing Authority without first giving its consent so to act.
- 11.6 In circumstances whereby the Member Authorities cannot appoint a replacement for the Servicing Authority from its membership, then at that extraordinary meeting (or a subsequent meeting of the Management Committee (either ordinary or extraordinary)) the Management Committee shall agree an appropriate strategy forward.
- 11.7 Up to the expiry of the agreed notice period under this clause 11, the outgoing Servicing Authority shall:
- 11.7.1 discharge its functions as set out in Schedule 3 of this Agreement; and
 - 11.7.2 co-operate fully with the Member Authority assuming the role of Servicing Authority (or any other individual or organisation appointed by the Management Committee under any new arrangement intended to replace the Servicing Authority as the case may be) to develop a handover strategy which will include (but shall not be limited to) transferring:
 - 11.7.2.1 all Assets, contractual rights, obligations, leases, licences, liabilities, claims, costs, relevant records and documents held by the outgoing Servicing Authority in relation to ESPO; and
 - 11.7.2.2 all staff employed by the Servicing Authority in relation to ESPO including their employment rights, pensions and employment

information subject to the provisions of the Transfer of Undertaking (Protection of Employment) Regulations (2006) or other relevant personnel engaged in relation to ESPO including pension strain.

The Management Committee shall require the prior consideration and approval of any handover strategy.

11.8 The cost consequences of the Servicing Authority resigning shall be as follows:

11.8.1 where the Servicing Authority resigns pursuant to clause 11.2 or 11.4 of this Agreement the costs directly attributable to the Servicing Authority resigning but remaining a Member Authority shall be borne by the Member Authorities in equal shares; and

11.8.2 where the Servicing Authority resigns pursuant to clause 11.3 of this Agreement, the costs directly attributable to the Servicing Authority resigning but remaining a Member Authority shall be borne solely by the Servicing Authority. The Management Committee shall agree by majority the manner in which these costs calculated and are repaid by the Servicing Authority.

12. DISSOLUTION OF ESPO

12.1 The Member Authorities may agree at any time by unanimous agreement to discontinue the operation of ESPO. In such circumstances the Management Committee shall draw up an Implementation Plan for dissolution.

12.2 Upon dissolution of ESPO the Assets held by the Servicing Authority on trust for the Member Authorities shall be used firstly to defray all liabilities claims costs and expenses properly incurred on behalf of the Member Authorities outstanding at the date of dissolution (insofar as any liability claim cost and/or expenditure cannot be first met through the application of any insurance compensation). This shall be the subject of prior agreement of the Management Committee within the Implementation Plan. The Management Committee shall then agree (with the assistance of the Servicing Authority, the ESPO Consortium Treasurer, the Director of ESPO and any other party as the Management Committee may direct) a final reconciliation account up to the date of dissolution (including payment (if any) of the Servicing Authority's costs in carrying out its functions under Schedule 3 to this Agreement).

12.3 Any Assets on the dissolution of ESPO (after the discharge of all liabilities, claims and costs properly authorised by the Management Committee (where these are not met in the first instance from the application of any insurance compensation where applicable) shall be distributed between the Member Authorities in equal shares (or such other apportionment as the Management Committee may resolve in writing by unanimous agreement). Any deficit at the date of dissolution of ESPO shall also be borne by the Member Authorities in equal shares (or, again, in such other apportionment as the Management Committee may resolve in writing by unanimous agreement).

13. CONTRIBUTION TO LOANS AND COSTS ASSOCIATED WITH ASSETS

13.1 Each Member Authority shall (insofar as these are not first met through the application of any insurance compensation, secondly by any Assets held by the Servicing Authority on trust of the Member Authorities, or thirdly have not been reimbursed from income generated through the activities of ESPO) be liable for and when so required pay an equal share (or such other apportionment as the Management Committee may resolve by unanimous agreement) of any loan, cost or expense incurred by the Servicing Authority (even if such loan, cost or expense was incurred or taken out prior to the date of this Agreement and which shall include, for the avoidance of doubt, the loan from the Public Works Loan Board for the purchase of the freehold land at Grove Park Commercial Centre, Leicester and construction of the ESPO HQ building subject to the restriction set out in clause 14.1.1) provided that such loan, cost or expense falls within the remit of this Agreement and has been properly authorised by the Management Committee either before or subsequent to the date of this Agreement.

13.2 The Member Authority acting as Servicing Authority alone shall be solely liable under clause 13.1 if any claim or demand arising or loan cost or expense incurred was by reason of or in consequence of any of the following on the part of the Member Authority acting as Servicing Authority at the relevant time - negligence, gross misconduct, persistent breach of law or duty (this is to say persisted after having been brought to the attention of the Servicing Authority which shall have (where reasonably practicable) sufficient time to remedy any such breach) or any act or omission known or reasonably ought to have been known to the Servicing Authority to be contrary to any authorisation given by the Management Committee or proper local government practice or local government law. In such circumstances the Servicing Authority hereby indemnifies the remaining Member Authorities against any claims demand costs or expenses.

14. LIABILITIES, INDEMNITIES, CLAIMS AND PROCEEDINGS

Liabilities and Indemnities

14.1 Each Member Authority (including for the avoidance of doubt that Member Authority acting as Servicing Authority at any time) hereby indemnifies the Servicing Authority and in doing so shall pay an equal share (or such apportionment as the Management Committee may resolve by unanimous agreement) of all or any liabilities claims costs and/or expenses of or incurred by the Servicing Authority in carrying out its functions as Servicing Authority under Schedule 3 of this Agreement (insofar as any liability claim cost and/or expenditure cannot be first met through the application of any insurance compensation and thereafter from any property or other Assets held on trust for the Member Authorities to defray such expenditure) provided that such liability claim cost and/or expenditure has arisen as a result of the Servicing Authority exercising due skill and care and properly performing or discharging its functions under Schedule 3 of this Agreement PROVIDED ALWAYS that such indemnity shall:

14.1.1 in the case of the loan from the Public Works Loan Board for the purchase of the freehold of land at Grove Park Commercial Centre, Leicester and construction of the ESPO HQ building be limited to a total liability not exceeding £12,620,000 (Twelve Million Six Hundred and Twenty Thousand Pounds); and

14.1.2 not extend to any liability claim cost and/or expenditure incurred by reason or in consequence of any of the following on the part of the Servicing Authority - negligence, gross misconduct, persistent breach of law or duty (this is to say persisted in after the same shall have been brought to the attention of the Servicing Authority who shall have been given (where possible and reasonably practicable) sufficient time to remedy any such breach) or any act or omission known or which reasonably ought to have been known to the Servicing Authority to be contrary to any direction or authorisation given by the Management Committee or proper local government practice or local government law and in such circumstances such liability claim cost and/or expense shall be borne by the Servicing Authority alone who shall indemnify the remaining Member Authorities against any liability, claim, cost or expense.

- 14.2 Where any claim or demand is issued by a third party on any Member Authority (or group of Member Authorities) which should have been correctly directed to the Servicing Authority to deal with on behalf of the Management Committee collectively (in accordance with clause 14.6.3 of this Agreement) as it relates to ESPO each Member Authority hereby indemnifies that Member Authority (or group of Member Authorities) and in doing so shall pay an equal share (or such apportionment as the Management Committee may resolve by unanimous agreement) of all or any costs and/or expenses of or incurred by that Member Authority (or group of Member Authorities) which relate to or arise in connection with the misdirection of that claim or demand (insofar as any liability claim cost and/or expenditure cannot be first met through the application of any insurance compensation and thereafter from any property or Assets held on trust for the Member Authorities to defray such expenditure).
- 14.3 In circumstances where a Member Authority (or group of Member Authorities) reasonably considers that it has suffered loss and/or damage as a direct consequence of any act or omission on the part of ESPO (which has acted otherwise than in accordance with the Member Authority's instructions) it shall refer the matter for resolution under clause 18 of this Agreement (Dispute Resolution).
- 14.4 The Servicing Authority may only use Assets that it holds on behalf of the Member Authorities to meet any liabilities claims costs and expenditure pursuant to this clause 14 where this use shall not materially prejudice the activities of ESPO. Where the activities of ESPO were to be materially prejudiced, the Servicing Authority shall first obtain the majority agreement of the Management Committee to decide how such expenditure is met.
- 14.5 In respect of the indemnities given under this Agreement, any indemnified Member Authority (or group of Member Authorities) shall:
- 14.5.1 be under a duty to mitigate any costs and expenses so far as is practical:
 - 14.5.2 give written notice to the remaining Member Authorities as soon as is practical of the details of any claim or proceedings brought or threatened against it by a third party in respect of which a claim will or may be made under the relevant indemnity; and
 - 14.5.3 provide all reasonable assistance and documentation to the Servicing Authority and as may be required by the Member Authorities in connection with the claim or proceedings.

Claims and Proceedings

14.6 The Servicing Authority shall be responsible for the following:

- 14.6.1 responding to claims or demands served by a third party on the Servicing Authority in respect of its functions exercised and/or activities undertaken under Schedule 3 to this Agreement;
- 14.6.2 responding to claims or demands served by a third party in the name of 'ESPO';
- 14.6.3 responding to claims or demands incorrectly issued by a third party on any individual Member Authority (or group of Member Authorities) which should have been correctly directed to the Servicing Authority to deal with on behalf of the Management Committee as it relates to ESPO (and for the avoidance of doubt in such circumstances that Member Authority (or Member Authorities) originally incorrectly receiving the claim or demand shall be fully indemnified by the Member Authorities in the proportion set out at clause 14.2);
- 14.6.4 where notified by a Member Authority (or group of Member Authorities) that it has been issued with a claim or demand by a third party which should have been correctly directed to the Servicing Authority to deal with on behalf of ESPO, the Servicing Authority shall notify that third party that it is the proper entity against which the claim ought to be made and shall (if the claim is one which has been issued in court) apply to the court to be substituted as a party in place of that Member Authority (or group of Member Authorities) and in either case shall take over the conduct of the claim. Where the court does not accept the substitution of the Servicing Authority then for the avoidance of doubt the Member Authority (or group of Member Authorities) shall continue with the conduct of the claim without prejudice to clause 14.2.
- 14.6.5 handling any claim that the Management Committee may resolve to bring against third parties;

unless where otherwise instructed by the Management Committee or save where in the reasonable opinion of the Servicing Authority (or the Management Committee) it has a conflict of interest, in which case the Management Committee shall appoint another Member Authority or other party who shall act as if it were the Servicing Authority for the purposes of bringing a claim to its conclusion.

- 14.7 Where the Servicing Authority provides written notice to the Management Committee that it needs to incur expenditure to handle or respond to a claim pursuant to this clause 14 (which cannot be met through the application of any insurance compensation and then from any property or other Assets held on behalf of the Member Authorities to defray such expenditure) then the Member Authorities (including for the avoidance of doubt the Servicing Authority itself) shall reimburse as soon as is reasonably practical the Servicing Authority for such expenditure in equal shares (or such other apportionment as the Management Committee may resolve by unanimous agreement).
- 14.8 Where the Servicing Authority succeeds in pursuing or resisting any claim pursuant to this clause 14 resulting in the recovery of damages and/or costs then as soon as is reasonably practical it shall first repay to the Member Authorities in full any contributions made by them under clause 14.7 and thereafter (assuming that there are remaining funds) reimburse the accounts of ESPO.

15. TERMINATION OF MEMBERSHIP

- 15.1 Any Member Authority may terminate its membership of the Management Committee by giving at least 12 months' prior written notice to the Chief Executive of the Servicing Authority expiring at the end of a Financial Year (or other such period as the Management Committee may resolve by majority agreement). Notice should be given in accordance with the notice provisions set out in clause 21 of this Agreement.
- 15.2 Upon service of notice given pursuant to clause 15.1, Clause 16 of this Agreement shall have effect.

16. EFFECTS OF TERMINATION

- 16.1 Where any one or more Member Authority serves notice to terminate this Agreement in accordance with clause 15 of this Agreement then the procedure shall be as follows:
- 16.1.1 The Management Committee shall call an extraordinary meeting within one (1) month of the service of the notice by a Member Authority (or Member Authorities) for the purpose of preparing the Implementation Plan for dealing with the consequences of such notice which may include the dissolution of the Management Committee PROVIDED ALWAYS THAT the Management

Committee shall continue where there are a minimum of two Member Authorities who wish to continue with the operation of the Management Committee.

16.1.2 Each Member Authority shall act reasonably and in good faith in co-operating with each other to facilitate the preparation and carrying forward of the Implementation Plan and in such a manner (including entering into any transitional arrangements as may be required) as to (but not limited to):

- 16.1.2.1 cause the least disruption to the Member Authorities (and Customers where applicable) and to maintain normal levels of service in relation to ESPO insofar as possible;
- 16.1.2.2 agree arrangements for the transfer of staff under the Transfer of Undertakings (Protection of Employment) Regulations 2006 and avoid redundancies wherever possible;
- 16.1.2.3 facilitate the transfer of data and records; and
- 16.1.2.4 cover any other matters needing to be determined in relation to the Member Authority (or group of Member Authorities) serving notice.

16.1.3 In the event that the Implementation Plan involves the dissolution of the Management Committee the Implementation Plan shall (subject to clause 16.4 below) cover (but not be limited to):

- 16.1.3.1 the allocation or realisation of Assets;
- 16.1.3.2 the redundancy of employees or redeployment of employees and/or staff engaged on ESPO and pension issues;
- 16.1.3.3 the assignment or extinguishment of contractual rights and liabilities, claims or costs; and
- 16.1.3.4 the division of surpluses on dissolution; and
- 16.1.3.5 any other matters needing to be determined in order to achieve a fair and efficient winding up of the affairs of the Management Committee and ESPO.

16.2 Save as specifically mentioned in this Agreement, the Member Authority giving notice of termination (or if there is more than one such Member Authority then each of them in equal shares or such other apportionment as the Management Committee may decide by unanimous agreement) shall be liable to the other Member Authorities for all directly attributable costs arising during their membership of the Management

Committee and out of or in connection with their termination and shall indemnify the remaining Member Authorities in equal shares against all such costs incurred or to be incurred which may include (but not limited to) the costs of:

- 16.2.1 redundancy or re-deployment of any staff engaged on ESPO;
- 16.2.2 termination of any lease or licence for the occupation of any premises or use of any equipment including ICT hardware or software agreements;
- 16.2.3 procurement of any alternative accommodation or relocation of any services or staff;
- 16.2.4 procurement implementation or reconfiguration of any equipment, ICT hardware or software reasonably required for the provision of the on-going ESPO Services to those Member Authorities other than those that have given notice to terminate;
- 16.2.5 preparation, disaggregation and transfer of any data and records; and
- 16.2.6 staff and administrative overheads including pension strain in connection with any of the above; and
- 16.2.7 claims, costs, expenses and charges correctly incurred by the Management Committee whilst that Member Authority was part of the Management Committee.

Any increased costs in relation to ESPO to the remaining Member Authorities after the expiry of the notice of termination of one or more Member Authorities due to diseconomies of scale shall not be borne by the Member Authority (or Authorities) which has (have) left ESPO.

- 16.3 The Member Authorities shall act in good faith and in a reasonable manner to mitigate any costs arising out of or in connection with termination under clause 16.1 and 16.2 so far as is practical.
- 16.4 A schedule of the costs arising out of or in connection with termination under clause 16.1 and 16.2 shall be prepared as part of the Implementation Plan and agreed by majority of the Management Committee. Under clause 16.2 the costs shall be paid by the Member Authority giving notice to terminate (or if there is more than one, shall be paid in equal shares by each terminating Member Authority or other such apportionment as agreed unanimously by the Management Committee) upon invoice to the ESPO Consortium Treasurer within three (3) months of the issue of the schedule (or any other such period as the Management Committee may so determine).

16.5 In circumstances where:

16.5.1 all Member Authorities agree to discontinue the operation of the Management Committee; and

16.5.2 notice of termination has been given in accordance with clause 15 of this Agreement and where there are not (at least) two Member Authorities who want to continue with the operation of the Management Committee,

then all costs as mentioned in clause 16.2 above shall be deemed to be costs of the Management Committee and apportioned between all the Member Authorities in accordance with clause 12.2 and 12.3 of this Agreement.

16.6 For the avoidance of doubt, reference to Member Authorities in this clause 16 shall include that Member Authority (or if more than one, Member Authorities) who has given notice to terminate its membership of the Management Committee PROVIDED THAT any Member Authority which has previously given notice to terminate its membership of the Management Committee shall in respect of any resolution as to whether the Management Committee should be discontinued shall be deemed to have voted in favour of dissolution.

16.7 Subject to the provisions in this clause 16 where a Member Authority (or if more than one, Member Authorities) has given notice to terminate its membership of the Management Committee and that notice has expired, then that Member Authority will no longer have any rights or obligations under this Agreement.

17. NO AGENCY OR PARTNERSHIP

17.1 Each Member Authority is an independent body and nothing contained in this Agreement shall be construed as creating an agency or legal partnership (within the meaning of the Partnership Act 1890 or any other legislation concerning partnerships or limited liability partnerships) or relationship of contractor or employer/employee between the Member Authorities.

17.2 Save as where expressly provided for in this Agreement no Member Authority shall:

17.2.1 make any representations or give any warranties to third parties on behalf of or in respect of the other Member Authorities; nor

17.2.2 bind or hold itself out as having the power to bind the other Member Authorities.

18. DISPUTE RESOLUTION

18.1 The Member Authorities must attempt to resolve any dispute or disagreement arising out of or relating to this Agreement promptly and in good faith through negotiations between their respective officers who have the requisite authority to settle the same.

18.2 If the dispute or disagreement is not resolved successfully by the means referred to in clause 18.1 it shall be referred by the Member Authorities to the Director of ESPO who shall attempt in good faith to resolve the dispute or disagreement by obtaining, from each party to the dispute, a statement of their position within seven (7) Working Days of this request being made. The Director of ESPO shall decide whether to refer the dispute or disagreement to the SOG (if the dispute or disagreement is of a technical or procurement nature) or to the COG (if the dispute or disagreement is of a governance or legal nature) for advice on a way forward. The Director of ESPO will then meet with the relevant parties to discuss with them the advice in an attempt to resolve the dispute or disagreement.

18.3 If the dispute or disagreement cannot then be resolved under clauses 18.1 or 18.2 within a 28 day period from receipt of the COG/SOG advice then a report shall be prepared by the Director of ESPO to the Management Committee which will include the COG/SOG advice provided pursuant to clause 18.2 and the views of the Director of ESPO and the Management Committee shall meet to make a decision as to how the dispute or disagreement shall be resolved.

18.4 If the meeting(s) referred to in Clause 18.2 and 18.3 do(es) not resolve the dispute or disagreement the parties will attempt to settle it by mediation in accordance with the Centre for Effective Dispute Resolution ('CEDR') Model Mediation Procedure ('the Procedure') or any other model mediation procedure as agreed by the Member Authorities. To initiate mediation, any Member Authority or the Director of ESPO may give notice in writing (a 'Mediation Notice') to all Member Authorities requesting mediation of the dispute or disagreement and shall send a copy thereof to CEDR (or an equivalent mediation organisation as agreed by the Management Committee)

asking them to nominate a mediator. The mediation shall commence within twenty eight (28) Working Days of the Mediation Notice being served. The termination procedures contained in this Agreement cannot be operated once mediation has commenced and until each party has made its opening presentation and the mediator has met each party separately for at least one hour. Thereafter paragraph 14 of the Procedure will apply (or the equivalent paragraph of any other model mediation procedure agreed by the Member Authorities). No party to the mediation will commence legal proceedings against the other until thirty (30) Working Days after such mediation of the dispute in question has failed to resolve the dispute. The Member Authorities will co-operate with any person appointed as mediator providing him or her with such information and other assistance as the mediator shall require and any Member Authority (or Member Authorities) agree to pay any costs as the mediator shall determine. Any agreement in principle reached at the conclusion of the mediation process must be recorded in writing at such conclusion and shall thereafter be referred to the Director of ESPO for presentation to the Management Committee for its approval.

- 18.5 Only in circumstances where the dispute or disagreement cannot be first resolved through the procedures outlined in clauses 18.1 to 18.4 of this Agreement shall the dispute or disagreement proceed to litigation through the court system.

19. CONFIDENTIALITY AND INFORMATION MANAGEMENT

- 19.1 Subject to the remaining provisions of this clause 19, each Member Authority shall not disclose Confidential Information and shall procure that its members, officers, personnel, agents and contractors will not disclose any Confidential Information obtained by them by reason of this Agreement.
- 19.2 In the event of a Member Authority (or Member Authorities) needing to make disclosures of Confidential Information each shall liaise with the other as to the extent and timing of the disclosure, prior to any disclosure, provided always that such obligation to liaise shall not breach any legal or regulatory requirement.
- 19.3 Notwithstanding the above, any Member Authority may disclose Confidential Information of another Member Authority to its insurers and legal advisers.
- 19.4 Clause 19.1 shall not apply where a Member Authority has obtained the written consent of the other Member Authorities (such consent not to be unreasonably withheld) to divulge or use any Confidential Information or where Confidential

Information is required to be disclosed by any law or statutory or regulatory obligation including (without limitation) the Freedom of Information Act 2000 ('FOIA'), the Environmental Information Regulations 2004 ('EIR') or the Data Protection Act 1998 ('DPA') (but only to the extent of such law or statutory or regulatory obligation).

- 19.5 Each Member Authority acknowledges that it and the other Member Authorities are subject to the requirements of the FOIA, the EIR and the DPA and each Member Authority shall assist and cooperate with the others (at their own expense) to enable the other Member Authorities to comply with these requirements.
- 19.6 Where a Member Authority receives a Request for Information relating to Confidential Information which it is holding on behalf of another Member Authority it shall -
- 19.6.1 transfer the Request for Information to the other Member Authority as soon as practicable after receipt and in any event within five (5) Working Days of receiving a Request for Information;
 - 19.6.2 provide the other Member Authority with a copy of all Confidential Information in its possession or power in the form that the other Member Authority requires within (5) five Working Days (or such other period as the other Member Authority may specify) of a request from the other Member Authority; and
 - 19.6.3 provide all necessary assistance as reasonably requested by the other Member Authority to enable that Member Authority to respond to the Request for Information within the time for compliance set out in section 10 of the FOIA or regulation 5 of the EIR.
- 19.7 Where a Member Authority receives a Request for Information which relates to Confidential Information, it shall inform the other Member Authorities of the Request for Information as soon as practicable after receipt and in any event within five (5) Working Days of receiving a Request for Information.
- 19.8 If a Member Authority determines that Information (as defined under Section 84 of the FOIA including Confidential Information) must be disclosed under the FOIA, it shall notify the other Member Authorities of that decision at least two (2) Working Days before disclosure.
- 19.9 Each Member Authority shall be responsible for determining at its absolute discretion whether the Confidential Information and/or any other information:

19.9.1 is exempt from disclosure under the FOIA, the EIR or the DPA, and

19.9.2 is to be disclosed in response to a Request for Information.

19.10 Each Member Authority acknowledges that any other Member Authority may, acting in accordance with the Department for Constitutional Affairs' Code of Practice on the Discharge of Functions of Public Authorities under Part I of the Freedom of Information Act 2000, be obliged under the FOIA, the EIR or the DPA to disclose information:

19.10.1 without consulting with the other Member Authorities, or

19.10.2 following consultation with the other Member Authorities and having taken their views into account.

20. PUBLICITY

20.1 Any publicity in relation to ESPO in the form of leaflets, press releases, public statements and any other forms of information may be produced by each Member Authority subject to such publicity material carrying the branding of ESPO in a form agreed by the Management Committee.

20.2 In the event that a Member Authority wishes to issue a press release or make a public statement in connection with or arising from the activities of ESPO or this Agreement, that Member Authority shall obtain the prior approval of the Management Committee (or such individual or group as the Management Committee may delegate this function to) as to its contents, manner and timing of its presentation and publication.

20.3 A marketing strategy shall be produced by the Director of ESPO and reviewed each Financial Year by the Management Committee which shall address all media issues including the ESPO website.

21. NOTICES

21.1 All notices served under this Agreement must be in writing.

21.2 Except where this Agreement specifies otherwise any notice must be served by leaving it with or sending it by pre-paid first class post addressed to the Chief

Executive (or in the absence of a Chief Executive, then the chief legal officer) of the Member Authority at their address set out in this Agreement (or to such addresses as shall have been duly notified in accordance with this clause) and copied to the other Member Authorities.

- 21.3 Notices delivered by hand shall be deemed to have been delivered when handed over provided the date of delivery is a Working Day and if it is not a Working Day it will be deemed to be delivered the next Working Day. Notices sent by post shall be deemed to have been delivered on the second Working Day after posting.

22. WAIVER

- 22.1 Where a Member Authority fails to enforce or delays in enforcing any obligation of any other Member Authority or fails to exercise or delays in exercising a right under this Agreement, such failure or delay will not affect its right to enforce that obligation or constitute a waiver of that right. Any waiver by a Member Authority of any provision of this Agreement will not, unless expressly stated to the contrary, constitute a waiver of that provision on future occasion.

23. PREVENTION OF CORRUPTION AND BRIBERY

- 23.1 The Member Authorities agree that they will not commit, any of the following acts (hereinafter referred to as 'Prohibited Acts'):

23.1.1 offer, give or agree to give to another Member Authority, or any related party or any other person any gift or consideration of any kind as an inducement or reward:

23.1.1.1 for doing or not doing (or for having done or not having done) any act in relation to the obtaining or performance of this Agreement or any other contract with another Member Authority; or

23.1.1.2 for showing or not showing favour or disfavour to any person in relation to this Agreement or any other contract with another Member Authority;

23.1.2 enter into this Agreement or any other contract with another Member Authority or relevant party in connection with which commission has been paid or has been agreed to be paid by a Member Authority (or anyone acting on its behalf

or to its knowledge) unless before such contract is made, particulars of any such commission and the terms and conditions of any such agreement for the payment thereof have been disclosed in writing to all other Member Authorities;

23.1.3 any offence under the Bribery Act 2010, or Section 117(2) and (3) of the Local Government Act 1972 or under legislation creating offences in respect of fraudulent acts or at common law in respect of fraudulent acts in relation to this Agreement or any other contract with another Member Authority; or

23.1.4 defraud or attempt to defraud or conspire to defraud another Member Authority.

23.2 If a Member Authority (or the Member Authority's personnel or anyone acting on its behalf or to its knowledge) commits any Prohibited Act, then the matter shall be reported to the Management Committee who shall be entitled to:

23.2.1 require the relevant Member Authority to deal with the matter through its relevant disciplinary procedures and advise the other Member Authorities of the outcome; and/or

23.2.2 recover from the relevant Member Authority any loss sustained in consequence of any breach of Clause 23.1 by the relevant Member Authority.

23.3 Any Member Authority believing itself to be in breach of this clause shall as soon as it becomes aware of such breach inform the other Member Authorities in writing of the occurrence of any Prohibited Act of which it becomes aware.

24. VARIATION

24.1 This Agreement may be varied or appended to by the Member Authorities at any time and due to any circumstances by the unanimous agreement of the Member Authorities other than where this Agreement provides otherwise. For the avoidance of doubt, variation of the overarching Consortium Agreement and Constitution of the Management Committee require unanimous agreement of the Member Authorities. Variation of the following documentation appended to the Constitution may be varied at any time by the majority agreement of the Management Agreement:

- 24.1.1 Appendix 1: Terms of Reference of the ESPO Finance and Audit Committee
- 24.1.2 Appendix 2: Terms of Reference of the ESPO Chief Officers' Group
- 24.1.3 Appendix 3: Delegations to the ESPO Consortium Secretary and ESPO Consortium Treasurer
- 24.1.4 Appendix 4: Functions of, and Delegations to, the Director of ESPO
- 24.1.4
- 24.1.5 Appendix 5: Procedural Standing Orders of the ESPO Management Committee
- 24.1.6 Appendix 6: Financial Regulations of the ESPO Management Committee (including the Standard Financial Instructions)
- 24.1.7 Appendix 7: Contract Procedure Rules of the ESPO Management Committee
- 24.2 Without prejudice to any other provision in this Agreement no variation of this Agreement (including any change in the membership of the Management Committee) shall be valid unless it is in writing and executed as a deed between the Member Authorities.
- 24.3 If any Member Authority or the Director of ESPO finds any discrepancy or ambiguity in this Agreement or wishes to make a change request relating to it then this shall be reported by that party to the COG and legal advice sought in the first instance from the Servicing Authority. In the event that COG agrees that a variation is needed, then it shall prepare a report to the Management Committee recommending that variation. Any report (whether to the COG (in its advisory capacity in the first instance) or to the Management Committee for decision making purposes) shall include an impact assessment of the proposed variation.

25. GOVERNING LAW AND JURISDICTION

- 25.1 This Agreement shall be governed by and interpreted in accordance with the law of England and Wales.
- 25.2 Each Member Authority irrevocably submits to the exclusive jurisdiction of the courts of England and Wales.
- 25.3 Each Member Authority shall comply with all laws and regulations in force in England and Wales.

26. RIGHTS OF THIRD PARTIES

26.1 This Agreement does not create any rights enforceable by any person not party to it under the Contracts (Rights of Third Parties) Act 1999.

27. SEVERANCE

27.1 Any clause or provision of this Agreement which is held to be illegal or unenforceable (in whole or in part) under any enactment or rule of law shall no longer form part of the Agreement.

27.2 In the event that any clause or provision is excluded (in whole or in part) under the terms of this Agreement, the validity and enforceability of the remainder of the Agreement shall not be affected. In such circumstances, the Member Authorities will agree in good faith to modify this Agreement so as to effect the original intent of the Member Authorities as closely as possible in an acceptable manner to all Member Authorities.

28. REVIEW

28.1 This Agreement shall be reviewed by the Management Committee at any time and due to any circumstances by the majority agreement of all Member Authorities.

28.2 The Management Committee may delegate the review function (or any part of it) to such sub-committee, advisory group or officer as it determines appropriate and any review may cover (but not be limited to) risk management, asset management and pension liabilities.

29. ASSIGNMENT

29.1 This Agreement is personal to the Member Authorities and cannot be assigned otherwise than as part of a statutory reorganisation.

30. HEALTH AND SAFETY

30.1 Each Member Authority shall be responsible for the health and safety of its own members, offices and personnel engaged in any of the activities in relation to ESPO.

31. COSTS OF PREPARING AGREEMENT

31.1 Each Member Authority shall bear its own costs in the preparation of this Agreement.

32. NO FETTERING

32.1 Nothing in this Agreement shall affect, fetter or otherwise qualify the statutory functions or exercise thereof by each of the Member Authorities.

SIGNATORIES

IN WITNESS whereof the Parties have executed this Agreement as a Deed the day and year above written

The Common Seal of
CAMBRIDGESHIRE COUNTY COUNCIL
 was hereunto affixed
 in the presence of -

The Common Seal of
LEICESTER CITY COUNCIL
 was hereunto affixed
 in the presence of -

The Common Seal of
LEICESTERSHIRE COUNTY COUNCIL
 was hereunto affixed
 in the presence of -

The Common Seal of
LINCOLNSHIRE COUNTY COUNCIL
 was hereunto affixed
 in the presence of -

The Common Seal of
NORFOLK COUNTY COUNCIL
 was hereunto affixed

in the presence of –

The Common Seal of
PETERBOROUGH CITY COUNCIL

was hereunto affixed

in the presence of -

The Common Seal of
WARWICKSHIRE COUNTY COUNCIL

was hereunto affixed

in the presence of -

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SCHEDULE 1

CONSTITUTION OF THE ESPO MANAGEMENT COMMITTEE

This Constitution comprises of:

- Constitution of the ESPO Management Committee
- Appendix 1:** Terms of Reference of the ESPO Finance and Audit Committee
- Appendix 2:** Terms of Reference of the ESPO Chief Officers' Group
- Appendix 3:** Delegations to the ESPO Consortium Secretary and ESPO Consortium Treasurer
- Appendix 4:** Functions of, and Delegations to, the Director of ESPO
- Appendix 5:** Procedural Standing Orders of the ESPO Management Committee
- Appendix 6:** Financial Regulations of the ESPO Management Committee (including the Standard Financial Instructions)
- Appendix 7:** Contract Procedure Rules of the ESPO Management Committee

1 PURPOSE

- 1.1 The Management Committee shall have overall strategic responsibility for the management oversight and direction of ESPO. The Management Committee is the sole decision maker on ESPO and shall exercise those functions set out in this Constitution subject to any delegations as it sees fit.
- 1.2 The purpose of this Constitution is to set out:
- (a) the functions of the Management Committee and its sub-committees, advisory groups, the Director of ESPO and its officers;
 - (b) how decisions for and on behalf of ESPO are made;
 - (c) who has the authority to make decisions on behalf of ESPO; and
 - (d) the procedure to be followed to ensure that decision making is efficient, transparent and accountable.

2 FUNCTIONS

2.1 In addition to those functions specified in this Agreement, the general functions of the Management Committee shall be as follows:

2.1.1 Ensuring:

- (a) the successful operation of ESPO as a comprehensive professional purchasing service;
- (b) the effective scrutiny of the ESPO business through:
 - (i) having overall responsibility for monitoring the performance of ESPO and the Director of ESPO (and the Management Committee shall direct what performance monitoring it wants in place) supported by the Servicing Authority, the Director of ESPO, the Consortium Treasurer and Consortium Secretary;
 - (ii) maintaining control over ESPO's trading surplus and ensuring that expenditure through ESPO remains appropriate to its income;
 - (iii) reviewing budget monitoring reports produced by the Director of ESPO; and
 - (iv) considering matters referred to it by its sub-committees, advisory groups, the Director of ESPO or officers;
- (c) the overall management of risk of the ESPO business including requiring the Director of ESPO to have in place policies and procedures to ensure risk management (including for the avoidance of doubt a Risk Management Strategy) and the protection of the ESPO brand;
- (d) that there is proper administration of ESPO's financial affairs;
- (e) that due regard is being paid by the Director of ESPO to the requirements of the Member Authorities in meeting their purchase and supply needs;
- (f) the generation of opportunities for collaboration between the Member Authorities;

- (g) that ESPO has complied with its duties under the Local Government Act 1999 to make arrangements to secure the continuous improvement in the way in which its functions are exercised having regard to a combination of economy, efficiency and effectiveness; and
- (h) ESPO's compliance with all laws and regulations.

2.1.2 **Approving:**

- (a) A capital and revenue budget for ESPO before the commencement of each Financial Year;
- (b) the ESPO Annual Report (including the annual management accounts and statutory statements of accounts), Business Plan and Business Strategy (including major investments/service offering/the basis of evaluating performance) in each Financial Year;
- (c) the distributable surplus which shall be distributed between the Member Authorities at the end of each Financial Year in proportion to their level of purchasing through ESPO in that Financial Year as determined by the Management Committee;
- (d) ESPO strategic documentation specifically the documentation listed in Table A in Appendix 4 to this Constitution and also the Contractual Procedure Rules, Financial Regulations and the Standard Financial Instructions Rules and Procedural Standing Orders and seeking update reports from the Director of ESPO on ESPO's use of this documentation where required;
- (e) any change to ESPO strategic documentation and procedures;
- (f) any increase or reduction in the provision of the ESPO Services;
- (g) any adjustments in the capital or revenue budgets of ESPO in each Financial Year to address spending or overspending incurred in the previous Financial Year;
- (h) any proposals for capital expenditure in excess of the annual limits set down by the Management Committee (seeking the guidance of the Consortium Treasurer where necessary);
- (i) high risk contracts;
- (j) the settlement of any legal claims which could have (in the view of the Management Committee) significant financial or reputational consequences for ESPO;

- (k) the 'writing off' (or adjusting surpluses or deficits) in relation to ESPO stock in excess of £20,000 in a single case (seeking the guidance of the Consortium Treasurer where necessary);
- (l) the 'writing off' of other irrecoverable amounts in excess of £10,000 in a single case (seeking the guidance of the Consortium Treasurer where necessary);
- (m) on-going costs which might not be containable seeking the guidance of the Consortium Treasurer where necessary;
- (n) any handover strategy dealing with the departure of a Member Authority acting as Servicing Authority to a new Member Authority assuming that role or other arrangement as may be agreed by the Management Committee (pursuant to clause 11 of the Consortium Agreement);
- (o) any Implementation Plan for dealing with the consequences of one or more Member Authorities leaving the Management Committee (pursuant to clause 16 of the Consortium Agreement);
- (p) any Implementation Plan for the dissolution of ESPO (pursuant to clause 12 of the Consortium Agreement); and
- (q) changing the trading name of 'ESPO'.

2.1.3 **Agreeing:**

- (a) the acquisition, disposal and allocation of all land and property to be used for ESPO;
- (b) the funding of any capital expenditure;
- (c) any expenditure which has been included in the budget of that Financial Year for service improvements above the value of £20,000;
- (d) the extent and cost of the functions of the Servicing Authority; and
- (e) the resolution of high risk audit findings.

2.1.4 Appointing (and agreeing the removal and/or replacement of) the Servicing Authority on such terms as the Management Committee considers appropriate.

- 2.1.5 Appointing (and agreeing the removal and/of replacement of) the ESPO Director on such terms as the Management Committee considers appropriate.
- 2.1.6 Confirming the appointment of (the removal and/or replacement of) of personnel into the role of the Consortium Treasurer, the Consortium Secretary and any other such officers as the Management Committee considers appropriate.
- 2.1.7 Considering applications for additional membership to, or exit from, the Management Committee.
- 2.1.8 Adopting, varying and terminating this Agreement which shall be by unanimous agreement unless where otherwise specified in this Agreement.
- 2.1.9 The termination of the ESPO Consortium.

3 MEMBERSHIP

- 3.1 The Management Committee shall comprise two nominated members (being elected members of each Member Authority) (the 'Members') the identity of whom shall be confirmed by each Member Authority in writing to the Consortium Secretary.
- 3.2 Each Member Authority may at any time nominate one or more substitute Members to attend any meeting in place of either of their appointed Members.
- 3.3 A Member Authority may at any time change any of its appointed Members (or substitute Members) by giving written notice to the Consortium Secretary.
- 3.4 A Member shall immediately cease to be a Member of the Management Committee if he/she ceases to be a member of the Member Authority appointing him/ her.

- 3.5 Each Member shall comply with its Authority's members' Code of Conduct and relevant training programmes when acting as a Member. Each Member Authority shall ensure that the Consortium Secretary has access to the up to date version of its members' Code of Conduct.

4 DECISION MAKING AND DELEGATIONS

- 4.1 The Management Committee is the sole decision maker on ESPO subject to any delegations as it sees fit.
- 4.2 The Management Committee may establish such sub-committees or advisory bodies, and appoint such officers as it sees fit and may delegate such powers and responsibilities to any sub-committee, the Director of ESPO, advisory group or officer as it sees fit subject to any legislative constraints or requirements in the Consortium Agreement.
- 4.3 The Management Committee hereby formally establishes the Finance and Audit Sub-Committee with the membership, the terms of reference and delegations set out in **Appendix 1** of this Constitution.
- 4.4 The Management Committee hereby formally establishes the Chief Officers' Group (COG) with the membership and terms of reference set out in **Appendix 2** of this Constitution.
- 4.5 The Management Committee hereby formally confirms the appointment of the Consortium Secretary and Consortium Treasurer and delegates to those officers those functions set out in **Appendix 3** of this Constitution.
- 4.6 The Management Committee hereby formally confirms the appointment of the Director of ESPO and delegates to him/her those functions set out in **Appendix 4** of this Constitution.

General Conditions of Delegations

- 4.7 Any exercise of delegated powers:
- (a) shall not prevent the Management Committee from exercising those functions itself;
 - (b) shall not prevent the Management Committee directing that it be consulted on any matter delegated prior to a decision being taken and reserving the right to make any decision itself or refer the matter for consideration by a sub-committee, advisory group, the Director of ESPO or an officer;
 - (c) should not prevent a sub-committee, officer or the Director of ESPO from referring a matter to the Management Committee for decision if that body or individual considers it appropriate. In particular, the Management Committee shall expect its sub-committees, advisory groups, officers or the Director of ESPO to draw its attention to sensitive issues or any matter which may have a significant financial and/or reputational implication on ESPO;
 - (d) shall not authorise expenditure except in accordance with the approved capital and revenue budget for ESPO;
 - (e) must be in accordance with the Management Committee's Financial Regulations and Standard Financial Instructions, Contract Procedure Rules, and Procedural Standing Orders and other approved standing orders as may be applicable; and
 - (f) shall be properly documented and available for inspection by the Management Committee at any time.
- 4.8 The sub-committees, officers of the Management Committee and the Director of ESPO shall be responsible for ensuring the provisions and obligations of these delegations are properly drawn to the attention of members of personnel under their direction and control.
- 4.9 The Management Committee may at any time change the delegations by majority agreement.

5 MEETINGS

- 5.1 The Management Committee shall normally meet quarterly and on such other occasions as it sees fit. The time and place of such meetings shall normally be agreed by the Management Committee or the Chair.
- 5.2 Where there is a statutory requirement for the Management Committee to meet the Consortium Secretary may convene a meeting.
- 5.3 The Management Committee shall hold an annual meeting in June to elect the Chair and Vice-Chair of the Management Committee and to approve the schedule of meetings for the Management Committee, the Finance Sub-Committee (and any other sub-committee as may be set up by the Management Committee) in that Financial Year.
- 5.4 The Consortium Secretary may call an extraordinary meeting of the Management Committee at any time by giving at least five (5) clear days' written notice to the Members for the purposes of resolving any urgent matters.
- 5.5 Specifically an extraordinary meeting of the Management Committee shall be convened in circumstances whereby the Servicing Authority resigns (pursuant to clause 11 of the Consortium Agreement) for the Management Committee to agree by majority decision to appoint another Member Authority to act as Servicing Authority or an alternative strategy as may be appropriate.
- 5.6 The Consortium Secretary must call a meeting of the Management Committee if at least half of the Member Authorities request it.

6 STANDING ORDERS

- 6.1 Subject to anything expressly provided herein, the Procedural Standing Orders of the Management Committee set out in **Appendix 5** to this Constitution shall apply to the Management Committee and its subcommittee/s. These may be amended at any time with the majority agreement of the Management Committee.

- 6.2 Any motion at a meeting of the Management Committee to add to, vary or revoke the Procedural Standing Orders shall when proposed and seconded stand adjourned without discussion to the next ordinary meeting of the Management Committee.

7 RULES AND REGULATIONS OF THE MANAGEMENT COMMITTEE

- 7.1 The Financial Regulations and the Standard Financial Instructions of ESPO shall be those adopted by the Management Committee on 24 June 2011. These may be amended at any time with the majority agreement of the Management Committee. These are set out in at **Appendix 6** to this Constitution.
- 7.2 The Contract Procedure Rules shall be those adopted by the Management Committee on 24 June 2011. These may be amended at any time with the majority agreement of the Management Committee. These are set out in **Appendix 7** to this Constitution.

8 OFFICERS OF THE MANAGEMENT COMMITTEE

- 8.1 The Management Committee may engage such officers as it considers necessary to carry out its functions.
- 8.2 The delegations to the Consortium Secretary and Consortium Treasurer are set out in in **Appendix 3** to this Constitution. These may be amended at any time with the majority agreement of the Management Committee.
- 8.3 The officers of the Management Committee shall act within the delegations given to them by the Management Committee and shall provide full assistance to the Management Committee on any issue when requested to do so.
- 8.4 The officers of the Management Committee shall liaise with the Monitoring Officers and Section 151 Officers of each Member Authority to enable those officers to comply with their responsibilities under Section 5 of the Local Government Act 1989 and Section 151 of the Local Government Act 1972.

- 8.5 The officers of the Management Committee shall act pursuant to the Officer's Code of Conduct of their employing Authority.
- 8.6 The costs incurred by the officers of the Management Committee in making available appropriate professional services to the Management Committee, its sub-committees, advisory groups and officers shall be reimbursed through ESPO. The Servicing Authority shall (if requested by any Member Authority or the Management Committee) provide any records or information in respect of such reimbursement as soon as is reasonably practical.

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APPENDIX 1
TO THE CONSTITUTION OF THE ESPO MANAGEMENT COMMITTEE
TERMS OF REFERENCE OF THE ESPO FINANCE AND AUDIT COMMITTEE

1. MEMBERSHIP

One (1) Member from each Member Authority currently sitting on the Management Committee.

2. FUNCTIONS

The functions delegated to the Finance and Audit Subcommittee shall be:

1. To develop better understanding of the financial planning process undertaken by ESPO;
2. To support the financial planning process by reviewing the content and presentation of draft financial plans for the Management Committee;
3. To contribute to the setting of financial performance targets and the monitoring of efficiencies;
4. To receive and review regular reports on monitoring of budgets and performance and other financial management; and
5. To receive and review audit and governance reports.

APPENDIX 2
TO THE CONSTITUTION OF THE ESPO MANAGEMENT COMMITTEE
TERMS OF REFERENCE OF THE ESPO CHIEF OFFICERS GROUP ('COG')

1 PURPOSE

- 1.1 To advise the Management Committee on business strategy, performance and key issues and to work with the Director of ESPO.

2 FUNCTIONS

General

- 2.1 Reviewing and advising the Management Committee on the performance of ESPO.
- 2.2 Championing the role of ESPO within Member Authorities.
- 2.3 Generating opportunities for collaboration between the Member Authorities.

COG and the Management Committee

- 2.4 Acting as the advisory and monitoring group to the Management Committee.
- 2.5 Ensuring that the Management Committee is regularly and adequately briefed on all key matters relating to the ESPO business.
- 2.6 Providing recommendations to Management Committee for consideration.
- 2.7 Overseeing the implementation of Management Committee decisions.
- 2.8 Reviewing key strategies relating to the ESPO business to decide whether to refer these to the Management Committee for decision.

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COG and the Senior Officers Group ('SOG')

- 2.9 Dealing with any issues that are referred to it from the SOG.
- 2.10 Approving procurement proposals and strategies submitted to it by SOG.

COG and the Director of ESPO

- 2.11 Reviewing and advising the Management Committee on Contract Review Reports produced by the Director of ESPO where appropriate.
- 2.12 Reviewing and advising the Management Committee on the ESPO Business Plan and Business Strategy reports produced by the Director of ESPO where appropriate.
- 2.13 Reviewing and advising the Management Committee on its Financial Regulations, Standard Financial Instructions and Contract Procedure Rules where appropriate.
- 2.14 Dealing with any issues of concern or risk in relation to the ESPO business referred to it by the Director of ESPO (if these cannot be resolved the COG to refer to the Management Committee).

Consortium Arrangements

- 2.15 Ensuring that the activities of the Member Authorities relating to ESPO reflect the principles and agreement laid down in the Consortium Agreement.
- 2.16 Overseeing the work of the officers of the Management Committee to enable it to monitor the delivery of the ESPO business (including financial monitoring) and to evaluate outcomes on behalf of the Member Authorities.
- 2.17 Reviewing proposals for new members to the Management Committee notwithstanding that the ultimate decision to admit new members to rest with the Management Committee.

- 2.18 Advising the Management Committee on the implications of any Member Authorities exiting the Management Committee.
- 2.19 Advising the Management Committee on the implications of any breaches and/or variations to the Consortium Agreement.
- 2.20 Dealing with any dispute between Member Authorities relating to the ESPO business in line with the dispute resolution procedure outlined in clause 18 of the Consortium Agreement.

3 LIMITATIONS

- 3.1 COG will exercise its functions subject to any limitations which may be imposed by the Management Committee.

4 MEMBERSHIP

- 4.1 One Chief Officer from each Member Authority.
- 4.2 Each member of the COG may nominate an alternate substitute member from his/her own Member Authority who may stand in for that member at a COG meeting if he/she is unable to attend.

5 MEETINGS

- 5.1 An annual meeting of the COG shall be held each year on such date as agreed by the members of the COG to deal with the appointment of a Chair and Vice Chair together with any other business normally transacted at a COG meeting.
- 5.2 In addition to the annual meeting, the COG will hold at least three (3) ordinary meetings each year, such meetings to take place on a quarterly basis.
- 5.3 The timing of each COG meeting to be scheduled in advance to feed into reporting at the next quarterly meeting of the Management Committee.

APPENDIX 3
TO THE CONSTITUTION OF THE ESPO MANAGEMENT COMMITTEE
DELEGATIONS TO THE ESPO CONSORTIUM SECRETARY
AND ESPO CONSORTIUM TREASURER

1. CONSORTIUM SECRETARY

In addition to those functions specified in this Agreement, the Consortium Secretary shall be responsible to the Management Committee for the following functions:

- (a) Providing regular reports and advice where required to the Management Committee on any matters in relation to governance and propriety in relation to ESPO;
- (b) Providing such proactive assistance and information to the Management Committee as it shall require to enable it to monitor the performance of ESPO;
- (c) Responsibility for ensuring the production of the agenda and minutes of the Management Committee and its sub-committees;
- (d) Advising the Management Committee or its sub-committees on points of procedure and/or conduct at meetings;
- (e) Receiving and recording any declarations of interests from Members or officers made at any meetings of the Management Committee or its sub-committees;
- (f) Complying with legal requirements regarding the publication and accessibility of Management Committee (and its sub-committees) documentation including maintaining an up to date list of Members and records of meetings;
- (g) Advising the Management Committee or its sub-committees on any matters relating to this Agreement and to amend the Agreement in writing to reflect any variations that have been approved by the Management Committee in accordance with clause 24 of the Agreement (Variation);

- (h) Ensuring the provision of legal advice (via the County Solicitor of the Servicing Authority or other arrangement as the Management Committee may determine) to the Management Committee whenever this is considered to be in the interest and benefit of the Management Committee;
- (i) Advising the Management Committee on any issues raised by the Commission for Local Administration and providing the Management Committee with any advice or support it may request; and
- (j) Taking any other action between meetings which he/she considers is urgent in consultation with the Chair and the Vice Chair of the Management Committee (or relevant sub-committee or advisory group as the Chair (or the Vice Chair in his/her absence) may delegate that role to) only to the extent necessary to deal with the urgency/emergency arising subject to the details of such action being reported to next meeting of the Management Committee.

2. CONSORTIUM TREASURER

In addition to those functions specified in this Agreement (and in particular, but not limited to, those functions in the Financial Regulations and Financial Instructions of the Management Committee), the Consortium Treasurer shall be responsible to the Management Committee for the following functions:

- (a) The proper administration of ESPO's financial affairs on behalf of the Management Committee;
- (b) Having first informed the COG, reporting to the Management Committee if in his/her opinion there is any significant failure in the proper administration of ESPO;
- (c) Fulfilling his/her statutory duty of the Consortium Treasurer;
- (d) Issuing accounting instructions to complement the Financial Regulations for ESPO and the Standard Financial Instructions as may be necessary;
- (e) Providing regular reports and advice where required to the Management Committee on financial matters relating to ESPO;

- (f) Advising the Management Committee on financial propriety;
- (g) Acting in a consultative capacity to the Director of ESPO to enable him/her to produce an annual budget for consideration by the Management Committee;
- (h) Advising (in consultation with the Servicing Authority and the Director of ESPO) the Management Committee on the safeguarding of assets, including risk management and insurance;
- (i) Providing such proactive assistance and information to the Management Committee as it shall require to enable it to monitor the financial and overall performance of ESPO; and
- (j) Co-ordinating the activities of, and consulting with where appropriate, the Member Authorities' Section 151 Officers so as to ensure consistency of approach on financial matters affecting ESPO.

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APPENDIX 4
TO THE CONSTITUTION OF THE ESPO MANAGEMENT COMMITTEE
FUNCTIONS OF, AND DELEGATIONS TO, THE DIRECTOR OF ESPO
DELEGATIONS TO THE DIRECTOR OF ESPO

DELEGATIONS

1. **Appointment of staff:** Power to appoint (within the approved ESPO budget) all staff below director level in accordance with the Servicing Authority's recruitment and HR policies and procedures. The appointment may be at any point within the approved salary scale of the Servicing Authority as appropriate.
2. **Personnel procedures:** Power to take decisions in relation to employment matters delegated to him from time to time in accordance with the local conditions of service and other HR policies and procedures in place at the Servicing Authority. The Chief Executive of the Servicing Authority may determine at any time those matters which may be exercised by the Director of ESPO without the prior consultation with the Chief Executive.
3. **Power to Incur Expenditure:** Power to incur capital or revenue expenditure on single items under the value of £50,000 (with the exception of land and buildings required for ESPO) subject to any conditions specified by the Management Committee.
4. **Seeking Authority to Incur Capital Expenditure:** To the Management Committee on any proposals for capital expenditure in accordance with the annual limits as set down by the Management Committee.
5. **Contracts:** The Director of ESPO may negotiate and agree tenders and quotes and the entering into contracts on behalf of ESPO (subject to the Contract Procedure Rules of the Management Committee at **Appendix 7** of this Constitution and any restrictions in the Consortium Agreement) and request that the Servicing Authority formally enter into such contracts if this is legally required.

6. **Surplus Equipment:** Power to dispose of surplus or obsolete item vehicles apparatus or other equipment in accordance with the Financial Regulations and the Standard Financial Instructions of the Management Committee.
7. **ESPO Stock:** Power to 'write off' (or adjusting surpluses or deficits) ESPO stock under the value of £20,000 (seeking the guidance of the Consortium Treasurer where required) reporting such write-offs to the Finance and Audit Committee on a regular basis.
8. **Irrecoverable Items:** Power to 'write off' other irrecoverable amounts under the value of £10,000 (seeking the guidance of the Consortium Treasurer where required).
9. **Lost or uncollected property:** Power to deal with items under Section 41 of the Local Government Miscellaneous Provisions Act 1982 in relation to lost and uncollected property on ESPO premises.

RESPONSIBILITIES

1. Operational day to day management of the ESPO business and ESPO staff and responsibility for implementing Management Committee decisions within the ESPO business.
2. Ensuring that the ESPO Services are developed in accordance with the Management Committee's overall requirements.
3. Responsible to the Management Committee which shall have overall responsibility for overseeing and scrutinising his/her activities.
4. Responsible to the Chief Executive Officer of the Servicing Authority as his/her employing authority in the context of that employer/employee relationship.
5. Effectively liaising with the Management Committee and its advisory groups, sub-committees and officers to ensure the effective operation of the ESPO business.

6. Providing such proactive assistance and information to the Management Committee and its advisory groups, sub-committees and officers as shall be required to enable the Management Committee to monitor the performance of ESPO.
7. Raising any issue of concern in relation to the ESPO business in the first instance to the COG.
8. Ensuring that the ESPO Services continue to be affordable and represent value for money for the Member Authorities.
9. Ensuring the continuous improvement of the ESPO Services and to ensure that opportunities for shared working are maximised.
10. In conjunction with the Servicing Authority, advising the Member Authorities generally as to the resources and arrangements required for the effective operation of ESPO.
11. Responsibility for ensuring that the Financial Regulations and the Standard Financial Instructions of the Management Committee are observed throughout the ESPO business.
12. Responsibility for ensuring that Contract Procedure Rules of the Management Committee are observed throughout the ESPO business and to ensure every contract and variation to a contract is executed in writing.
13. Ensuring that business risk is appropriately managed and maintaining an appropriate risk framework for ESPO with effective and timely reporting mechanisms to the Management Committee.
14. Responsibility for seeking to resolve in good faith any disputes or disagreements between the Member Authorities and to carry out the functions set out in clause 18 of the Consortium Agreement

15. Providing advice to the Management Committee on proposed policies, projects, budgets, strategic plans and the performance of ESPO in order to maintain the support and engagement of Management Committee and to ensure that each Member Authority uses ESPO to best effect.
16. In consultation with the Consortium Treasurer, responsible for producing the Annual Report of ESPO (containing the activities and financial performance of ESPO for the preceding Financial Year) to the Management Committee in each Financial Year for its approval and (once approved) providing copies to each Member Authority.
17. Receiving the resignation of the Member Authority acting as Servicing Authority at any time and providing this notification to the Management Committee.
18. Responsible for producing and maintaining the following strategic and operational documentation for ESPO, advising and updating the Management Committee, its sub-committees, advisory groups or officers on these as appropriate and ensuring that these are observed throughout the ESPO business:

A. ESPO STRATEGIC DOCUMENTATION

Document	Purpose	Submitted to	Frequency
Business Continuity Plan	This document defines how ESPO will maintain its business and support to Member Authorities in the event of an incident which impacts adversely on business critical ESPO Services	Chief Officer Group Management Committee	Annual
Business Progress Report	This document defines: <ul style="list-style-type: none"> • progress against business plan • progress against work plans within strategic projects 	Chief Officer Group Management Committee	Quarterly
Business Plan	This document defines how ESPO will deliver the Business Strategy in each Financial Year including any investments to be made and: <ul style="list-style-type: none"> • Budget, financial plan and risk register 	Chief Officer Group Management Committee	Annual

Document	Purpose	Submitted to	Frequency
	<ul style="list-style-type: none"> Financial and performance targets 		
Business Strategy	This document sets out the overriding purpose of ESPO (its mission), the aspiration of the organisation (its strategic vision), a set of business objectives and the nature of the business	As required	As required
Category Strategies	This document defines the roadmap for managing a spend category and presenting a plan of quick-win and longer term savings opportunities which will include collaboration at the local, regional and national levels (including Pro 5)	SOG Management Committee	Annual
ESPO Service Review Report	This document defines: <ul style="list-style-type: none"> the purpose of the work required (objectives and outcomes); any conflict of interest that may arise; the level of risk exposure 	Chief Officer Group Management Committee	As and when the ESPO Director is requested to take on Additional ESPO Services
Financial Statements (External Audit/ Quality Assurance)	This document defines: <ul style="list-style-type: none"> The end of year financial position of ESPO against plan 	Chief Officer Group Management Committee	Annual
ICT Strategy	(Through the ESPO Assistant Director of Finance): To set out the technical and capacity requirements of ESPO to match the needs to the Business Strategy	As required	As required
Management Accounts	This document defines the monthly/quarterly financial position of ESPO against plan	Chief Officer Group Management Committee	Quarterly
Marketing Strategy	This document defines the marketing priorities in relation to ESPO's customers, suppliers and other Public Sector Buying Organisation relationships	Chief Officer Group Management Committee	Annual

B. ESPO OPERATIONAL DOCUMENTATION

Document	Purpose	Submitted to	Frequency
Customer Access Agreement (Terms of Business)	Governs the relationship between ESPO and the Member Authorities or Customers in relation to ESPO granting access by the Customer to the Framework Agreement. ESPO clarifies the terms and conditions on which it is contracting with suppliers and permits Member Authorities and Customers to enter into call-off contracts with suppliers. The Member Authority or Customer is able to enforce the terms and conditions in the Framework Agreement	SOG and/or the Chief Officer Group as appropriate	As required
Equality Impact Assessment	This document defines: <ul style="list-style-type: none"> The impact the Additional ESPO Services may have upon ethnicity and user groups as assessed by the relevant Member Authorities 	SOG in the first instance and COG as appropriate	As and when the ESPO Director is requested to take on Additional ESPO Services
Framework Agreement for Good and Services (including Call Off Agreement)	Precedent Framework Agreement to govern the relationship between ESPO and suppliers in relation to the provision of goods and/or services by suppliers to ESPO and or the Member Authorities and/or Customers	SOG in the first instance and COG as appropriate	As required
Internal Audit Report	This document defines: <ul style="list-style-type: none"> Level of internal risk and control experienced within ESPO; The recommendations ESPO will need to address to mitigate any risks highlighted 	Management Committee Servicing Authority	As and when internal audit has a high level of residual concern
Order Form for the Purchase of Goods (one off purchases)	Issued subject to the provisions of the framework agreement entered into between ESPO and the Supplier	SOG and/or COG as appropriate	As required
Terms of Business for Suppliers	Sets out the terms of business for suppliers	SOG in the first instance and COG as appropriate	As required
Statement of Works	Sets out ESPO's role and the way in which it provides a service to the Member Authorities and/or Customers throughout a tender process	SOG in the first instance and COG as appropriate	As required

Work Plans (including Pro 5)	<p>This document captures:</p> <ul style="list-style-type: none"> Type and value of activities to be undertaken by ESPO on behalf of consortium authorities and non-members (including collaborative and individual projects) These work plans are derived from consortium authorities' priorities and work plans in place as well as the category strategy 	SOG in the first instance and COG as appropriate	Quarterly
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APPENDIX 5
TO THE CONSTITUTION OF THE ESPO MANAGEMENT COMMITTEE
PROCEDURAL STANDING ORDERS OF THE ESPO MANAGEMENT
COMMITTEE
AND ITS SUB-COMMITTEES

Standing Order 1	<u>Notice and Summons to a Meeting</u>
Standing Order 2	<u>Public Access to Agendas and Reports</u>
Standing Order 3	<u>Quorum</u>
Standing Order 4	<u>Chair and Vice Chair</u>
Standing Order 5	<u>Chair of the Meeting</u>
Standing Order 6	<u>Order of Business</u>
Standing Order 7	<u>Variation of Order of Business</u>
Standing Order 8	<u>Minutes</u>
Standing Order 9	<u>Motions and Amendments generally</u>
Standing Order 10	<u>Amendments to Motions</u>
Standing Order 11	<u>Alterations or withdrawal of motion or amendment</u>
Standing Order 12	<u>Personnel engaged on ESPO</u>
Standing Order 13	<u>Speeches and Conduct of Members During Debate</u>
Standing Order 14	<u>Seconder's Speech</u>
Standing Order 15	<u>When a Member may speak again</u>
Standing Order 16	<u>Right of reply</u>
Standing Order 17	<u>Points of order and personal explanations</u>
Standing Order 18	<u>Next business</u>
Standing Order 19	<u>Adjournment of debate</u>
Standing Order 20	<u>Closure</u>
Standing Order 21	<u>Voting</u>

Standing Order 22	Recorded Vote
Standing Order 23	General Disturbances
Standing Order 24	Interests in contracts and other matters
Standing Order 25	Record of attendances
Standing Order 26	Meetings of sub-committees
Standing Order 27	Proceedings of sub-committees
Standing Order 28	Variation and revocation of Procedural Standing Orders
Standing Order 29	Suspension of Procedural Standing Orders
Standing Order 30	Interpretation of Standing Orders

Standing Order 1. Notice and Summons to a Meeting

- 1.1. At least five (5) clear days' notice to the public of the time and place of any meeting of the Management Committee (or its sub-committees) must be given by posting details at the offices of Leicestershire County Council as Servicing Authority which shall be the 'designated office' for these purposes. Notice of meetings shall also be published on the web at www.leics.gov.uk.
- 1.2. At least five (5) clear days before a meeting, a summons signed by the Consortium Secretary must be sent to every Member of the Management Committee or left at their usual place of residence or such other alternative address as notified to the Consortium Secretary in writing. The summons will give the date time and place of the meeting and specify the business to be transacted and shall be accompanied by the relevant reports.

Standing Order 2. Public Access to Agendas and Reports

- 2.1. Copies of the agenda and accompanying reports for any meeting of the Management Committee (or its sub-committees) shall be made available for inspection by the public at the designated office at least five (5) clear days before the meeting.
- 2.2. Where an urgent item is to be considered with the agreement of the Chair (or the Vice Chair in his/her absence) and where supplementary information is being provided to a report already submitted on the agenda the Consortium Secretary shall make each such report available to the public for inspection as soon as the report has been sent to the Members.
- 2.3. Nothing in 2.1 or 2.2 of these Procedural Standing Orders requires any report containing exempt information (as defined in Schedule 12A of the Local

Government Act 1972) or confidential information to be made available for public inspection.

- 2.4. Any confidential or exempt information and documentation shall be kept confidential by all Members.
- 2.5. Any dispute relating to the rights of access of any person under this Constitution or any statutory provision or common law rights shall be referred to the Consortium Secretary for consideration subject to him/her seeking the views of the Management Committee as necessary.
- 2.6. The public may be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that exempt information would be disclosed.
- 2.7. The public must be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that confidential information would be disclosed.

Standing Order 3. Quorum

- 3.1. The quorum at meetings of the Management Committee at least 4 (four) Members who are entitled to attend and vote, provided that at least 4 (four) of the Member Authorities are represented. Any legal requirements which from time to time specify a particular quorum will be observed.
- 3.2. If the Chair declares there is no quorum (at the start or during the course of a meeting) the meeting will adjourn immediately. Remaining business will be considered at a time and date fixed by the Chair or at the next meeting of the Management Committee, as necessary.

Standing Order 4. Chair and Vice Chair

- 4.1. The Chair and Vice Chair shall be selected using a rota drawn up by the Consortium Secretary and approved by the Management Committee.
- 4.2. The Chair for the following year shall be drawn from the Membership of the Member Authority who held the vice chair position in the preceding year.
- 4.3. The current order of rotation as at the date of this Agreement shall continue.

Standing Order 5. Chair of the Meeting

- 5.1. Any power or duty of the Chair in relation to the conduct of a meeting may be exercised by the person presiding at the meeting.

Standing Order 6. Order of Business

- 6.1. Except as otherwise provided in these Procedural Standing Orders the order of business at meetings of the Management Committee shall be:

- 6.1.1. To choose an individual to preside if the Chair and Vice-Chair be absent;
- 6.1.2. To confirm the minutes of the last meeting of the Management Committee;
- 6.1.3. To dispose of business (if any) remaining from the last meeting;
- 6.1.4. Other business, if any, specified in the summons (agenda).

Standing Order 7. Variation of Order of Business

- 7.1. Business falling under items 6.1.1 and 6.1.2 shall not be displaced but subject thereto the foregoing order of business may be varied:-
 - 7.1.1. By the Chair at his/her discretion; or
 - 7.1.2. By a resolution passed at the meeting. A motion to vary the order of business shall be moved and seconded and put without discussion.

Standing Order 8. Minutes

- 8.1 At a meeting of the Management Committee at which minutes of a previous meeting are submitted for approval as a correct record, the Chair shall move that those minutes be so approved.
- 8.2 No motion or discussion shall take place upon the minutes, except upon their accuracy, and any matter concerning their accuracy shall be raised by amendment.
- 8.3 If no such matter is raised, or if it is raised then as soon as it has been disposed of, the Chair shall sign the minutes.
- 8.4 In circumstances whereby an extraordinary meeting of the Management Committee is convened, the next following meeting of the Management Committee (being a meeting called otherwise than under that paragraph) may be treated as a suitable meeting for the purposes of paragraphs 41(1) and (2) (signing of minutes) of Schedule 12 of the Local Government Act 1972.

Standing Order 9. Motions and Amendments

- 9.1 Any motion or amendment shall not be discussed unless it has been proposed and seconded, and it shall, if required by the Chair, be put into writing and handed to the Chair before it is further discussed or put to the meeting.
- 9.2 A Member may not propose or second a motion or amendment on which he or she is disqualified from voting.

Standing Order 10. Amendments to Motions

- 10.1 An amendment shall be relevant to the motion and shall be either:
- 10.1.1 to refer a subject of debate to the Finance and Audit Subcommittee, other relevant sub-committee or the Chief Officer Group for its consideration or re-consideration;
 - 10.1.2 to leave out words;
 - 10.1.3 to leave out words and insert or add others;
 - 10.1.4 to insert or add words;
- but such omission, insertion or addition of words shall not only have the effect of negating a motion before the Management Committee.
- 10.2 Only one amendment may be moved and discussed at a time and no further amendment shall be moved until the amendment under discussion has been disposed of - provided that the Chair may permit two or more amendments to be discussed (but not voted on) together if he or she considers that this course would facilitate the proper conduct of the Management Committee's business.
- 10.3 If an amendment be lost, other amendments may be moved on the original motion. If an amendment be carried, the motion as amended shall take the place of the original motion and shall become the substantive motion upon which any further amendment may be moved.

Standing Order 11. Alterations or withdrawal of motion or amendment

- 11.1 A proposer of a motion may, with the concurrence of the seconder and the consent of the Management Committee, alter the motion if the alteration is such that it could properly be effected by an amendment of the motion. A proposer of an amendment may, with the like concurrence and consent, alter the amendment if the amendment as altered could properly have been moved in that form as an amendment. The altered motion or amendment shall if required by the Chair be produced into writing and handed to him or her before the consent of the Management Committee to the alteration is sought.
- 11.2 A proposer of a motion or of an amendment may, with the concurrence of the seconder and the consent of the Management Committee, withdraw the motion or amendment which he or she has proposed, and no Member shall speak upon it after the proposer has thus asked permission for its withdrawal, unless such permission shall have been refused.
- 11.3 The giving or refusal of the consent of the Management Committee to the alteration or withdrawal of a motion or amendment shall be signified without

discussion.

Standing Order 12. Personnel engaged on ESPO

- 12.1 If any question arises at a meeting of the Management Committee or a sub-committee as to the appointment, promotion, dismissal, salary, pension, conditions of service or the conduct of any person employed or engaged by the Servicing Authority on behalf of ESPO, such question shall not be the subject of discussion until the body concerned has decided whether or not the power of exclusion of the public shall be exercised.

Standing Order 13. Speeches and Conduct of Members During Debate

- 13.1 A Member shall direct his or her speech to the question under discussion or to a personal explanation or to a point of order and shall not impute motives or use offensive expressions to or about any other Member.
- 13.2 The Chair shall use his or her discretion in the length of time granted to speakers.
- 13.3 A Member when speaking shall address the Chair.
- 13.4 If two or more Members wish to speak, the Chair shall call on one to speak, the other or others shall then wait to be heard.
- 13.5 While a Member is speaking the other Members shall remain silent, unless raising a point of order or in personal explanation.
- 13.6 Whenever the Chair wishes to make themselves heard during a debate a Member then speaking shall fall silent.
- 13.7 If any Member in the opinion of the Chair signified to the Management Committee, misconduct himself or herself by persistently disregarding the ruling of the Chair, or by behaving irregularly, improperly, or offensively, or by wilfully obstructing the business of the Management Committee, or by tedious repetition or unbecoming language in his or her speech, the Chair or any other Member may move "*That the member named be not further heard*", and such motion if seconded shall be put and determined without discussion.
- 13.8 If the Member named continues his or her misconduct after a motion under 13.7 has been carried, the Chair shall either:-
- 13.8.1 move "*That the Member named do leave the meeting*" (in which case the motion shall be put and determined without seconding or discussion); or
- 13.8.2 adjourn the meeting for such period as he or she in his or her

discretion shall consider expedient.

Standing Order 14. Secunder's Speech

- 14.1 A Member when seconding a motion or amendment may, if he or she then declares his or her intention to do so, reserve his or her speech until a later period of the debate.

Standing Order 15. When a Member may speak again

- 15.1 Subject to anything specifically provided for in these Standing Orders, the regulation of business, including speeches and debates will be at the Chair's discretion.

Standing Order 16. Right of reply

- 16.1 The proposer of a motion shall have the right to reply to the debate:-
- (a) at the close of the debate on the motion;
 - (b) at the close of the debate on an amendment to the motion;
 - (c) before a motion to proceed to next business or that the Management Committee adjourn or a motion or amendment to refer the subject of debate to a Committee is put;
 - (d) after the closure is carried.
- 16.2 The proposer of an amendment shall not have the right of reply to either the debate on the amendment or to the debate on a substantive motion formed by the carrying of the amendment.
- 16.3 A Member exercising a right of reply shall strictly confine himself or herself to answering previous speakers to whom he or she has not already had the opportunity of replying and shall not introduce any new matter.
- 16.4 After every reply to which this Standing Order applies a decision shall forthwith be taken upon the motion or amendment then under discussion.

Standing Order 17. Points of order and personal explanations

- 17.1 A Member may raise a point of order or in personal explanation, and shall be entitled to be heard forthwith. A point of order shall relate only to an alleged breach of a Standing Order or statutory provision and the Member shall specify the Standing Order or statutory provision and the way in which he or she considers it has been broken. A personal explanation shall be confined to some material part of a former speech by him or her which may appear to have been misunderstood in the present debate.
- 17.2 The ruling of the Chair on a point of order or on the admissibility of a

personal explanation shall not be open to discussion.

Standing Order 18. Next business

- 18.1 A Member who seeks to avoid a decision being taken on a matter under discussion may, at the conclusion of a speech of another Member, unless the Chair considers that the matter has been insufficiently discussed, move 'that the Management Committee proceed to the next business' or, if there is no other business to be transacted, *'that the Management Committee adjourn'*.
- 18.2 The proposer of such a motion may speak thereon for five (5) minutes but the seconding of the motion shall be formal and without comment and there shall be no debate on the motion.
- 18.3 On the seconding of the motion, the Chair shall first give the mover of the original motion an opportunity to speak on it for not more than five (5) minutes and then put to the vote the motion to proceed to the next business or to adjourn the meeting.
- 18.4 If that motion is carried, the original motion shall be considered as withdrawn.

Standing Order 19. Adjournment of debate

- 19.1 A Member who seeks to interrupt a debate so that it may be continued at a later hour or on another occasion may, at the conclusion of the speech of another Member, move that the debate be adjourned to that hour or occasion.
- 19.2 If the Member does not specify an hour or occasion, the motion shall be deemed to intend that the debate shall be resumed at the next ordinary meeting of the Management Committee or a subcommittee as appropriate.
- 19.3 The proposer of such a motion may speak thereon for five (5) minutes but the seconding of the motion shall be formal and without comment and there shall be no debate on the motion except that the mover of the original motion may speak on it for not more than five minutes.
- 19.4 On the resumption after adjournment of an interrupted debate, the Management Committee shall proceed to the further consideration of the adjourned business as though the meeting had been continuous for the purposes of these Standing Orders.

Standing Order 20. Closure

- 20.1 A Member may at the conclusion of the speech of another Member move *"that the proposition under discussion be now put"* (which is in these Standing Orders referred to as *"the closure"*).

- 20.2 The proposal and seconding of the closure shall be formal and without comment and there shall be no debate on it. The closure shall be put forthwith to the vote unless it appears to the Chair that the proposition to which it is sought to apply the closure has not been sufficiently discussed.
- 20.3 If the closure is carried, the motion or amendment which is the subject of the interrupted debate shall be put without further discussion, subject to the mover of the original motion, first having the right of reply given by Standing Order 17.

Standing Order 21. Voting

- 21.1 Each Member or Substitute Member (as nominated by his/her Member Authority) present shall have one vote.
- 21.2 Voting shall, unless otherwise required by these Standing Orders or by statute, be by show of hands, or, at the discretion of the Chair, by voices and all decisions shall be decided by a majority of the Members present unless the Consortium Agreement or Constitution requires otherwise.
- 21.3 In the event of equality of votes the Chair may exercise a second or casting vote. There will be no restriction on how the Chair chooses to exercise a casting vote, however before exercising this, the Chair shall consider whether it is appropriate to defer the matter to the next meeting of the Management Committee.
- 21.4 If there are more than two people nominated for any position to be filled and there is no clear majority in favour of one person, the person with the least votes will be taken off the list and a new vote taken. The process will continue until there is a majority of votes for one person.
- 21.5 In taking the votes on any proposition, those Members only shall be entitled to vote who are present in the meeting room when the proposition is put from the Chair.

Standing Order 22. Recorded Vote

- 22.1 After a proposition is put from the Chair but before the vote is taken, any three Members may require that the voting shall be recorded in the minutes of the meeting so as to show whether each Member present gave his or her vote for or against the proposition or abstained from voting.
- 22.2 Where immediately after a vote is taken any Member so requires, there shall be recorded in the minutes of the proceedings of that meeting whether that person cast his or her vote for the question or against the question or whether he or she abstained from voting.

Standing Order 23. General Disturbances

- 23.1 If a member of the public interrupts the proceedings at any meeting the Chair shall warn him or her. If he or she continues the interruption the Chair shall order his or her removal from the room. In case of general disturbance in any part of the room open to the public the Chair shall order that part to be cleared.
- 23.2 If, in the opinion of the Chair, misconduct or obstruction renders the due and orderly dispatch of business impossible, the Chair, in addition to any other power vested in him/her, may without the question being put suspend the meeting for a period not exceeding 30 minutes.

Standing Order 24. Interests in contracts and other matters

- 24.1 If any Member has any pecuniary interests as defined within their Member Authority's Code of Conduct in any contract, proposed contract, or other matter, that Member shall declare that interest and withdraw from the meeting while the contract, proposed contract, or other matter, is under consideration by the Management Committee.

[Note: Each Consortium Authority is required by law to maintain a register of certain types of interests. All Members must give notice to their Monitoring Officer of interests covered within 28 days of being elected. Members are also required to ensure that interests are declared at meetings in accordance with legislation and Standing Order 26 above and that any disclosable interests declared at meetings which are not in their Authority's register are notified to their monitoring officer within 28 days of disclosure. By law each Consortium Authority's Register is open to public inspection.]

Standing Order 25. Record of attendances

- 25.1 Every Member attending a meeting of the Management Committee or a sub-committee of which he or she is a member, shall sign his or her name in the attendance book or sheet provided for that purpose.

Standing Order 26. Meetings of sub-committees

- 26.1 The Consortium Secretary, in consultation with the chair of a sub-committee or the Chair of the Management Committee (or in their absence relevant Vice-Chair) may cause a special meeting of the sub-committee concerned to be called at any time.
- 26.2 A special meeting of a subcommittee shall be called on the request of at least one quarter of the whole number of members of the body concerned by notice in writing signed by them and given to the Consortium Secretary and specifying the business for which the meeting is to be called.

Standing Order 27. Proceedings of sub-committees

- 27.1 The quorum of a sub-committee, unless a special quorum is otherwise prescribed, shall be at least one quarter of the whole number of the body concerned, provided that in no case shall a quorum be less than three Members.
- 27.2 Any Member may attend as an observer at meetings of a sub-committee (except those meetings which the Management Committee may from time to time determine for the purposes of this Standing Order) to which he or she has not been appointed as a Member, including meetings or items of business from which the public has been excluded. If given permission by the Chair of the meeting, a Member attending as an observer may speak (but not vote) on any matter.
- 27.3 Subject to the provisions of Section 100 of the Local Government Act 1972, all reports and all documents marked as "confidential" or "not for publication" shall be treated as confidential until they become public in the ordinary course of ESPO's business.
- 27.4 No act of a subcommittee shall have effect until approved by the Management Committee except to the extent that the subcommittee has itself power to act without the approval of the Management Committee and the power so to act has been conferred upon the subcommittee.
- 27.5 These Standing Orders shall apply with any necessary modification to sub-committees.

Standing Order 28. Variation and revocation of Procedural Standing Orders

- 28.1 Any motion to add to vary or revoke these Procedural Standing Orders shall when proposed and seconded stand adjourned without discussion to the next ordinary meeting of the Management Committee.

Standing Order 29. Suspension of Procedural Standing Orders

- 29.1 Subject to 30.2 of this Standing Order, any of these Procedural Standing Orders may be suspended so far as regards any business at the meeting where its suspension is moved.
- 29.2 A motion to suspend any of the preceding Standing Orders shall not be moved without notice unless there shall be present at least one-half of the whole number of the Members.

Standing Order 30. Interpretation of Procedural Standing Orders

- 30.1 It shall be the duty of any Chair to conduct the meeting efficiently and effectively and at all times to act reasonably. The Chair shall have full power to conduct the meeting in the way that he/she considers most expedient and to decide upon any points of procedure subject only to statutory requirements (if any) and these Standing Orders.
- 30.2 The ruling of the Chair as to the construction or application of any of these Standing Orders, or as to any proceedings of the Management Committee or Subcommittee/s, having received the advice of the Consortium Secretary or his/her nominee as necessary, shall not be challenged at any meeting.

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APPENDIX 6
TO THE CONSTITUTION OF THE ESPO MANAGEMENT COMMITTEE
FINANCIAL REGULATIONS OF THE ESPO MANAGEMENT COMMITTEE
(INCLUDING THE STANDARD FINANCIAL INSTRUCTIONS)

These Financial Regulations are to be read in conjunction with the ESPO Consortium Agreement, Constitution and the scheme of delegation and in the event of conflict the provisions in the ESPO Consortium Agreement, Constitution and the scheme of delegation shall prevail.

RULE 1
Application of Rules

(a) The previous agreement between Member Authorities relating to ESPO (21 April 1999) stated at clause 4.3 that '*...the financial instructions will be those currently adopted by the servicing authority (Leicestershire County Council)*'. These Rules set out the main financial management requirements of Leicestershire County Council as adapted to reflect the ESPO Management Committee as a joint committee arrangement. They state what these are and who is responsible for preparing, authorising and acting on them. The Rules apply to the ESPO Management Committee and to management and officers of ESPO. They also apply to any person acting on behalf of ESPO.

(b) The Management Committee shall make arrangements for the proper administration of the financial affairs and they do this through the Consortium Treasurer. The Management Committee may make, amend or revoke the Financial Regulations and Standard Financial Instructions at any time and the Consortium Treasurer will be responsible for ensuring that they are followed. The Standard Financial Instructions will be proposed by the Director of Corporate Resources as Chief Finance Officer and will not form part of these Rules. The Standard Financial Instructions will cover the more detailed procedures required for the control of capital programme and revenue budgets, contracts, ordering, payments, imprest accounts, stocks and assets, income collection, banking, insurance and unofficial funds.

RULE 2
Responsibility of the Consortium Treasurer

(a) The Consortium Treasurer is responsible for the proper administration of ESPO's financial affairs, on behalf of the Management Committee.

(b) Having informed the Chief Officer Group (COG), the Consortium Treasurer will report to the Management Committee if in his or her opinion any significant failure in the proper administration of ESPO's affairs is occurring.

(c) To fulfil his or her statutory duty the Consortium Treasurer may issue Accounting Instructions to complement these Rules and the Standard Financial Instructions.

(d) ESPO's Assistant Director - Finance will be responsible for the provision of corporate budgeting and accounting systems, including the establishment of reserves and provisions.

(e) In monitoring the application of these Rules and the Standard Financial Instructions, the Consortium Treasurer will identify (and propose to the Management Committee) any amendments to them which would enable ESPO to take advantage of developments in electronic methods, provided that any such amendments would retain a degree of security which is similar to that provided by traditional paper-based systems.

RULE 3

Responsibility of the ESPO Director

(a) The ESPO Director is responsible for the management of the resources made available to him or her to achieve ESPO's objectives and to meet the ESPO Business Plan. When doing this he or she must act in accordance with these Rules and Standard Financial Instructions. He/she should also follow any financial requirements laid down in the Management Committee's Consortium Agreement, Constitution and Contract Procedure Rules. Where responsibilities for management of resources are delegated, the ESPO Director should ensure that the authorised person is familiar with these Rules, the Contract Procedure Rules, and the Standard Financial Instructions.

(b) The ESPO Director should also make authorised persons aware of financial requirements contained in Acts and associated Parliamentary directives specific to the services for which they are responsible.

(c) The ESPO Director when deciding to delegate authority to a representative should consider the duties of that representative in relation to the level of delegated authority. He / she may choose to place financial limits on the authorisation levels allowed.

(d) The ESPO Director must consult and take into account financial advice given by the Consortium Treasurer including guidance on delegation of budgets. The ESPO Director is also responsible for providing financial information when requested by the Consortium Treasurer.

(e) The ESPO Director should ensure that corporate guidance is followed with respect to the governance and financial aspects of partnerships.

(f) The ESPO Director must ensure that a financial control framework is in place for the operation of key partnerships.

RULE 4**Application to subsidiary accounts**

These Rules and the Standard Financial Instructions will apply to all accounts maintained by ESPO including subsidiary accounts. The Management Committee may make special arrangements, however, to take account of the different needs of such accounts.

RULE 5**Changes to service provision**

Where the Management Committee considers there may be a need to change the policy on provision or delivery of services, it shall consider a written report by the Director of ESPO and Consortium Treasurer. In this the ESPO Director will be required to set out the need for the change and the resources implications. The expected financial implications should include both part year and full year effects. In addition, if material changes are expected to occur in the longer term a financial assessment of these should be included. If necessary, the statutory authority to incur expenditure or raise income should also be included.

RULE 6**Changes in expenditure levels**

Any new or increased level of expenditure, unsupported by equivalent changes in income whether capital or revenue, shall be properly authorised before any commitments are entered into. Funding arrangements must be agreed in accordance with these Rules or the Standard Financial Procedures.

RULE 7**Capital programmes**

(a) The ESPO Director will prepare proposals for capital expenditure programmes, in consultation with relevant technical advisors, covering the categories and years and within any guidance and guidelines specified to them by the Management Committee. These proposals will be in a form prescribed by COG and will include both the capital costs and an estimate of the full additional annual revenue implications. The Management Committee will consider and approve these.

(b) Inclusion of projects in a capital programme shall not override any requirement to obtain approval to new policies or changes in policies.

(c) When the Management Committee has given its approval, capital expenditure included in the first year of the programme may commence without further approval unless this is required by Government Departments or other outside bodies.

(d) Commencement before the planned programme year can be approved by the Consortium Treasurer provided he/she is satisfied that resources are available within the overall programme.

(e) A renewals reserve will be maintained for the replacement of operational capital assets. The annual charge to replenish this fund will be included within ESPO annual budgets and subject to Management Committee approval.

(f) The routine replacement of minor value operational capital assets that are fully funded within the renewals reserve are excluded from (a) to (c) above and may be replaced subject to the ESPO Director's approval

RULE 8

Implementation and amendment of approved capital programme

(a) When the capital programme has been approved, the ESPO Director will be responsible for controlling expenditure on each project agreed.

(b) Amendments to the capital programme, including their revenue implications, will be subject to the arrangements outlined in the Standard Financial Instructions.

RULE 9

Capital expenditure - accountability and performance

The Management Committee will make arrangements through the Consortium Treasurer to control and monitor total capital spending. The Management Committee will receive financial statements. The Consortium Treasurer will also report the final position to the Management Committee.

RULE 10

Financial planning

(a) The Management Committee may require that the ESPO Director prepares estimates within any specified guidelines of future expenditure and income to cover a stipulated time period. The plans will be prepared in a form specified by the Consortium Treasurer. The plans will be considered by the Management Committee and they will include such additional information and explanations as may be required by the Management Committee.

(b) Where Government Departments and other bodies require submissions of estimates of expenditure and income in future years, these shall be in accordance with plans and policies approved by the full Management Committee or the Consortium Treasurer. They must also comply with any guidance given by the Consortium Treasurer. No new expenditure shall be committed in advance of the approval of the annual budget unless this is agreed by the Management Committee or the Consortium Treasurer. Where necessary expenditure to ensure continuation of services to Member Authorities and other customers is required this will be done with the agreement of the Consortium Treasurer and reported to the Management Committee.

RULE 11**Annual budgets and medium term financial plans**

(a) The ESPO Director will be responsible for preparing annual revenue budgets of expenditure and income and for the preparation of medium term financial plans. These will be prepared following such guidance and within such limits as specified by the Management Committee or Consortium Treasurer.

(b) The medium term financial plan including the annual revenue budget will be approved by the Management Committee.

RULE 12**Implementation and amendment of approved budgets and plans**

(a) When the annual budget has been approved the ESPO Director will be responsible for ensuring that budgeted expenditure remains compatible and appropriate to volume of business and the level of incomes to ensure that ESPO continues to generate an operating surplus. Expenditure that is not directly dependent upon business volumes must remain within budget.

(b) The Management Committee will be responsible for maintaining a control over ESPO's trading surplus and for ensuring that expenditure remains appropriate to the level of income.

(c) Amendments to the approved annual Budget will be subject to the virement arrangements specified in the Standard Financial Instructions.

RULE 13**Accountability and performance**

(a) Procedures for the collection of income and making of payments against approved expenditure will be laid down in the Standard Financial Instructions.

(b) The ESPO Director will be responsible for ensuring that appropriate arrangements are made, on a regular basis, to monitor performance against budgets and financial forecasts. Any potential significant financial difficulties or exceptional benefits shall be reported in writing immediately to the Consortium Treasurer who will notify the COG.

(c) The Management Committee will receive regular budget monitoring reports from the ESPO Director and will monitor overall performance.

(d) The ESPO Director will prepare annual management accounts and statutory Statements of Accounts under the guidance of the Consortium Treasurer who will ensure they meet appropriate accountancy standards and comply with relevant legislation. The ESPO Director and Consortium

Treasurer will prepare a summary of these accounts for approval by the Management Committee

RULE 14

Reviews

(a) The ESPO Director is responsible for undertaking regular reviews of services under her control. In particular, consideration should be given to actual performance against approved targets for the service and the requirements of Best Value.

(b) When undertaking reviews the ESPO Director will need to take into account guidance provided by the Management Committee in their capacity of review co-ordinator.

(c) The Management Committee may require the ESPO Director to report on the performance of any aspect of the services within his or her area of responsibility. This would include the results of comparative performance and value for money studies. The extent of the review will be bound by the terms of reference and the rules relating to the ESPO Management Committee. In addition it may require them to provide explanations on performance indicators and other related information published by the Government.

RULE 15

Internal audit

(a) Responsibility for arranging a continuous internal audit of the ESPO's financial management arrangements will be delegated by the Management Committee to the Consortium Treasurer.

(b) The Consortium Treasurer or an authorised representative has authority to:-

- (i) enter any ESPO building or land at all reasonable times;
- (ii) have access to all records, documents and correspondence relating to any transactions of ESPO;
- (iii) receive such explanations as he or she considers necessary on any matter under examination; and
- (iv) require any employee of ESPO to produce cash, stores or any other ESPO property under his or her control.

(c) The ESPO Director will be responsible for considering and taking appropriate action on matters drawn to her attention by audit reports.

RULE 16

Internal control and check

The duties of staff concerned with financial transactions should, as far as is practicable, be distributed with regard to the principles of internal control and check. The ESPO Director should consult the Consortium Treasurer (or authorised representative) when this is not considered practicable or when changes to financial arrangements are being proposed so that the Consortium

Treasurer or his or her authorised representative can ensure proper financial systems will still be in place.

RULE 17

Financial irregularities

The Management Committee and the Consortium Treasurer shall be notified immediately by the ESPO Director of any financial irregularities, or of any circumstances which may suggest the possibility of an irregularity, affecting any asset of ESPO or that may result in a legal claim or an insurance claim or that represents a risk to the organisation.

RULE 18

Appointment of employees

Proposals made by the ESPO Director to appoint employees or alter grades need to take into account both current and future years funding and potential termination costs, where the proposals relate to a fixed time scale and the pay and conditions of the Servicing Authority.

RULE 19

Redeployment or redundancy

(a) Prior to making a decision which has redundancy implications the Management Committee should be informed by the ESPO Director of the potential number of staff involved and the funding arrangements to pay the redundancy and associated costs.

(b) When preparing an Action Plan, the ESPO Director will have due regard to the requirements of Organisational Change Policy and Procedure and policy of the Service Authority on Termination in the interests of the efficiency of the organisation. The ESPO Director shall consult the Consortium Treasurer over the funding arrangements for the Action Plan proposals.

RULE 20

Personnel rules

The ESPO Director must abide by any rules approved by the Management Committee under powers delegated to him or her, which are mandatory to the organisation.

RULE 21

Property records and deeds

(a) A terrier of all land, buildings and interests owned by the Servicing Authority in trust for the benefit of the Consortium will be maintained by the Consortium Treasurer in a form approved by the Consortium Secretary.

(b) The Consortium Secretary will be responsible for the custody of all title deeds.

RULE 22**Property acquisition, disposal and review**

(a) The Management Committee will be responsible for acquisition, disposal and allocation of land and buildings as requested by the Consortium Treasurer.

(b) The Consortium Treasurer will be responsible for a continuing review both of the purpose for and the efficient utilisation of all land and buildings owned or used by the organisation. He or she will provide regular reports on these subjects to the Management Committee.

(c) The Consortium Treasurer will regulate the administration of the purchase, lease or disposal of land and buildings.

RULE 23**Property management**

(a) The ESPO Director will undertake the responsibilities of a tenant for the properties used including management, repair and maintenance, unless specifically agreed otherwise with the Consortium Treasurer.

(b) He or she shall take advice from the Consortium Treasurer on leasing, letting and changes in use of property. He or she should also take advice from him or her on maintenance and property management. It is important that special attention is given to compliance with Fire Certificates and Health and Safety Regulations.

(c) The Director of Corporate Resources of the Servicing Authority will act as the landlord for consortium properties held in trust by the Service Authority. In addition where buildings have joint use he or she may also undertake some of the responsibilities of the tenant.

RULE 24**Information and communication technology**

(a) **Corporate ICT Strategy** The ESPO Director will comply with those sections of the Servicing Authority's Information and Communication Technology Strategy that are mandatory for the provision of ESPO IT service including links with the Servicing Authority ICT service. When appropriate, the Servicing Authority' Head of ICT should be consulted on proposed new computing systems and on significant enhancements to systems and equipment. He or she may provide specialist advice or stipulate the technical standards and specifications which will apply and will ensure there will be satisfactory links with the Service Authority systems.

(b) **System Developments and Amendments** Where developments of/or material amendments to systems take place that affect financial procedures, the ESPO Director shall inform the Consortium Treasurer. The Consortium Treasurer or his or her authorised representative will stipulate the standards of control required.

(c) **Control and Security** ESPO's Assistant Director Finance is responsible for the control of ESPO computer systems, and also responsible for the security and privacy of data held by these systems. Where the Servicing Authority's and other users' systems are accessed, they are responsible for ensuring proper controls are maintained. Guidance on how to carry out these responsibilities is included in the Servicing Authority ICT Strategy, together with supplementary advice from the Servicing Authority's Head of ICT.

RULE 25

Purchasing and income collection

Purchasing and collection officers must follow the requirements laid down by the Management Committee in these Rules, the Contract Procedure Rules, the Standard Financial Instructions and the Scheme of Delegation.

RULE 26

Inventories of assets

(a) The ESPO Director will be responsible for the safe keeping and condition of ESPO assets under her control. He or she will also maintain an up to date inventory. The ESPO Director and Consortium Treasurer will issue instructions on which assets should be included in these other than Property (Rule 21).

(b) The Management Committee will have power to make Standard Financial Instructions on the checking, usage and disposal of assets.

RULE 27

Stocks and stores

(a) The ESPO Director will be responsible for the custody and physical condition of the stocks and stores under her control. The levels of stocks shall not exceed reasonable requirements.

(b) The Management Committee will have power to make Standard Financial Instructions on the control, checking, valuation and disposal of stocks.

RULE 28

Risks and liabilities

The ESPO Director should have due regard to operational and financial risks and liabilities when considering policies. He or she also needs to consider potential physical risks to persons and assets. In doing so he or she needs to follow the ESPO risk management framework.

RULE 29

Insurance

The ESPO Director will be responsible for arranging or amending insurance cover. This will be in accordance with policies laid down by the Management Committee.

[End of Financial Procedure Rules]

Standard Financial Instructions

These instructions are included here for the sake of completeness and will be updated as necessary to reflect any amendments made.

Standard Financial Instructions

(made under Rule 1(b) of the Financial Procedure Rules)

INSTRUCTION 1

Capital - expenditure in excess of approved amount

(a) Where a specific approval given in the capital programme is likely to be exceeded additional approval must be sought by the Consortium Treasurer and reported to the Management Committee.

(b) The ESPO Director may approve increases in expenditure where compensating savings are being made and there is no change in policy. In any particular instance, the ESPO Director may decline to give approval and instead refer the proposal to the Management Committee.

INSTRUCTION 2

Capital - substitution

Following consultation with the Consortium Treasurer the ESPO Director may make written recommendations to the Management Committee that it substitute items of capital expenditure. This may only be done if the capital expenditure of the department and the resulting revenue costs are not increased. Substitutions of up to £100,000 may be approved by the Consortium Treasurer.

INSTRUCTION 3

Grants and External Funding

Unless already included in the ESPO Budget bids for external funding must be agreed with the Consortium Treasurer. He or she can approve bids where there is no additional one off or ongoing costs to ESPO for which there is no budget, capital programme or other provision.

Approval must be obtained from the Consortium Treasurer to any contingent liabilities for repayment should any conditions not be met, with any associated agreement being made with the approval of the Consortium Secretary. In other cases the approval of the Management Committee is required.

INSTRUCTION 4

Revenue - virement

- (a) In order to maintain effective and responsive services it is acknowledged that spending on individual budget heads may vary from the approved budget. This is permissible (subject to (b) and (c) below) so long as the total surplus complies with Rule 12 of the Financial Regulations.

(b) Virement (either between individual lines or sections of the approved budget) is allowed except where it would involve:-

- i. a change in an existing policy;
 - ii. a reduction in service;
 - iii. on-going net costs which might not be containable;
 - iv. funding capital expenditure from revenue (except for items and exceptions agreed by the Management Committee); or
 - v. expenditure which has been included in that year's budget for service improvements above the limit of £20,000 or 5% whichever is the greater.
- The above will require the prior approval of the Management Committee.

(c) Before submitting a virement proposal which falls under (b) above to the Management Committee for approval, the ESPO Director shall consult the Consortium Treasurer and shall include in her report to the Management Committee the justification for the change in priorities and any comments of the Consortium Treasurer. If the expenditure proposal is for longer than the current financial year, the ESPO Director must demonstrate that the proposed corresponding saving will also be continuing. This change will then be built into the ongoing budget.

(d) Regular budget monitoring reports shall be made to the Management Committee by the ESPO Director identifying the main variations in expenditure in order that virement can be questioned as appropriate.

INSTRUCTION 5

Revenue - supplementary estimates

(a) A supplementary estimate approval means that not only do individual budget approvals increase, but the total approved ESPO budget increases beyond the limit imposed by Rule 12 of the Financial Regulations. Requests must be approved by the Management Committee. The Consortium Treasurer must be consulted before a report written by the ESPO Director is submitted to the Management Committee.

(b) Requests should result only from new legislation or other unforeseen and exceptional circumstances. The ESPO Director would be expected to show virement is not available to fund the proposal. Supplementary estimates may be approved but budget adjustments deferred whilst it becomes clearer whether costs can be met from elsewhere within the relevant budget.

(c) No expenditure should be committed prior to Management Committee approval subject to the terms of the Agreement.

INSTRUCTION 6

Revenue - carry forward of over or underspendings

(a) The Management Committee may authorise adjustments in ESPO's current year's capital or revenue budgets for underspendings or overspendings incurred in the previous financial year.

(b) For exceptional circumstances, the Consortium Treasurer may agree the carry forward of an underspending on all budgets subject to any guidelines laid down by the Management Committee. He or she may do this only when the total budget is underspent by more than the requested carry forward.

INSTRUCTION 7

Contracts

(a) All contracts should be dealt with in accordance with the Contract Procedure Rules for ESPO.

Capital Contracts (Excluding routine replacements from Renewals Reserves)

(b) The ESPO Director will be responsible for the maintenance of all financial as well as technical records for contracts of a capital nature.

(c) Where building, construction or other capital contracts provide for payment to be made by instalments on the certificate issued by an authorised employee, the records must show the state of account on each contract between ESPO and the contractor together with other payments and related professional fees.

(d) Payments to contractors in respect of all contracts must be authorised only by a certificate signed by the person made responsible by the contract for issuing such certificates (i.e. "the Certifying Employee" or authorised deputy). In the case of Private Architects, Quantity Surveyors, Engineers or Consultants, certificates must be countersigned as to validity by the appropriate Director who appointed them. The form of the certificate must be agreed by the Consortium Treasurer. The Certifying Employee will be responsible for the correct certification of all aspects of contract payments and for ensuring the correct completion of all associated contract documentation.

(e) The Certifying Employee will ensure that all contract documentation is properly completed before the contractors' final account is paid.

(f) Prior to issue of final certificates the Consortium Treasurer will, to the extent he or she considers necessary, audit accounts for contracts. He or she will be entitled to make all such enquiries and receive such information and explanations as he or she may require in order to satisfy himself or herself as to the accuracy of the accounts.

(g) The ESPO Director should actively try to promote an agreement with contractors on outstanding issues, where work was completed over two years ago.

(h) Claims from contractors in respect of matters not clearly within the terms of any existing contract must be referred to the Consortium Secretary for consideration of ESPO's legal liability before a settlement is reached. The Consortium Treasurer must also be informed of the amount of such claims

before final settlement to enable him or her to consider the financial implications.

(i) Where completion of a contract is delayed beyond the due date for completion by more than one-sixth of the contract period, it will be the duty of the responsible employee under the contract, after consultation with the Consortium Secretary and spending department, to take appropriate action in respect of any claim for liquidated damages. The responsible employee may decide that liquidated damages should not be applied. This should be reported to the Management Committee subject to any guidelines set down by the Management Committee.

Professional Fees

(j) Where staff are not charged to projects on a fee basis, the ESPO Director will supply the Consortium Treasurer with details of the cost of staff and private consultants employed on capital work.

(k) In all cases an agreement with a private firm or individual shall require them to comply with the Contract Procedure Rules and to give the same facilities to the Consortium Treasurer as required of the ESPO Director by its instructions and procedures.

(l) Where private consultants are to supervise work, the ESPO Director is responsible for ensuring that she receives regular written reports covering the physical and financial progress of that work and for taking any appropriate action on the basis of progress reports.

INSTRUCTION 8

Orders for work, goods and services

(a) Orders for work, goods and services must not be placed unless the expenditure to be incurred is in accordance with the Financial Regulations and these Instructions.

(b) Orders on official forms must be issued for all work, goods and services to be supplied to ESPO, except for supplies of public utility services such as gas, electricity and water, for periodical payments such as rent and rates, for petty cash purchases, for procurement card and e-procurement transactions allowed under the scheme approved by the Consortium Treasurer, or for such other exceptions as the Consortium Treasurer may approve.

(c) Where urgent orders are given orally they must be confirmed by a written official order not later than the next working day following the day in which the oral order is given. Confirmation orders should be clearly marked as confirmation only.

(d) Some agreements or contracts for goods or services provide for payment by instalments. To show the state of the accounts of each such agreement or contract, the ESPO Director will ensure such records are maintained in a manner agreed with the Consortium Treasurer.

(e) Official order forms will be used unless the Consortium Treasurer has agreed in particular cases to the use of other forms for specific classes of transaction. Orders must be signed only by employees designated by the ESPO Director who will maintain a list of employees authorised to sign on his or her behalf and their relevant financial approval limits. Before placing an order the certifying employee must satisfy himself or herself that this would be proper expenditure and would be within the appropriate approved estimate. To provide segregation of duties at as early a stage as possible, it is recommended that a second employee should be responsible for making out the order.

(f) The ESPO Director will be responsible for ensuring the validity of all orders issued the control process and for obtaining alternative quotations or tenders as required before orders are placed. He or she will also be responsible for ensuring that the expenditure being incurred can be met from the approved estimates.

(g) ESPO must obtain goods, works or services in a manner and from sources which demonstrate best value for money.

INSTRUCTION 9

Payments of invoices and claims

(a) Invoices should be on suppliers printed forms except where alternative arrangements have been agreed by the Consortium Treasurer. The system within spending departments should ensure that expenditure has been certified by an employee authorised by the ESPO Director.

(b) Suppliers invoices and claims shall be checked, initialled and certified in accordance with arrangements agreed with the Consortium Treasurer before payment is made.

(c) The ESPO Director will ensure that a list of officers authorised to certify accounts is maintained. The verification and certification of accounts must be in accordance with instructions issued by the Consortium Treasurer.

(d) Before certifying an invoice or claim the certifying employee must satisfy himself or herself that it is allocated to the correct expenditure head.

(e) ESPO's Assistant Director - Finance will examine, so far as he or she considers necessary, invoices and claims passed for payment and he or she will be entitled to receive such information and explanations as he or she may require. For this purpose all books and documents relating to the payment must be placed at his or her disposal.

(g) All claims for the payment of vehicle and subsistence allowances, travelling and incidental expenses, must be certified and submitted to the ESPO Director. These will be on a form approved by her, unless alternative arrangements have been agreed by her. Claims must be submitted promptly

each month for the preceding month. Travel and subsistence claims which are for a period over 3 months old will not be paid unless there are extenuating circumstances.

(h) Where ESPO's Assistant Director - Finance considers it appropriate he or she will call the attention of the Consortium Treasurer and, if necessary, the Management Committee to any item which has been passed for payment. He or she will also report to the Management Committee on any such item which he or she considers for any good reason should not be paid.

INSTRUCTION 10

Imprest accounts and Procurement Cards

(a) The ESPO Director may in consultation with the Consortium Treasurer, provide imprest accounts where necessary for defraying petty cash and other minor expenses. Persons responsible must maintain a record of their receipts and payments in the form and manner prescribed by the Consortium Treasurer.

(b) ESPO's Assistant Director – Finance may in consultation with the ESPO Director, provide Procurement Cards (pCards) or ESPO bank's business cards where the type of spend or the practicalities preclude the purchaser from using the ESPO's usual ordering and invoicing processes in an efficient way. Persons responsible must ensure the cards are only used in accordance with ESPO's scheme, for the approved purposes of the organisation and that appropriate records are maintained.

(c) The ESPO Director may issue instructions as to the type and level of expenditure which should be met out of the imprest account or with cards. Such expenditure must be supported by receipted vouchers to the extent that the Director may require.

(d) The holder of the card will be responsible for all transactions performed with their assigned card and must support the scheme administrators in the resolution of queried transactions. The card holder is additionally responsible for providing supplementary information required under the scheme to support VAT claims and updates to ESPO's financial systems. The ESPO Director is required to ensure monitoring is in place to verify that cards within ESPO are used in accordance with ESPO's scheme.

(e) An official subsidiary bank account will be opened by the Consortium Treasurer in cases where he or she considers this to be necessary. Where such a bank account is opened in no circumstances will an overdraft be allowed.

(f) ESPO's Assistant Director - Finance must arrange for the ESPO Director or her authorised representative to be notified as early as possible whenever a person holding an imprest account ceases to be responsible for the account. The name of the new holder will be similarly notified when this is

known. Equally the ESPO Director must be notified when a card holder leaves ESPO to allow withdrawal or amendment of the card as appropriate.

(g) No income received on behalf of ESPO, other than the reimbursement received from the Consortium Treasurer, may be paid into an imprest account without prior consent of the Consortium Treasurer. Income must be banked separately or paid to ESPO as described elsewhere in these procedures.

(h) Cards and imprest accounts are provided to allow employees to carry out their duties in a more efficient manner and are not provided for personal use. Specifically postal orders or personal or other cheques must not be cashed from monies held in an imprest account. Personal loans must not be made from such accounts, nor should loans be made to unofficial funds. Any accidental use must be reported to the ESPO Director and Consortium Treasurer as soon as it is discovered and ESPO reimbursed.

(i) Reimbursement of monies spent should be made by ESPO Finance staff in line with instructions issued by the Consortium Treasurer, except where he or she agrees to provide payments on account. In all cases imprest accounts will be made up to 31 March each year, subject to any exceptions agreed by the Consortium Treasurer. The Consortium Treasurer will determine the method of payment to settle the outstanding balances on cards.

INSTRUCTION 11

Stocktaking and consequential action for ESPO Central Stores stocks held for resale.

(a) Stocks and stores records must be kept in such cases and in a form as may be agreed by the ESPO Director and subject to approval by the Servicing Authority's internal audit on behalf of the Consortium Treasurer. There must be a complete physical stocktaking at the closure of every financial year following procedures approved with the Servicing Authority's internal audit and approved by ESPO external auditors. The exception to this is where continuous stocktaking arrangements, agreed with the Consortium Treasurer, are operating. Test checks will also be made from time to time.

(b) The value of stocks held at 31 March each year must be certified by ESPO's Assistant Director - Operations or his or her authorised representative and supplied to ESPO's Assistant Director - Finance for inclusion in the Statement of Accounts.

(c) Surpluses or deficiencies revealed during any one stocktaking can be adjusted up to a net book value of £1,000 on approval of the ESPO Director or her authorised representative. Above this amount surpluses or deficiencies must be reported to the ESPO Director who can approve write-offs or adjustments up to £20,000 in a single case and thereafter this should go to the Management Committee for its approval.

(d) Surplus or obsolete items of stocks and stores up to a total book value of £1,000 at any one time may be disposed of by the ESPO Director or her

authorised representative. Where the book value is over this figure but the resale value is considered to be below this, the ESPO Director should report this expected loss to the Management Committee for approval. The method of disposal of surplus stocks will be subject to approval by the Consortium Treasurer. A record should be kept of all details relating to disposals.

INSTRUCTION 12

Inventories and consequential action

(a) All inventories will be kept in a form approved by the Consortium Treasurer. Where a computerised inventory is in use, its method of operation should conform to standards set down by the Consortium Treasurer.

(b) The ESPO Director will be responsible for ensuring that an annual check of all items on the inventory is carried out and for taking action after consultation with the Consortium Treasurer in relation to any surpluses or deficiencies and noting the inventory accordingly. Deficiencies due to irregularity should be reported to the Management Committee, if the Consortium Treasurer considers this appropriate.

(c) The Consortium Treasurer or his or her representative may at all reasonable times have access to all property of ESPO and may make such checks and tests as he or she deems reasonable.

(d) ESPO's property must not be removed from the premises except in the ordinary course of business, or used otherwise than for business purposes except in accordance with specific directions issued by the ESPO Director or her authorised representative and agreed by the Consortium Treasurer. A record of such removals will be maintained at the establishment concerned.

(f) The ESPO Director or her authorised representatives should follow standard corporate procedures for the redistribution, sale or disposal of surplus items of computer and ICT equipment. These procedures will be subject to approval by the Consortium Treasurer.

INSTRUCTION 13

Income records and grant claims

(a) The collection of all monies due to ESPO should be under the control of ESPO's Assistant Director - Finance and must follow procedures approved by the Consortium Treasurer. He or she will require that all monies due are promptly recorded and all monies are promptly banked.

(b) The records kept relating to income will be in such form as may be approved by the Consortium Treasurer.

(c) All official receipt forms, receipt books, tickets and other documents of a similar nature will be ordered, controlled by, and issued by ESPO Finance staff following procedures approved by the Consortium Treasurer. Every issue of any such document should be authorised by ESPO's Assistant Director -

Finance or his or her nominated officer and acknowledged by the signature of the employee receiving the document.

(d) No employee or agent shall give a receipt for money received on behalf of ESPO on any form other than an official receipt form.

(e) ESPO Finance staff must maintain a record of their receipts and bankings in the form and manner approved by the Servicing Authority's internal audit on behalf of the Consortium Treasurer. The Consortium Treasurer will issue instructions regarding the frequency of deposit.

(f) In accordance with the Accounts and Audit Regulations, each officer paying money into a bank account of ESPO must show on the paying slip the amount of each cheque paid in and sufficient information to identify the individual transaction, e.g. receipt number, name of debtor.

(g) Monies received by an accounting officer will be banked intact and must not be used to meet expenditure or to cash postal orders or personal or other cheques.

(h) ESPO's Assistant Director - Finance should ensure that all grants and external funding income is promptly claimed and proper records and working papers are retained to justify claims.

INSTRUCTION 14

Write-offs

(a) An amount due to ESPO must only be discharged by payment or by write-off in accordance with the following system.

(b) Amounts up to £20,000 in any one case may be written-off by the ESPO Director.

(c) Amounts over £20,000 in any one case may be written off by the Consortium Treasurer with the approval of the Management Committee except that, in the case of debts of organisations in liquidation, receivership or bankruptcy where the Consortium Secretary advises there is no reasonable prospect of recovering any monies, or debts partially recovered by means of an out of court settlement where the Consortium Secretary advises there is no reasonable prospect of recovering any further monies. These may be written off directly by the Consortium Treasurer with the Management Committee's approval.

(d) The Consortium Treasurer will have the right to report any write-off to the Management Committee if he/she considers this appropriate.

INSTRUCTION 15**Review of charges**

(a) The ESPO Director shall ensure that all charges for ESPO services are reviewed at least annually at the time of the preparation of the budget. Rents should be reviewed at least triennially unless they are subject to any longer review period under the terms of the rental agreement.

(b) The ESPO Director will be free to decide on detailed pricing for non-member authority work, though they must seek to make a profit on all such activity. Where services are supplied to a Member Authority differential charges may apply, any charges should not, as a matter of principle, seek to make a profit.

(c) Where it is proposed to introduce, revise, or discontinue a scale of charges, the Consortium Treasurer should be consulted before the proposal is progressed. Where increases are proposed in line with increases in the cost of living these may be approved by the ESPO Director in consultation with the Consortium Treasurer and the Management Committee. Authority to agree changes in charges otherwise than set out above may be delegated to the ESPO Director subject to guidelines laid down by the Management Committee.

INSTRUCTION 16**Banking arrangements**

(a) Arrangements with regard to the ESPO's bank accounts, including Giro Bank accounts, will be made by the Consortium Treasurer.

(b) Cheques, except those used by imprest accounts, will be ordered and controlled by ESPO's Assistant Director - Finance who will make proper arrangements for the safe custody of blank cheques and the preparation, signing and despatch of cheques subject to the approval of the Consortium Treasurer.

(c) All ESPO bank accounts, including imprest accounts, must include "ESPO" in their titles and in no circumstances must an account be opened in the name of an individual or individual establishment.

(d) Cheques drawn will be signed by the ESPO Director or by an employee duly authorised by the Consortium Treasurer. Cheques over £20,000 will require signing by two authorised employees.

INSTRUCTION 17**Salaries, wages and pensions**

(a) The payment of all salaries, wages, pensions, compensation and other emoluments will be made by the Consortium Treasurer or under arrangements approved and controlled by him or her.

(b) The ESPO Director will arrange for the Consortium Treasurer to be notified as early as possible, and in the form prescribed by him or her, of all

matters affecting the payment of items referred to paragraph (a) above and in particular:

(i) appointments, resignations, dismissals, suspensions, secondments and transfers;

(ii) absences from duty for sickness or other reason, apart from approved leave;

(iii) changes in remuneration, other than normal increments and pay awards and agreements generally applied; and

(iv) information necessary to maintain records of service for superannuation, income tax and national insurance.

(c) Tax, superannuation, national insurance and all other deductions from pay and related matters must be agreed with the Consortium Treasurer.

(d) All time records or other documents relating to salaries and wages will be in a form prescribed or approved by the Consortium Treasurer and shall be checked and authorised. They should be signed by or on behalf of the ESPO Director. The Consortium Treasurer will provide periodic print-outs of employees' pay details to provide a means of verifying the accuracy of the pay records.

(e) The Consortium Treasurer on proposed payments to non-staff members which may require ESPO to deduct tax.

INSTRUCTION 18

Insurance of risks

(a) The ESPO Director will arrange that the Consortium Treasurer is notified promptly of all new risks, properties, plant or vehicles which require to be insured. He or she should indicate the amount of cover required and of any alterations required to existing insurances.

(b) The ESPO Director will arrange that the Consortium Treasurer is notified immediately in writing of any fire, loss, liability or damage, or any event likely to lead to a claim.

(c) The ESPO Director must obtain the prior approval of the Consortium Treasurer and the Consortium Secretary to the terms of any indemnity which ESPO is requested to give.

(d) The ESPO Director may, at her own discretion, arrange to provide insurance cover against risks not normally covered by ESPO as a whole. Such cover must be arranged via the Consortium Treasurer.

INSTRUCTION 18A

Litigation and Disputes Resolution

The ESPO Director will ensure, following consultation with the Consortium Treasurer and Consortium Secretary that the Management Committee is advised at key stages in the process of any litigation or disputes resolution which have a significant financial or reputational effect on the Member Authorities.

INSTRUCTION 19**Security of assets**

(a) The ESPO Director is responsible for ensuring that arrangements are made for maintaining proper security at all times for all buildings, stocks, stores, furniture, equipment, cash, etc. under his or her control. She will consult the Chief Constable and the Consortium Treasurer in any case where security is thought to be defective or where it is considered that special security arrangements may be needed.

(b) Maximum limits for cash holdings will be agreed with the Consortium Treasurer and must not be exceeded without his or her express permission.

(c) Safes must be kept locked and the key removed. ESPO's Assistant Director - Finance must ensure that arrangements are made for the safe custody of keys to safes and similar receptacles. The loss of any such keys must be reported to the Consortium Treasurer immediately.

INSTRUCTION 20**Unofficial funds**

(a) Where an employee of ESPO, by reason of his or her employment with the ESPO, has any responsibility for a fund other than an official fund, this is deemed to be an unofficial fund under this Rule. It should be the responsibility of the ESPO Director to be aware of the existence of all unofficial funds involving employees under her control, and to arrange for a regular review of the completeness and accuracy of records and arrangements.

(b) The ESPO Director will agree with the Consortium Treasurer the type and extent of audit required for each particular fund, after taking into account the nature of activities covered, and the degree of risk. In no circumstances must unofficial monies be mixed in with official receipts for ESPO. Where several unofficial funds are kept by the same employee, the funds should always be separate and readily identifiable.

[End of Standard Financial Instructions]

APPENDIX 7
TO THE CONSTITUTION OF THE ESPO MANAGEMENT COMMITTEE
CONTRACT PROCEDURE RULES OF THE ESPO MANAGEMENT
COMMITTEE

**Eastern Shires Purchasing Organisation
(ESPO)**

Contract Procedure Rules

ESPO Contract Procedure Rules

These Contract Procedure Rules are to be read in conjunction with the ESPO Consortium Agreement, Constitution and the scheme of delegation and in the event of conflict the provisions in the ESPO Consortium Agreement, Constitution and the scheme of delegation shall prevail.

ESPO acts as a purchasing agent for its Member Authorities as well as Customers (including public sector commercial organisations, schools, Academies, charities and voluntary sector organisations).

The Contract Procedure Rules apply where ESPO is acting alone or for a wider group of Member Authorities and/or Customers. Where ESPO is acting on behalf of one of its Member Authorities, the Member's Contract Procedure Rules will apply. Where ESPO is acting on behalf of a Customer, ESPO's Contract Procedure Rules shall apply, unless it is agreed in advance with the Customer that their Contract Procedure Rules apply.

Leicestershire County Council acts as ESPO's Servicing Authority, providing support services set out in Schedule 3 of the Consortium Agreement. Leicestershire County Council's Director of Corporate Resources acts as ESPO's Treasurer, and has a responsibility to ensure that decisions relating to the finance and financial management of ESPO are sound. Leicestershire County Council's County Solicitor ("the County Solicitor") provides legal advice to ESPO on behalf of the Consortium Secretary.

GENERAL

RULE 1 ***Compliance***

Officers and personnel must comply with these Rules. Failure to do so may result in disciplinary action.

RULE 2 ***Interpretation***

Words and expressions used in these Rules are to be interpreted in accordance with the provisions of Schedule 1.

RULE 3
Application

These Rules apply to every procurement Contract made by or on behalf of ESPO, and every procurement Contract made on behalf of a group of Member Authorities except Contracts:

- (i) for only the acquisition or disposal of any interest in land;
- (ii) for the lending or borrowing of money;
- (iii) of employment (making an individual a direct employee of ESPO).

RULE 4
Exceptions

- (a) Subject to the requirements of EU Directives, EU Treaties, Acts of Parliament and UK Regulations the following Contracts may be placed by direct negotiation with one or more suppliers, Contracts:-
 - (i) for supplies, materials, services or works which are available only as proprietary or patented articles, services or works from one contractor or supplier and for which the Director of ESPO, on the advice of the appropriate Group Buyer, decides that there is no reasonably satisfactory alternative available in the European Union and for repairs to, or the supply of, parts of existing proprietary or patented articles or works including machinery or plant; a note of that decision and the reasons for it must be retained on the appropriate file and where the Contract exceeds £100,000, a copy of the note and reasons must be provided to the Director of Corporate Resources.
 - (ii) for works of art, museum specimens or historical documents;
 - (iii) which constitute a variation or extension of an existing Contract, as permitted by the Contract and/or ESPO's Standard Financial Instructions subject to the provisions of Rule 29 (Contract Variations), Rule 30 (Contract Extensions) and Rule 31 (Novation of Existing Contracts);

In the above circumstances, the Procuring Officer must retain on file a record of the negotiations surrounding the Contract awards and notify the Director of ESPO.

- (b) Other exceptions to these Rules may only be made within the relevant law and with the authority:-
- (i) of the Director of ESPO where the Estimated Value of the proposed Contract is under £100,000. The Director of ESPO shall maintain a record specifying the reason for all such departures; or
 - (ii) of the ESPO Management Committee where it is satisfied that an exception is justified on its merits. In an urgent case the Director of ESPO in consultation with the Chairman or Deputy Chairman of the ESPO Management Committee (save where this is not practicable) may direct that an exception be made subject to this being reported to the next meeting of the ESPO Management Committee.

RULE 5

Financial Thresholds and Delegation

- (a) Financial limits and thresholds within these Rules may be varied from time to time by the majority agreement of the ESPO Management Committee.
- (b) Arrangements for delegation of functions to officers within these Rules may be varied from time to time by ESPO Management Committee.

RULE 6

Annual Reporting

The Director of ESPO in consultation with the County Solicitor shall at least once in each financial year submit a report to the ESPO Management Committee in relation to the operation of these Rules including among other things any departures from or proposed revisions to these Rules and/or changes required to accommodate the requirements of UK and EU procurement law as may be necessary from time to time.

RULE 7

Prevention of Corruption / Conflict of Interest

- (a) The Employee Code of Conduct (Part 5b of the Servicing Authority's Constitution) applies to any Procurement Exercise.

- (b) The following clause, or a clause that is substantially similar, will be included as a standard term and condition in every written Contract in accordance with Rule 24(c):

"ESPO/[ESPO Client] may terminate this Contract and recover all its loss from the Contractor if the Contractor, its employees or anyone acting on the Contractor's behalf do any of the following things:

- (i) offer, give or agree to give to anyone any personal inducement or reward in respect of this or any other ESPO/[ESPO Client] Contract (even if the Contractor does not know what has been done); or*
- (ii) commit an offence under the Bribery Act 2010 or Section 117(2) of the Local Government Act 1972; or*
- (iii) commit any fraud in connection with this or any other ESPO/ESPO Client Contract whether alone or in conjunction with contractors or employees.*

Any clause limiting the Contractor's liability shall not apply to this clause".

PROCUREMENT PRINCIPLES

RULE 8

General Requirements

- (a) Every Contract or official order for works, supplies or services made by ESPO shall be in accordance with ESPO's Business Strategy and duty of Best Value.
- (b) Procedures set out in the relevant EU Directives, EU Treaties, Acts of Parliament and UK legislation must be complied with at all times.
- (c) Based on criteria laid down by the Director of Corporate Resources, the Director of ESPO will be responsible for evaluating the financial status of Tenderers and suppliers.
- (d) The Procuring Officer/ESPO Client must ensure that sufficient budget provision has been agreed with the budget holder prior to any Procurement Exercise being undertaken.

- (e) Procurement Exercises may be undertaken by electronic means provided that:
 - (i) the requirements of these Rules are followed with only such modifications as may be necessary to allow for procurement by such means; and
 - (ii) any electronic tendering system has been approved by the Director of ESPO.
- (f) Subject to the provisions of Rule 27(b) (Framework Agreements) Contracts shall not be longer than 5 years (including extensions) or of indeterminate length without the written approval of the Director of ESPO on advice of the appropriate Group Buyer. Any such approval shall be sought prior to the commencement of the Procurement Exercise.

PROCUREMENT EXERCISE

RULE 9 ***Pre-Estimate***

- (a) Before any Procurement Exercise is begun the Procuring Officer must calculate its Estimated Value in accordance with this clause.
- (b) The Estimated Value shall be calculated as follows:
 - (i) Where the Contract period is fixed the Estimated Value shall be the total estimated maximum value of the supplies, services or works to be supplied over the period covered including any extensions to the Contract;
 - (ii) Where the Contract period is indeterminate the Estimated Value shall be calculated by multiplying the estimated average monthly value by 48;
 - (iii) For feasibility studies the Estimated Value shall be the value of the scheme or Contracts which may be awarded as a result;
 - (iv) For Concessions the Estimated Value shall be the estimated gross value of the service before income over the Contract period.

- (v) The Estimated Value must exclude Value Added Tax (VAT) but must include all other taxes and duties.
 - (vi) Periodic purchases for the same requirement, whether that is from the same or different suppliers, must be aggregated over a minimum of a 12 month period.
 - (vii) Where ESPO / ESPO Customers contribute to the total value of a Contract, it is the total Estimated Value that should be applied in determining the correct procedures to be applied under these Rules.
- (c) Where there is any doubt as to the Estimated Value then the procedure for the higher threshold in Rule 10 must be used.

RULE 10
Procurement Exercise Process

- (a) Based on the Estimated Value, as identified in Rule 9, Table 1 below makes provision for the minimum requirements for the subsequent Procurement Exercise.

Table 1: Minimum requirements for a Procurement Exercise (for exceptions see Rule 4).

<u>Estimated Value</u>	<u>Contract</u>	<u>Procurement Process</u>	<u>Minimum Contract Opportunity Publication</u>	<u>Documentation</u>
<u>From</u>	<u>Up To</u>			
£0	£1,000	Obtain a minimum of one oral/written Quotation	None	Record details
£1,000	£20,000	Obtain three written Quotations (where practical)	None	Record details. (If three Quotations cannot be obtained a record of the reasons for this must be maintained)

<u>Estimated Value</u>	<u>Contract Up To</u>	<u>Procurement Process</u>	<u>Minimum Contract Opportunity Publication</u>	<u>Documentation</u>
£20,000	£100,000	Seek written Quotations (to be based on a Request for Quotation document where practical)	Website approved by the Director of ESPO for the purpose of notifying the supply market.	Request for Quotation issued by the Procuring Officer and Quotations received.
£100,000	EU Threshold	Formal Tender Process	Website approved by the Director of ESPO for the purpose of notifying the supply market	Formal Tender and sealed bids (may be submitted via an electronic tendering system, see Rule 8(e))
EU Threshold	Above	Formal Tender Process	OJEU and on a website approved by the Director of ESPO for the purpose of notifying the supply market	Formal Tender and sealed bids (may be submitted via an electronic tendering system, see Rule 8(e))

(b) Details of oral Quotations must be recorded appropriately.

RULE 11

Selection and Award Evaluation Criteria

- (a) A Procurement Exercise must include both selection and award criteria;
- (b) Selection criteria must be included in the evaluation process where employing the Open Tendering procedure (Rule 14) or must be the only criteria used for the shortlisting methodology where employing the Restricted procedure (Rule 15).

RULE 12
Award Methodology and Evaluation Criteria

- (a) The award methodology must be either:
- the most economically advantageous Tender based on a range of predetermined evaluation criteria which must be set out in the Invitation to Tender; or
 - the lowest price (where ESPO/ESPO Client is to pay the supplier); or
 - the highest price (where the supplier is to pay ESPO/ESPO Client).
- (b) Before a Contract can be awarded the supplier must meet the minimum standard for the selection criteria where included in the evaluation process where employing the Open Tendering procedure (Rule 14) or where the only criteria used for the shortlisting methodology where employing the Restricted procedure (Rule 15).
- (c) In the case of a Procurement Exercise with an Estimated Value of £100,000 or more the award methodology must be agreed in consultation with the appropriate Group Buyer/ESPO Client and recorded in writing by the Procuring Officer in advance of the issue of the Invitation to Tender and a copy retained on file.
- (d) In all cases where the Estimated Value is equal to or exceeds the EU threshold the process for identifying a most economically advantageous Tender including evaluation criteria, must be prepared in consultation with the ESPO Client in advance of the issue of the Invitation to Tender and a copy retained on file.
- (e) The Procuring Officer must notify all Tenderers of the award methodology and evaluation criteria being used in the case of the Contract in question. If weightings are to be applied to the criteria then the Procuring Officer must ensure that these are also incorporated into the Invitation to Tender.

RULE 13
Contract Opportunity Publication

- (a) Unless otherwise agreed by the Director of ESPO the Procuring Officer must ensure, for all Procurement Exercises with an Estimated Value of £20,000 or more but less than the relevant EU Threshold, that public notice is given on a website approved by the Director of ESPO for the purpose of notifying the supply market.

- (b) The publication of the Contract Opportunity Publication must be made at least fifteen days before the last date for receipt of Tenders or Quotations, where an Open Tendering procedure is being used, and at least fifteen days before the last date for receipt of Pre-Qualification Questionnaires or Expressions of Interest, where a Restricted Tendering procedure is being used.
- (c) The Contract Opportunity Publication must express the nature and purpose of the Procurement Exercise, stating where further details may be obtained and inviting Tenders or Quotations in response to the Contract Opportunity Publication.
- (d) If the Estimated Value exceeds the relevant EU Threshold the Procuring Officer must ensure that the Contract Opportunity Publication is first published in the OJEU and then on a website approved by the Director of ESPO for the purpose of notifying the supply market. Part B Services need only be advertised on a website approved by the Director of ESPO for the purpose of notifying the supply market.
- (e) Under no circumstances must a Contract Opportunity Publication appear in any form before publication in the OJEU and neither should any advertisement contain any more information than that published in the OJEU.
- (f) Rule 13 is a minimum requirement and does not preclude further Contract Opportunity Publication where appropriate (e.g. in the local newspaper, trade or professional journal, the ESPO website).

PROCUREMENT PROCESS

RULE 14 ***Open Tendering***

Under Open Tendering, the Procuring Officer must send Invitations to Tender to all those Persons who respond to the Contract Opportunity Publication and who meet the requirements stated therein.

RULE 15
Restricted Tendering

- (a) Rule 15 applies to Tenders where the Estimated Value is equal to or exceeds the EU Threshold.
- (b) Under Restricted Tendering, the Procuring Officer need only send Invitations to Tender to:
 - (i) not less than five of the Persons who respond to the Contract Opportunity Publication and who best meet the shortlisting methodology agreed in Rule 12(b); or
 - (ii) where fewer than five Persons have applied or are considered suitable, to all those Persons who equal or exceed the minimum requirements for the shortlisting methodology agreed in Rule 12(b).
- (c) The shortlisting criteria and process must be prepared (in consultation with the ESPO Client) in advance of the issue of the Pre-Qualification Questionnaire and a copy retained on record.
- (d) All Persons that do not qualify for inclusion on the shortlist to receive an Invitation to Tender must receive notice that they have been excluded from the Procurement Exercise. Any Person requesting in writing the reasons why they were unsuccessful shall be informed by the Procuring Officer of the reasons for ESPO/ESPO Client decision.

RULE 16
Negotiated Procedure and Competitive Dialogue Procedure

- (a) Where the Negotiated Procedure or Competitive Dialogue Procedure is used the requirements of the EU Directive and where appropriate these Rules shall be followed.
- (b) The Negotiated Procedure or Competitive Dialogue Procedure must only be used with the prior approval of the Director of Corporate Resources.

[Note: A short briefing note for the approval of the Director of Corporate Resources, in consultation with the County Solicitor, is required to justify the use of the Negotiated Procedure or Competitive Dialogue Procedure. For

example, in the case of the Competitive Dialogue Procedure, this note would need to show how the proposed procurement satisfied the twofold test, that:

- (i) the use of the open or restricted procedure would not allow the award of Contract; and*
- (ii) the procurement would be considered complex.]*

RULE 17
Invitations to Tender

- (a) Every Invitation to Tender must specify the latest day and hour and the place appointed for the receipt of Tenders and, for Tenders where the Estimated Value is £100,000 or more, must state the effect of Rule 18.
- (b) The Procuring Officer must give all Tenderers the same information about the Procurement Exercise and in particular information relating to the tender process, specification, award methodology and evaluation criteria.
- (c) The Procuring Officer must also give all Tenderers the same information relating to questions, answers and clarifications raised during the Procurement Exercise unless they relate solely to another Person's Tender.
- (d) Tenders, where the Estimated Value is £100,000 or more, must be addressed to and opened by the Director of ESPO or handled via an electronic tendering system approved in accordance with Rule 8(e).
- (e) Where Tenders are to be received by the Director of ESPO, the Procuring Officer must send to the Director of ESPO a note of the subject and the closing date and time and (where appropriate) a list of the Persons invited to tender together with the Estimated Value before the closing date for receipt of Tenders.

RULE 18
Irregular Tenders

- (a) An Irregular Tender must not be accepted by either the Director of ESPO or the Procuring Officer, other than in accordance with this Rule.
- (b) A Tender is not valid unless it has been delivered to the place appointed in accordance with Rule 17 and not later than the appointed day and hour.

- (c) Tenders where the Estimated Value is £100,000 or more are not valid unless they are received in a plain sealed envelope or parcel addressed to the Director of ESPO. The envelope or package must bear the word "Tender" followed by the subject to which it relates.
- (d) Where a Tender has been received which is an Irregular Tender in that it does not fully comply with the instructions given in the Invitation to Tender and/or because it is received after the appointed time for receipt or does not comply with Rules 18(b) and 18(c), the provisions of Rules 18(e) and 18(f) apply.
- (e) A Tender received after the closing date and time can be opened and evaluated in accordance with Rule 19 if there is clear evidence of it having:-
 - (i) been posted by first class post at least a day before the closing date; OR
 - (ii) been posted by second class post at least three days before the closing date; OR
 - (iii) been placed in the custody of a courier who has provided written assurance of delivery prior to the closing date and time.
- (f) If in other cases of Irregular Tenders the Director of ESPO, in consultation with the County Solicitor, considers that there are exceptional circumstances and that the Tenderer who submitted the Irregular Tender has gained no advantage from its irregularity he or she may determine to accept the Irregular Tender and authorise that it be opened and evaluated together with any other Tenders in accordance with Rule 19. The Director of ESPO shall record in writing the reasons why each Irregular Tender has been accepted or rejected.
- (g) Irregular Tenders that the Director of ESPO has rejected under this Rule must be returned to the Tenderer by the Director of ESPO with a covering letter stating the reason for their rejection.

RULE 19

Receipt and Opening of Tenders

- (a) Rule 19 applies to Tenders where the Estimated Value is £100,000 or more.
- (b) On receipt, envelopes containing Tenders must be date and time stamped by the Director of ESPO and shall remain in his custody until they are opened. The Director of ESPO must keep a record of all Tenders received.

- (c) Tenders must be opened at one time in the presence of not less than two Officers one of whom is not involved in the Procurement Exercise and who is designated by the Director of ESPO. Each Officer must initial each Tender once opened which must also be date stamped.
- (d) Particulars of all Tenders opened must be entered by the Director of ESPO upon the record which must be signed by the Officers present at the opening, together with a note of all irregular Tenders.
- (e) The Director of ESPO must forthwith send a copy of the record to the appropriate Procuring Officer (with the Tenders) and must retain a copy himself.

RULE 20

Errors or Discrepancies in Tenders

- (a) Tenderers are not allowed to alter their Tenders after opening save in accordance with this Rule or Rule 21.
- (b) Where it is suspected that there has been an error in a Tender and following the closing date for receipt of Tenders but before acceptance of any Tender discussions may take place with Tenderers in order to seek clarification from Tenderers.
- (c) A written note of the discussions must be made by the Procuring Officer to record the suspected error, date, time, detail of the discussion and any agreement reached.

RULE 21

Discussions and Post Tender Negotiations

- (a) Subject to Rule 21(c), in the case where the Estimated Value was below the EU Threshold, and following the closing date for receipt of Tenders but before acceptance of any Tender, the Procuring Officer may carry out Post Tender Negotiations in an attempt to secure improvements in the price or economic advantage in one or more of the following circumstances:
 - (i) where the most competitive Tender (according to the pre-determined award methodology and evaluation criteria) submitted exceeds the Estimated Value;

- (ii) where it is considered that the price of the most competitive Tender submitted does not represent the Best Value for money that can reasonably be obtained;
 - (iii) where Tenders have been invited only on the basis of unit prices or a schedule of rates and the lowest in aggregate is not the lowest on all items;
 - (iv) where the most competitive Tender contains conditions, trading terms, guarantees, or provisions relating to performance or service delivery less favourable than in other Tenders, or than stipulated for and this defect appears capable of being remedied by Post Tender Negotiations.
- (b) When conducting Post Tender Negotiations, as part of a Procurement Exercise where the Estimated Value is £100,000 or more (but below the EU Threshold) and subject to Rule 21(c), only the Tenderer submitting the most competitive Tender in accordance with the award methodology and evaluation criteria (Rule 12) may be invited to participate in Post Tender Negotiations.
- (c) When conducting Post Tender Negotiations, the following additional rules shall apply:
- (i) At no time during the negotiations must a Tenderer be informed of the detail of any other Tender submitted or as to whether or not the Tender he submitted was the lowest.
 - (ii) During negotiations in person there must always be present at least two Officers or ESPO Client officers.
 - (iii) A note of the negotiations will be made by one of the officers referred to in the preceding rule present recording those present, the time and location of the negotiations, detail of the discussion and any agreement reached.
 - (iv) Post Tender Negotiations shall not enable any material departure from the published specification. The County Solicitor shall determine whether any proposed change to the specification constitutes a material departure and whether as a consequence other Tenderers shall be permitted to participate in Post Tender Negotiations and/or

whether new Tenders should be invited, to avoid any potential allegations of competition being distorted.

- (d) Post Tender Negotiations are not allowed in the case of Contracts with an Estimated Value exceeding the relevant EU threshold. However, clarifications of errors or discrepancies in Tenders may take place in accordance with Rule 20.

AWARD OF CONTRACT

RULE 22

Acceptance of Tenders

- (a) A Tender can only be accepted in accordance with the initial award methodology and evaluation criteria as set out in Rule 12. Any evaluation sheets must be maintained on file in accordance with Rule 33.
- (b) Any Tender with an Estimated Value of below £20,000 (where a Request for Quotation or an Invitation to Tender is not used) may only be accepted with the prior written approval of the Director of ESPO.
- (c) If the Tender to be accepted exceeds the budget which was agreed in accordance with Rule 8(d) the Procuring Officer must ensure that sufficient funds are available and approved by the ESPO Client, appropriate budget holder, Director of ESPO, or the ESPO Management Committee as appropriate, prior to accepting the Tender.
- (d) An abnormally low Tender may not be rejected without first giving the Tenderer the opportunity to explain the tendered price.
- (e) The Director of ESPO shall have the authority to accept a Tender but in any particular circumstance may decline to give approval and refer the decision to the ESPO Management Committee to determine.

RULE 23***Notification of Contract Award***

- (a) The Procuring Officer must notify the successful Tenderer of the acceptance of their Tender and for all Procurement Exercises with an Estimated Value of £1,000 or more this notification must be in writing.
- (b) In the case where the Estimated Value is £20,000 or more the Procuring Officer must notify in writing all Tenderers who submitted a Tender of the decision as soon as possible after the decision has been made.
- (c) In the case where the Estimated Value is equal to or above the appropriate EU Threshold, the following additional Rules shall apply:
 - (i) The notice in rule 23 (b) shall include the award criteria, the reasons for the decision, including the successful Person's score, the score (if any) of the Person receiving the notice, and the characteristics and (if appropriate) relative advantages of the successful Person's Tender, any reasons why the recipient of the notice did not meet the technical specification, the name of the Person awarded the Contract, as well as the date when the standstill period required in accordance with Rule 23 (c) (ii) will come to an end.
 - (ii) A minimum period of 10 calendar days must elapse between the day of sending the notice in Rule 23 (b) and the date on which ESPO/ESPO Client enter into a Contract if the notice is sent electronically. Where the notice is sent by other means then either 15 days from the day of sending the notice or 10 days from the day of receipt of the notice by the last Tenderer. to receive the notice. In all cases counting the day after sending the notice as day 1. The standstill period must end on a working day.
 - (iii) The Procuring Officer shall ensure that an OJEU Contract award notice is placed within 48 days of the Contract award.

RULE 24
Form of Contract

- (a) A Contract shall be formed:
- (i) by exchange of letter accepting the successful Tender or Quotation and incorporating the Invitation to Tender or Request for Quotation and the outcome of any subsequent negotiations and discussions; or
 - (ii) by completion of a formal Contract incorporating the Invitation to Tender or Request for Quotation, the Tender or Quotation and the outcome of any subsequent negotiations and/or discussions; or
 - (iii) by placing an order in accordance with Rule 25.
- (b) In determining and negotiating the terms and conditions of Contract, the Procuring Officer must ensure that the appropriate Standard Terms and Conditions are incorporated unless the Procuring Officer having consulted the Director of ESPO and the County Solicitor considers it inappropriate to do so.
- (c) All Contracts with an Estimated Value of £20,000 or more must be in writing and where appropriate the Director of ESPO shall:
- (i) ensure that the Contract includes a definition of the circumstances that will be considered to constitute a default on the terms of the Contract by the supplier. The Contract must provide for notice of default to be given to the supplier and for any resulting losses to be recovered from the supplier if the default is not rectified.
 - (ii) decide whether it is necessary to require suppliers to provide a Performance Bond with a third party. The need for this will depend on an assessment of the risk associated with the Contract or the supplier.
 - (iii) ensure that the Contract provides for the supplier to have an insurance policy, which can be inspected during the Contract period. The Director of ESPO shall be consulted on the insurance requirements.

[Note: Insurance Levels (which may be amended for a specific Procurement Exercise, where appropriate, and agreed by the Procuring Officer with the Servicing Authority's Insurance Manager):

- *Employers Insurance = £10m (for each and every occurrence)*
- *Public/Third Party Insurance (including Products Liability, if needed) = £10m (for each and every occurrence)*
- *Professional Indemnity (where appropriate) = £2m.*

To vary the insurance levels for a particular Procurement Exercise approval must be gained from the Servicing Authority's Insurance Manager, or the ESPO Client Insurance Manager as appropriate.]

- (iv) consult the Director of ESPO on the appropriate VAT requirements.

[Note: Should any advice on VAT be required for a particular Procurement Exercise, contact the Servicing Authority's Technical Accountant - Taxation Co-ordinator]

- (d) Every Contract must be signed by the Director of ESPO or an Officer designated by him or her and in cases determined by the County Solicitor shall be under seal in the form prepared or approved by him or her.
- (e) Except after consultation with the County Solicitor, work or services must not be authorised to commence or goods to be supplied where such works, services or goods are to be the subject of a Contract under seal until the County Solicitor has advised that the Contract has been signed by the supplier.

RULE 25

Orders for work, goods and services

Orders for work, goods and services must only be placed in accordance with Instruction 8 of the Standard Financial Instructions.

STANDING LISTS**RULE 26*****Standing Lists***

- (a) Standing Lists must not be created or added to without the prior written approval of the Director of ESPO in consultation with the appropriate Group Buyer.
- (b) The Procuring Officer must not use a Standing List where the Total Value of Contracts to be awarded using the Standing List is estimated to exceed the relevant EU Threshold.
- (c) The Standing List must contain the names of all Persons who are approved and indicate the categories of Contract and the values or amounts in respect of those categories for which those Persons are approved.
- (d) At least four weeks before a list is first compiled, the Procuring Officer must publish on a website approved by the Director of ESPO for the purpose of notifying the supply market, a Contract Opportunity Publication inviting applications by a specified date for inclusion in it.
- (e) The Procuring Officer must renew all Standing Lists at intervals not exceeding four years. At least four weeks before each renewal, each Person whose name appears in the list must be notified by the Procuring Officer of the intention to review the list. If they wish to remain on the list they must re-apply for inclusion. The Procuring Officer must ensure that the Contract Opportunity Publication inviting applications for inclusion in the list are published in the manner provided by Rule 26(d).
- (f) In the case where the use of a Standing List has been authorised the Procuring Officer must send Invitations to Tender to not less than four of the Persons from among those approved for a Contract of the relevant category and amount or value. Where fewer than four Persons are approved for a Contract of the relevant category and amount or value Invitations to Tender shall be sent to no fewer than three Persons. Where there are fewer than three Persons the procedure for Standing Lists must not be used unless the appropriate Group Buyer advises otherwise.
- (g) The Procuring Officer in consultation with the appropriate Group Buyer shall determine the criteria for selecting Persons from the list.

- (h) In such circumstances as the Director of ESPO shall determine, the Procuring Officer shall provide such information as shall reasonably be necessary of the extent to which Standing Lists have been utilised.

FRAMEWORK AGREEMENTS

RULE 27

Framework Agreements

- (a) The Procuring Officer must establish all Framework Agreements in accordance with these Rules.
- (b) Framework Agreements must not be awarded for more than 4 years, including any extensions without the prior written consent of the Director of ESPO.
- (c) All suppliers on the Framework Agreement must be invited to participate in a Further Competition unless it is clear from the terms of the Framework Agreement which supplier best meets the award methodology set out in the Framework Agreement in which case that supplier may be selected.
- (d) An open Framework Agreement which allows for new suppliers to be added to the Framework Agreement throughout its duration may be used where the Estimated Value is below the EU Threshold or for Part B Services where the full regime of the Public Contracts Regulations 2006 is not considered applicable. In this case consistent evaluation criteria and award methodology must be set out in the Invitation to Tender, and then employed when awarding Persons a place on the Framework Agreement.

RULE 28

Dynamic Purchasing Systems

The Procuring Officer must only establish Dynamic Purchasing Systems with the prior written approval of the Director of ESPO and in accordance with the requirements of the EU Directives and these Rules where appropriate.

CONTRACT AMENDMENTS**RULE 29*****Contract Variations***

- (a) Prior to any extra or variation being agreed the Procuring Officer must ensure that sufficient additional budget provision has been approved by the budget holder, or ESPO Client.
- (b) If the Total Value of the Contract is under £100,000 the Director of ESPO, in consultation with the County Solicitor, shall be authorised to vary the Contract. This authorisation must be issued before the work is carried out, or in the case of an emergency, immediately thereafter.
- (c) In the case of a Contract with a Total Value of £100,000 or more, for any extra(s) or variation(s) that would increase or decrease the Total Value of the Contract by 10% or more the Director of ESPO shall before making any variation to the Contract consult the County Solicitor and must gain the prior approval of the ESPO Client. This approval must be issued before the work is carried out, or in the case of an emergency immediately thereafter.
- (d) In the case of a Contract which was originally approved by the ESPO Management Committee and where any extras or variations are considered significant by the Director of ESPO then the ESPO Management Committee must be informed as soon as practicable.

RULE 30***Contract Extensions***

- (a) If the Contract was originally approved by the ESPO Management Committee and where the duration of the planned extension is more than three months and not provided for in the Contract then authority must be gained from the ESPO Management Committee. In all other circumstances the following applies:
 - (i) If the Total Value of a Contract, including the planned extension, is under £100,000 and the Contract provides for the extension the Director of ESPO shall be authorised to extend the Contract.
 - (ii) If the Total Value of a Contract, including the planned extension, is £100,000 or more and the Contract provides for the extension the Director of ESPO

shall be authorised to extend the Contract in consultation with the appropriate Group Buyer.

- (iii) If the Total Value of a Contract, including the planned extension, is under £100,000 and the Contract does not provide for the extension the Director of ESPO shall be authorised to extend the Contract on a one-off basis, provided that the extension does not exceed 6 months or a Total Value of £25,000, whichever is the greater. If the extension does exceed the greater of 6 months or a Total Value of £25,000 then the prior approval of the Director of ESPO must be gained.
- (iv) If the Total Value of a Contract, including the planned extension, is £100,000 or more and the Contract does not provide for the extension the Director of ESPO must gain the prior approval of the Director of Corporate Resources to extend the Contract.
- (f) In the case of Contracts tendered in accordance with the EU Directive any extension will only be permissible if this was properly described in the original OJEU notice, where applicable.

RULE 31

Novation of Existing Contracts

The novation of a Contract to a new Person requires the prior written approval of the Director of ESPO in consultation with the County Solicitor.

RULE 32

Early Termination of Contracts

Unless a provision for early termination is clearly stated in the Contract and takes effect, the Procuring Officer shall seek advice from the County Solicitor where it is intended to terminate a Contract early. Where the Total Value of the Contract is £100,000 or more the prior written approval of the Director of ESPO shall be obtained.

MISCELLANEOUS PROVISIONS**RULE 33*****Document Retention***

- (a) All Contract records that might be required in court proceedings must be retained for at least six years and any under seal for at least twelve years from expiry of the Contract.
- (b) Where the Contract is externally funded any contingent liabilities and/or grant conditions must be taken account of by the length of the retention period.

RULE 34***Supervision of Contracts by Third Parties***

- (a) The Procuring Officer shall ensure that it is a condition of any Contract between ESPO and any Person (not being an Officer of ESPO) who is involved in a Procurement Exercise or the management of a Contract on behalf of ESPO that in relation to that Contract he or she must comply with the requirements of these Rules and other reasonable requirements of ESPO.
- (b) Such Person must:
 - (i) at any time during the carrying out of the Contract produce to the Director of ESPO or his representative or ESPO Auditor on request all records maintained by him or her in relation to the Contract; and
 - (ii) on completion of the Contract transmit all records to the Director of ESPO.

RULE 35***Nominated Sub-Contractors and Suppliers***

- (a) Where a sub-contractor or supplier is to be nominated by ESPO/ESPO Client to a main contractor, the provisions of these Rules shall have effect.
- (b) The terms of an Invitation to Tender under Rule 17 must require an undertaking by the Tenderer that, if selected, they will be willing to enter

into a Contract with the main contractor on terms which indemnify the main contractor against their own obligations under the main Contract in relation to the work, supplies or services included in the sub-contract.

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SCHEDULE 1 to Appendix 7***Interpretation***

1. "Best Value" is as described in Section 3 of the Local Government Act 1999 namely arrangements to secure the continuous improvement in the way in which functions are exercised having regard to a combination of economy, efficiency and effectiveness.
2. The "Chief Executive" is the Chief Executive Officer of the Servicing Authority, Leicestershire County Council
3. "Concessions" are contracts of the same type as public service contracts, except for the fact that the consideration for the provision of services or works consists either solely in the right to exploit the service or work, or in this right together with payment.
4. "Contract" means a binding agreement between two or more parties for performing, or refraining from performing, some specified act(s) in exchange for lawful consideration.
5. "Contract Extension" means an extension to the duration of the Contract, but not including any alteration to the scope of the Contract.
6. "Contract Opportunity Publication" is the means by which a Procurement Exercise is advertised and includes (where appropriate) the 'Contract Notice' as defined in the Public Contract Regulations 2006.
7. "Contract Variation" means an alteration to the scope of the Contract, but not the extension of the duration of the Contract.
8. The "County Solicitor" is the County Solicitor of the Servicing Authority, Leicestershire County Council.
9. The "Director of Corporate Resources" is the Director of Corporate Resources of the Servicing Authority, Leicestershire County Council, and acts as the Consortium Treasurer.

10. "Dynamic Purchasing System" means a completely electronic process, which has a limited duration, for making commonly used purchases, as more particularly defined and described in the Public Contract Regulations 2006.
11. The "ESPO Management Committee" is the joint committee already established by the Member Authorities pursuant to Sections 101(5) and 102 of the Local Government Act 1972 Section 9EB of the Local Government Act 2000 and Section 1 of the Local Authorities (Goods and Services) Act 1970 to act as a central purchasing body for the purposes of the Public Contracts Regulations 2006 and continuing under this Agreement and bearing the trading name "ESPO".
12. "ESPO Client" means a group of ESPO Member Authorities and/or Customers, for which ESPO is managing a procurement process.
13. "Estimated Value" means the value as estimated under Rule 9.
14. "EU Threshold" means the respective threshold for Supplies, Works or Part A Services Contracts referred to in the Public Contract Regulations 2006.
15. "Formal Tender Process" is a process following the requirements of Open Tendering, Restricted Tendering, Standing List, Negotiated Procedure or Competitive Dialogue
16. "Framework Agreement" is a general term for agreements with suppliers which set out terms and conditions under which specific purchases (call-offs) can be made throughout the term of the agreement. The Framework Agreement may, itself, be a Contract to which the EU procurement directives apply.
17. A "Further Competition" is undertaken where not all the terms of a proposed Contract are laid down in a Framework Agreement. It involves re-opening competition between the economic operators which are parties to the Framework Agreement and which are capable of performing the proposed Contract, on the basis of the same or, if necessary, more precisely formulated terms, and where appropriate other terms referred to in the Contract documents based on the Framework Agreement.
18. The "Group Buyer" is the most senior Procurement Officer within an ESPO buying section, and is responsible for managing the section

19. "Invitation to Tender" means the document(s) containing the specification, proposed terms and conditions and other appropriate information as issued to the Tenderers to solicit Formal Tenders.
20. "Irregular Tender" means a Tender that does not fully comply with the instructions given in the Invitation to Tender.
21. "Officer" means an employee of ESPO.
22. "OJEU" means Official Journal of the European Union.
23. "Part A Services" are defined in The Public Contract Regulations 2006¹, and are distinct from the other type of services, Part B Services, defined in the Regulations. The Regulations that apply to the two types of service are different, with the procurement of Part A Services being more heavily regulated than for Part B Services.
24. "Part B Services" are also defined in The Public Contract Regulations 2006, and are distinct from the other type of services, Part A Services, defined in the Regulations. The Regulations that apply to the two types of service are different, with the procurement of Part A Services being more heavily regulated than for Part B Services.
25. "Person" includes a partnership, body corporate or unincorporated association.
26. "Post Tender Negotiations" means the ability to negotiate with a Tenderer after a Tender has been opened and evaluated in accordance with the published evaluation criteria for the purposes of securing an improvement in the delivery of the Contract including but not limited to improvements in price.
27. "Procurement Exercise" means any process by which goods, services and/or works are to be procured including but not limited to Request for Quotations and Formal Tender Processes. For the purpose of these Rules a Contract for a Concession shall be treated as a Procurement Exercise.
28. "Procuring Officer" means any Officer, acting under the delegated powers of the Director of ESPO, who is responsible for the procurement of goods and services.

¹ <http://www.opsi.gov.uk/si/si2006/20060005.htm>

29. A "Quotation" is an offer to sell works, goods and/or services at a stated price under specified conditions. A Quote or Quotation may or may not be written.
30. "Request for Quotation" ("RFQ") means a document or documents containing the specification, and proposed terms and conditions issued to potential suppliers to solicit written Quotations.
31. "Standard Terms and Conditions" means the standard contractual terms used by ESPO, including those attached to iprocurement orders (or orders generated by 'line of business' systems, those included in Request for Quotation templates, and standard industry terms.
32. "Standing List" means a list of Persons which has been established in accordance with Rule 26.
33. "Tender" means the formal offer from a Tenderer, which is capable of acceptance by ESPO/ESPO Client, which is a response to an Invitation to Tender. It shall include all documents comprising the submission including pricing, technical specification and method statements as well as information about the Tenderer. A written Quote or Quotation is also a Tender.
34. "Tenderer" or "Tenderers" means the Person or Persons invited to participate in a Procurement Exercise.
35. "Total Value" means the value of a Contract which has been calculated in accordance with Rule 9(b) (excluding Rule 9(b)(vi)) reading where appropriate Total Value for Estimated Value.
36. "In writing" or "written" for the purpose of interpreting these Rules includes transmission by any electronic means which have been approved by the County Solicitor in consultation with the Director of Corporate Resources.

[End of Contract Procedure Rules]

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SCHEDULE 2 TO CONSORTIUM AGREEMENT**ESPO SERVICES**

The ESPO Services are those services that are/shall be provided through ESPO to Member Authorities and Customers comprising of:

- A. **'Existing ESPO Core Services'**: Those services that are guaranteed to be provided to Member Authorities (and are currently available from the date of this Agreement).
- B. **'Additional ESPO Services'**: Those services that may be provided to Member Authorities and Customers (and which are currently available from the date of this Agreement) at an additional cost agreed with the commissioning Member Authority (or Authorities) or Customer. This creates a commercial opportunity to provide the Additional ESPO Services to Customers on a subscription basis.
- C. **'Developing ESPO Services'**: Those services that are not currently available to Member Authorities or Customers but are recognised as being desirable to be provided through ESPO to them at a later date (subject to agreement on funding and delivery timescales). Again, this creates a commercial opportunity to provide the Developing ESPO Services to Customers on a subscription basis.

A. EXISTING ESPO CORE SERVICES**1. Catalogue**

- 1.1 A catalogue service providing access to a comprehensive range of goods and services.
- 1.2 The catalogue service includes commodity items held in stock and delivered through ESPO and other items for which the orders and invoices are managed through ESPO but are delivered directly by suppliers.
- 1.3 Electronic trading and transaction requirements and Member Authorities' electronic catalogue requirements are understood and supported wherever possible.

2. Energy

- 2.1 Procurement of energy – subject to a 'charge per meter reference point' for Member Authorities and Customers.

- 2.2 Setting up contracts and pricing negotiations and facilitate the provision of detailed electronic transaction data to enable Member Authorities and Customers to automate the production of management information.
- 2.3 Provision of an energy bill validation service.

3. Frameworks and Public Contracts

- 3.1 The frameworks service including local, regional and national frameworks where appropriate, and the co-ordination of these arrangements with other purchasing bodies, comprising of:
 - (a) Frameworks where negotiation and strategic contract management (but not call off contracts) is led by ESPO on behalf of Member Authorities and Customers;
 - (b) Frameworks negotiated and set up for an individual Member Authority (or group of Member Authorities) or Customers which are strategically managed through ESPO and offered to other Member Authorities and Customers where requested;
 - (c) Consultancy (i.e. ESPO identifying the most appropriate framework arrangement available to Member Authorities and Customers negotiated by another public sector purchasing body);
 - (d) Frameworks where ESPO has involvement in the development and negotiation on behalf of Pro5 or other collaborative arrangement (e.g. with GPS);
 - (e) Strategic contract management (that is, the management by ESPO of a supplier's individual framework agreement via regular supplier relationship meetings as appropriate having regard to the nature of the framework in question); and
 - (f) Managing agreed core lists and catalogues as required.
- 3.2 The negotiating and setting up of public contracts for individual Member Authorities (or group of Member Authorities).

Member Authorities have agreed that the provision of the Existing ESPO Core Services will be based on the following Key Principles:

Key Principles
<ul style="list-style-type: none"> • Insofar as is reasonable, ESPO will seek to prioritise members requests for procurement support over other competing priorities • Trading services will achieve a minimum of 3.5% return on resources employed (before the subsidy for knowledge-based support) • Traded services will be competitive and cost effective • Frameworks will enable Member Authorities and Customers to reduce the costs of purchasing goods and/or services and procurement – ESPO frameworks will aim to be the ‘best in class’ in terms of cost and quality. • Where Member Authorities and Customers choose to participate in framework contracts, they make and honour a commitment to make use of those contracts to maximise value (unless there are legal reasons not to do so) • ESPO will work with other public sector buying organisations to avoid the duplication of contracts and frameworks • ESPO will provide a 'best deals' service, signposting the Member Authorities and Customers to the most appropriate procurement solution

For ESPO cost implications for ‘Core Services’ see Table D1.

B. ADDITIONAL ESPO SERVICES

1.1 Additional Services will comprise of (a) ‘**Consulting**’ and (b) ‘**Major Projects**’ services.

1.2 The service offering shall include:

- (a) **Ongoing Support:** Where Member Authorities or Customers requires additional ‘*business as usual*’ support through ESPO (such as general category management knowledge and experience); and
- (b) **Specific Professional Support** – Where Member Authorities or Customers require additional procurement support services for a specific procurement

exercise and/or for other project based work (such as specialist procurement support such as outsourcing advisory or strategic commissioning).

- (c) **Conducting multi-customer mini-competitions** under existing frameworks to get best value from committed volume.

1.3 The Additional Services would provide Member Authorities (and Customers) with access to skilled procurement professionals at a lower cost than may be charged by an employment agency or professional services firm.

Member Authorities have agreed that the provision of the Additional ESPO Core Services will be based on the following Key Principles:

Key Principles
<ul style="list-style-type: none"> • Differential pricing that will benefit Member Authorities (and Customers) • Continuous development of expertise and experience through supporting procurement initiatives • Supporting the improvement and efficiency agendas of Member Authorities (and Customers) • Enhancing specialist professional support required by Member Authorities (and Customers) • Enhancing the procurement capabilities within Member Authorities (and Customers) • Developing greater focus across specialist professional support / category expertise

C. DEVELOPING ESPO SERVICES

The following Developing ESPO Services are those that are not currently available to Member Authorities (and Customers) but are currently recognised as being desirable to be provided to them at a later date where required (subject to agreement on funding and delivery timescales).

1 Training and Development

- 1.1 Provision and co-ordination of training and development (using a range of techniques including shadowing) to enhance procurement expertise.
- 1.2 The subject areas offered shall be subject to an agreed programme of training and development approved by SOG.
- 1.3 Wherever possible, ESPO will make use of the expertise and resources available across the Member Authorities,

2 Market Intelligence

- 2.1 Provision of market intelligence focusing on the public and private sector, local government and key, high-profile spend areas (e.g. adult social care).
- 2.2 Market intelligence will take the form of various media, including the facilitation of Member Authority 'group forums' for the dissemination and the collaborative sharing of information. Intelligence should support effective decision making and risk management.
- 2.3 In order to ensure continued competitiveness current framework and catalogue pricing would be benchmarked against alternative sources through SOG to identify the best deals available to Member Authorities and Customers, regardless of whether or not the services procured through ESPO are through the most cost effective supplier.

The Member Authorities have agreed that the provision of the Developing ESPO Services will be based on the following Key Principles:

Key Principles
<ul style="list-style-type: none"> • Differential pricing will benefit Member Authorities (and Customers) • Continuously developing expertise and experience through supporting procurement initiatives of Member Authorities (and Customers) • Supporting the improvement and efficiency agendas of Member Authorities (and Customers) • Through the commitment of Member Authorities, the collective buying power of ESPO will be increased and enhanced • Enhancing the specialist professional support required by Member Authorities (and Customers)

Key Principles
<ul style="list-style-type: none">• Enhancing procurement capabilities within Member Authorities (and Customers); and• Developing greater focus across specialist professional support / category expertise.

D. SUMMARY OF THE ESPO SERVICE OFFERING

This table below (D1) summarises the difference between the ESPO services offered through ESPO to Member Authorities and to Customers:

Table D1.

ESPO Services	Member Authorities	Customers	ESPO Cost Implications
A. Existing ESPO Core Services			
1. Catalogue	Access to Catalogue	Access to Catalogue	Catalogue Sales – generate a margin between the buy price. ESPO does not operate multiple pricing policies so members pay same as non members. However members receive surplus. Catalogue production costs are recovered by a charge to suppliers per page of catalogue advertising space.
2. Energy	Energy procurement, managing contracts and bill validation service	Energy procurement, managing contracts and bill validation service	Energy – fixed on-cost per meter ref point. Again applies to all. Members receive surplus after deduction of overhead costs (at cost)
3. Frameworks and Public Contracts	Existing and new frameworks let and managed Public contracts let for individual member authorities (or group of member authorities)	Existing and new frameworks let and managed	Public contracts – on a fee/ rebate basis as agreed with the individual member authority (or group of member authorities)
B. Additional ESPO Services			

ESPO Services	Member Authorities	Customers	ESPO Cost Implications
1. On-Going Support	ESPO consultancy resources at cost whenever required.	Only offered to Customers on a subscription basis and subject to available resources	Dual charging policy i.e. members at cost, non members – small profit.
2. Specific Professional Support	ESPO consultancy resources at cost whenever required.	Only offered to Customers on a subscription basis subject to available resources	Dual charging policy i.e. members at cost, non members – small profit.
C. Developing ESPO Services			
1. Training and Development	Regular curriculum and training	Only to be offered to Customers on a subscription basis and subject to available resources.	Budgeted from trading account. Charge to non members (proposed)
2. Market Intelligence	Regular production and dissemination.	Only to be offered to Customers on a subscription basis and subject to available resources.	Budgeted from trading account. Charge to non members (proposed)

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SCHEDULE 3 OF THE CONSORTIUM AGREEMENT
FUNCTIONS OF THE SERVICING AUTHORITY

1. STAFF

1.1 All personnel engaged on ESPO (known for ease of reference here as 'ESPO staff') shall be appointed and employed by the Servicing Authority and the terms of employment of the ESPO staff and the Director of ESPO (including all matters relating to remuneration, conditions of service, recruitment and selection, disciplinary and grievance procedures and termination of employment) shall be determined by the Servicing Authority PROVIDED THAT:

1.1.1 in determining terms and conditions of employment of ESPO staff the Servicing Authority shall have due regard to any views of the Management Committee and the Director of ESPO bearing in mind that the terms and conditions of ESPO staff are consistent with those of the Servicing Authority in place at the relevant time. Salary grades shall be assessed by reference to the job evaluation scheme used by the Servicing Authority;

1.1.2 the appointment by the Servicing Authority of the personnel to the role of 'Consortium Secretary' and of 'Consortium Treasurer' of the Management Committee will be subject to the overall approval of the Management Committee;

1.1.3 Elected members of any Member Authority shall not be involved in the selection, appointment, taking of disciplinary action or dismissal of all ESPO staff other than:

1.1.3.1 the Director of ESPO (but only if such involvement is permitted in accordance with the Local Authorities (Standing Orders) (England) Regulations 2001 (statutory and non-statutory chief officers and deputy chief officers within the meaning of Section 2 of the Local Government and Housing Act 1989)); or

1.1.3.2 insofar as the procedures in place from time to time for dealing with disciplinary, capability and related matters allow a right of appeal to elected members of the Servicing Authority (or in the case of the Director of ESPO to the Management Committee);

- 1.1.4 in all other cases such matters shall be the responsibility of the Director of ESPO (or in the case of the Director of ESPO they shall be the responsibility of the Head of Paid Service of the Servicing Authority acting in consultation with the Heads of Paid Service (or other officer as may be designated by a Member Authority) of the other Member Authorities).
- 1.2 The Director of ESPO shall be responsible for the operational day-to-day management and supervision of all ESPO staff.
- 1.3 The Management Committee shall be responsible for the overall management and supervision of the Director of ESPO.
- 1.4 The costs incurred by the Servicing Authority in employing all ESPO staff and making available appropriate professional services, equipment and accommodation shall be reimbursed through ESPO. The Servicing Authority shall (if requested by the Management Committee or any Member Authority) provide any records or information in respect of such reimbursement as soon as is reasonably practical.
- 1.5 The Servicing Authority shall maintain an up to date list of all ESPO personnel which may be shared with the Management Committee or any Member Authority as soon as is reasonably practical.

2. SUPPORT SERVICES

- 2.1 The Servicing Authority shall be responsible for arranging the provision of finance advice, internal audit, insurance services, legal advice, IT support services, committee services, secretarial and administrative support, payroll and human resources advice for and on behalf of ESPO and such other ancillary professional or support services as may be agreed by the Management Committee ensuring the most cost effective approach for the Member Authorities.
- 2.2 The costs of all such support services incurred by the Servicing Authority will be reimbursed through ESPO.
- 2.3 The Servicing Authority shall if requested by the Management Committee or any Member Authority provide any records or information in respect of such reimbursement or recharge as soon as is reasonably practical.

3. CONTRACTS AND PROPERTY

- 3.1 The Servicing Authority shall formally enter into such contracts (including contracts for the purchase of goods and/or services) in relation to ESPO as the Management Committee (or the Director of ESPO acting on its behalf under delegated authority from the Management Committee) may from time to time agree.
- 3.2 The Director of ESPO shall be responsible for the day to day management of such contracts.
- 3.3 The benefit of all such contracts and any Assets owned or acquired for the purposes of ESPO will be held on trust by the Servicing Authority for the Member Authorities in equal shares.
- 3.4 The Servicing Authority shall own and manage the ESPO HQ building at Grove Park Commercial Centre, Leicester on trust for the Member Authorities in equal shares.

4. INSURANCE

- 4.1 The Servicing Authority shall be under a duty to ensure that suitable policies of insurance are put in place at an appropriate level with an insurer of repute against risks connected with the functioning of ESPO and so far as possible shall procure that the interests of all Member Authorities in relation to this Agreement are noted on such policies (and shall inform the Management Committee as soon as practical if the interests of a Member Authority or Authorities cannot be so noted on such policies). A separate insurance programme should be put in place to meet the level of cover as set out in the Financial Regulations included at Schedule 1 Appendix 6 of this Agreement. The cost of insurance will form part of the expenses of ESPO.
- 4.2 The Servicing Authority shall procure that insurance cover is maintained at a level approved by the Management Committee at all times for the activities delivered through ESPO including but not limited to:
- 4.2.1 material damage,
 - 4.2.2 business interruption,
 - 4.2.3 employers' liability,
 - 4.2.4 public and products liability,

- 4.2.5 officials' indemnity,
- 4.2.6 professional negligence,
- 4.2.7 motor fleet,
- 4.2.8 fidelity cover,
- 4.2.9 group personal accident and travel,
- 4.2.10 force majeure,
- 4.2.11 money,
- 4.2.12 engineering,
- 4.2.13 ESPO HQ building at Grove Park Commercial Centre, Leicester.

4.1 In the event that the Servicing Authority is unable to obtain any particular category of insurance either at all or only on terms which the Servicing Authority considers to be uneconomic it shall as soon as reasonably practicable report the circumstances to the Management Committee which shall decide an appropriate course of action.

4.2 In the event of any claim arising out of the activities delivered through ESPO, the Servicing Authority shall ensure wherever possible that any such claim shall be processed through the insurance policy cover outlined in this Schedule 3, clause 4.2 above.

4.3 The Servicing Authority shall, upon being given reasonable notice, make available to the Management Committee or any Member Authority full copies of the insurance cover outlined in clause 4.2 above.

5. PERFORMANCE MONITORING

5.1 It is the overall responsibility of the Management Committee to monitor the performance of ESPO and the Management Committee shall direct what performance monitoring that it wants in place.

5.2 The Servicing Authority, the Director of ESPO, the Consortium Treasurer and the Consortium Secretary shall provide such proactive assistance and information to the Management Committee as it shall reasonably require to enable it to monitor the performance of ESPO which shall include the preparation of reports and taking appropriate action to improve the performance of ESPO.

5.3 The Servicing Authority will make arrangements to ensure that ESPO has in place policies and procedures to comply with the requirements identified by the Management

Committee as being essential to the effective delivery and management of ESPO, including business planning, service planning, financial planning, risk management, emergency management and business continuity, statements of corporate governance, audit arrangements, contract procedure rules and other corporate governance policies and procedures as may be necessary.

6. SERVICE DELIVERY

6.1 In carrying out its functions the Servicing Authority shall:-

- 6.1.1 Proactively provide such information and assistance to the Management Committee to enable the Management Committee to monitor the performance of ESPO.
- 6.1.2 Report regularly to the Management Committee on its activities on a basis to be agreed by the Management Committee.
- 6.1.3 In conjunction with the Director of ESPO and the Consortium Treasurer, advise Management Committee generally as to the resources and arrangements required for the effective operation of ESPO.
- 6.1.4 Advise the Management Committee as soon as is practicable upon receiving knowledge of any actual or potential breach of this Agreement, or any claim that has been issued by a third party against the Servicing Authority which could have a significant financial or reputational impact on the ESPO business, in the name of ESPO or against one or more Member Authority in relation to the functions delegated to the Management Committee.
- 6.1.5 Maintain, and keep up to date, an Assets Register as required under clause 9 of this Agreement.
- 6.1.6 Provide such reasonable assistance as may be required to the Monitoring Officers and Chief Financial Officers of the Member Authorities and notify them of any matters within its knowledge requiring consideration or action by them.
- 6.1.7 Ensure so far as is reasonably practicable that contracts awarded on behalf of ESPO or individual Member Authorities contain novation and exit arrangements including transfer of staff where appropriate in the event of a change in the Servicing Authority or the dissolution of ESPO.
- 6.1.8 Ensure that the costs of carrying out its functions as Servicing Authority under this Schedule are reimbursed through ESPO in a timely fashion.
- 6.1.9 Respond to all reasonable requests of the Management Committee including any decision to terminate the functions of the Servicing Authority.

- 6.1.10 Ensure that ESPO has in place a business continuity plan which is reviewed annually by the Management Committee.
- 6.1.11 Monitor compliance by ESPO with the Business Plan, any policies and standard operating procedures, financial regulations and standing orders agreed by the Management Committee (including without limitation the business continuity plan, contract procedure rules' processes and the risk management framework).
- 6.1.12 Ensure that an anti-bribery policy is put in place for ESPO to ensure that ESPO staff do not commit any of the Prohibited Acts.
- 6.1.13 Take such steps as are required to implement duly made decisions of the Management Committee.
- 6.1.14 Ensure that ESPO's charge out rate is reviewed annually, noting that where charges are to Member Authorities and Customers for one-off projects they should be determined between the parties are necessary.
- 6.1.15 Carry out its functions in accordance with legal requirements and so as to make the most efficient use of resources.
- 6.1.16 In so far as any goods vehicles used by ESPO are operated under a goods vehicle operators' licence (or equivalent) held by the Servicing Authority in the Servicing Authority's name, the Servicing Authority shall have sole responsibility for any and all decisions relating to the operation and management of such vehicles and that licence and shall notify the Management Committee of any significant issues.

ESPO Consortium Agreement
Key Provisions

1. Introduction

This paper summarises the key provisions of the new ESPO Consortium Agreement and explains how the ESPO governance model has been significantly strengthened.

2. Consortium Agreement

The overall objective of the Agreement is for the Authorities to continue to constitute the joint committee (the 'Management Committee') in order to act as a central purchasing body for the purposes of the Public Contracts Regulations 2006 with effect from the Commencement Date for the Term on all of the terms and conditions set out in the Agreement.

The key elements of the Agreement are summarised as follows:

- The Agreement contains all of the overarching terms.
- The **Recitals** set out the overall objectives of, and obligations on, the Member Authorities including that each shall be open and trusting in their dealings with each other, make information available to each other (including the sharing of procurement strategies) and maximise the effectiveness of joint working (Recital C).
- Under Recital D Member Authorities recognise that they are engaged in what could be a long term arrangement in relation to ESPO which may need to adapt and develop over time.
- The Agreement comes into force on the date of execution, may be reviewed by the Authorities at any time due to any circumstances (clause 28), may not be assigned to others other than due to statutory reorganisation (clause 29) and may be varied at any time through the mechanism set out in clause 24.3.
- Leicestershire continues to act as **Servicing Authority**. Clause 11 covers its appointment, resignation and replacement in certain circumstances. Schedule 3 of the Agreement itemises the functions of the Servicing Authority.
- Details are provided for the holding of **assets** by the Servicing Authority on trust for all Authorities (clause 9) and financial arrangements (clause 10) these essentially being that ESPO shall be self-financing and that, save as provided in the Agreement, no capital contribution shall be demanded from Authorities.
- **Indemnities and Liabilities** are covered in clause 14. In short, subject to the Servicing Authority properly fulfilling its obligations under the Agreement, it shall be fully indemnified by the Authorities in equal shares in respect of any claim brought against it in respect of its functions exercised (clause 14.1).
- **Termination** of Membership is covered in clause 15. Any Authority may terminate its membership of the Management Committee giving at least *12 months'* prior written notice expiring at the end of a Financial Year (or such other period as may be agreed unanimously by the Authorities).

- The **effects of Termination** are covered in clause 16. The Management Committee shall meet within one month of notice of termination being issued by one of more Authorities to agree an Implementation Plan for dealing with the consequences including the allocation of assets, staff and contractual issues, liabilities and payments. This may also include the dissolution of the Management Committee (provided that it shall always continue where there are a minimum of two Authorities who wish to continue ESPO).
- The cost consequences of one or more Authorities giving notice of termination are covered in clause 16.2. Such Authority or Authorities shall be liable to the other Authorities for all directly attributable costs arising out of their termination (or where there is more than one, in equal shares).
- In the event that ESPO is **dissolved**, all costs and deficits shall be apportioned in equal shares between the Authorities and all assets distributed likewise (after first being used to defray costs and liabilities) (clause 16.5).
- The Agreement provides for **dispute resolution** escalation from good faith negotiations between authorised officers, to the Director of ESPO and officer groups and then to mediation. Only in circumstances whereby these procedures are exhausted may the dispute proceed to litigation through the court system (clause 18).
- Details are provided on the arrangements for ensuring **confidentiality** and dealing with Information Requests (clause 19) which requires general co-operation between the Authorities.
- Standard **boilerplate provisions** include No Agency or Partnership (clause 17), Notices (clause 21), Waiver (clause 22), Prevention of Corruption and Bribery (clause 23), Governing Law and Jurisdiction (clause 25), Rights of Third Parties (clause 26), Severance (clause 27), Health and Safety (clause 30), Costs of Preparing the Agreement (clause 31) and No Fettering (clause 32).

3. **Schedule 1 to the Consortium Agreement: ESPO Constitution**

The Constitution sets out the governance structure, the functions of the Management Committee, scheme of delegation, financial regulations and financial standing orders, contract procedure rules and procedural standing orders of the Management Committee.

The salient points to take from the Constitution are:

- The Management Committee has overall strategic responsibility for the management, oversight and direction of ESPO. The Management Committee is the sole decision maker on ESPO and may exercise those functions (as described in Section 2 of the Constitution) subject to any delegations as it sees fit (Paragraph 1.1).
- The delegations to the Finance and Audit Committee, Director of ESPO, Consortium Secretary and Consortium Treasurer are clearly itemised within the Constitution to ensure transparency and to provide the necessary comfort to Members that a sub-committee, the Director of ESPO or any officer cannot act beyond those delegations.

- The ESPO Financial Regulations and Contract Procedure Rules should provide the degree of scrutiny and probity that Member Authorities would expect to be observed in their transactions.
- The procedural standing orders of the Management Committee reflect those in place at LCC but only to the extent as relevant to the joint committee set-up.

4. Schedule 2 to the Consortium Agreement: ESPO Services

This Schedule details the agreed ESPO Services that will be provided through ESPO to the Member Authorities and Customers (where applicable).

The proposed new structure for ESPO Services is a 'service menu approach' which will enable the Member Authorities and Customers to draw on ESPO's support in a manner that suits them rather than a 'one size fits all' approach. Three service types are identified:

- **'Existing Core Services'** being those that are guaranteed to be provided to Member Authorities and Customers (and are currently available) comprising (1) Catalogue, (2) Energy, and (3) Frameworks;
- **'Additional ESPO Services'** being those services that may be provided to Member Authorities and Customers (and which are currently available) at an additional cost agreed by the commissioning Authority or Customer comprising (1) Ongoing Support and (2) Specific Professional Support.
- **'Developing ESPO Services'** being those services that are not currently available to Authorities or Customers but are recognised as being desirable to be provided through ESPO to them at a later date (subject to agreement on delivery and funding) comprising (1) Training and Development, (2) Market Intelligence, and (3) Benchmarking.

5. Functions of the Servicing Authority (Schedule 3)

The Agreement ensures that the relationship between Leicestershire (as Servicing Authority) and the other Member Authorities is transparent. Clause 11 covers the Appointment and Resignation of the Servicing Authority. Schedule 3 of the Consortium Agreement ('Functions of the Servicing Authority') provides a clear and transparent agreed list of functions to be performed by the Servicing Authority covering (1) Staff, (2) Support Services, (3) Contracts and Property, (4) Insurance, (5) Performance Monitoring, and (5) Service Delivery.

6. New ESPO Governance Model

By reflecting the views of the Management Committee and the Chief Officers' Group, and incorporating the agreed recommendations of the Deloitte Phase 3 Report on Review of Business Strategy, the ESPO governance model has been significantly strengthened to ensure that there is:

- A minimum layer of decision making.
- Improved transparency of decision making;

- Improved rigour of risk management and financial control;

Within the new ESPO Constitution, the governance model has been strengthened and now comprises four key roles:

- Management Committee, which has overall strategic responsibility for the management oversight and direction of ESPO and comprises political membership. The Functions of the Management Committee are clearly itemised in clause 2 of the Constitution.
- Chief Officers' Group, acting as a forum for executive officer views, advising the Management Committee on the performance of ESPO, business strategy and overseeing the implementation of Management Committee decisions (Appendix 2).
- ESPO Director, who has the operational day-to-day responsibility of ESPO and staff engaged under ESPO who is responsible for implementing Management Committee decisions. The ESPO Director is responsible to the Management Committee who shall have overall responsibility for overseeing and scrutinising his/her activities, and is responsible to the Chief Executive of the Servicing Authority in the context of that employer/employee relationship. The functions of, and delegations to, the ESPO Director are clearly itemised in the Constitution (Appendix 4) to, again, ensure transparency.
- Member Scrutiny/Review boards (the Finance and Audit Committee, the Terms of Reference for which are at Appendix 1 of the Constitution) and other officer stakeholder groups (such as the Senior Officer Group) which can be established or continued from existing arrangements and reported to the appropriate level of the governance model.

A. Performance Management

The new Constitution provides that the overall performance of ESPO shall be overseen by the Management Committee which shall direct what performance monitoring that it wants in place (Clause 2.1.1(b) of the Constitution and Clause 5 of Schedule 3 (Functions of the Servicing Authority). The Management Committee shall be supported in this regard by the Chief Officers' Group and Finance and Audit sub-committee.

The Servicing Authority, the Director of ESPO and the Consortium Officers are under a duty to provide such proactive assistance and information to the Management Committee to enable it to monitor ESPO's performance including taking action to improve the performance of ESPO (Clause 2.1.1(b) of the Constitution and Clause 5 of Schedule 3 (Functions of the Servicing Authority).

The Director of ESPO is responsible for the operational day to day performance of ESPO, achieving the outcomes agreed with Members.

B. Risk Management Framework

The new Constitution provides that the Management Committee is ultimately responsible for ensuring the overall management of risk (para. 2.1 of the Constitution). The following documentation has also been developed to ensure solid legal and risk management foundations:

- Consortium Agreement, setting out the Member Authority obligations, accountability for liabilities and indemnities and the responsibilities of the Servicing Authority (including an auditing function).
- Constitution, which defines the powers of the Management Committee, the scheme of delegation for decision making and risk escalation, Contract Procedure Rules and Financial Standing Orders. Specifically, there is a duty on the Director of ESPO to *'ensure that business risk is appropriately managed and maintain an appropriate risk framework for ESPO with reporting mechanisms to the Management Committee'* (para. 13 of Appendix 4), a role for the Chief Officers' Group to *'deal with any issue of concern or risk to the ESPO business referred to it by the Director of ESPO'* (para 2.14 of Appendix 2 to the Constitution).
- The suite of ESPO documentation including the Risk Management Strategy, Business Plan (including risk register) Customer Access Agreement, Terms and Conditions /Framework Agreements for Suppliers, Statement of Works, Business Continuity Plan should help place where liability rests.

The Management Committee is supported in this regard by the Servicing Authority which is under a duty to put in place arrangements to ensure that ESPO has policies and procedures to comply with the requirements identified by the Management Committee as being essential to the effective delivery and management of ESPO, including risk management, emergency management and business continuity, statements of corporate governance, audit arrangements, contract procedure rules and other corporate governance policies and procedures as may be necessary (Clause 5, Schedule 3 of the Consortium Agreement, Functions of the Servicing Authority).

C. Transparency of Decision Making

The following mechanisms are now in place to ensure that ESPO's operations are effectively governed and transparent:

- The functions and obligations of the Authorities in the Consortium Agreement;
- The functions of the Servicing Authority in Schedule 3 of the Agreement;
- The functions of the Management Committee, and Finance and Audit Sub-Committee in the Constitution;
- The Scheme of Delegation in the Constitution, including delegations to the Consortium Secretary, Consortium Treasurer and Director of ESPO; and
- The process to decide what ESPO Services are provided to the Member Authorities and Customers where applicable (Schedule 2 to the Agreement).

The high level roles and decision making responsibilities are now as follows:

- **Individual Member Authorities:** Agree major changes to the Consortium Agreement and decisions as to the effect of such changes on individual Member Authorities' future involvement.
- **Management Committee:** Minor amendments to the ESPO Partnership Agreement, Appointment of the ESPO Director, Business Strategy, Annual business plan, high risk contracts, ESPO's statement of accounts, withdrawals from the consortium and the termination of the consortium.
- **Chief Officers' Group:** Reviewing and assessing risks/decisions escalated by the Director of ESPO and ensuring that the Management Committee is adequately briefed.
- **Director of ESPO:** Operational management of the ESPO business.

Vicky Newbold
Chair of Law and Governance Group
15 February 2013



ESPO MANAGEMENT COMMITTEE – 7 MARCH 2013

AGENDA ITEM 6.

REPORT OF THE CONSORTIUM SECRETARY AND CONSORTIUM TREASURER

ESPO CHANGE PROGRAMME CLOSURE

Purpose of Report

1. The purpose of this report is to seek formal agreement to close ESPO's Change Programme.

Background

2. Following the Member led review initiated at a special meeting of the Management Committee on 24 September 2010 and facilitated by Deloitte, the Change Programme was mobilised and a Programme Initiation Document outlining delivery approach and timescales was developed and approved by the Management Committee on 3 November 2011.
3. Four workstreams were established and led by:
 - a) Legal & Governance workstream led by Warwickshire County Council
 - b) Business Strategy & Efficiencies workstream led by ESPO
 - c) HR Category Management Pilot led by Lincolnshire County Council
 - d) People & Performance led Leicestershire County Council

Delivery of Programme Outcomes

4. A considerable amount of resource and effort, both by ESPO and member authorities, has been put in to the delivery of the desired outcomes and all deliverables defined within the Programme Initiation Document (PID) have been completed.
5. The Programme Closure Report (attached as an appendix to this report) details progress of each key deliverable against the success criteria agreed by the Management Committee, with input from the Chief Officer Group (COG), as the Programme Board.
6. These deliverables either have already been implemented within operations or are in the process of implementation with clear plans and resources in place (section 4 attached). Of these deliverables, final approval of the new Consortium Agreement for formal implementation is the subject of a report elsewhere on this agenda and

requires approval by the Executives of each of the Member Authorities, subject to initial Management Committee approval elsewhere on this agenda.

Follow on Actions

7. The reporting on progress towards the completion of certain programme activities (section 5 attached), which have been handed over to business as usual will be made to COG and Management Committee, by the Director of ESPO and the Consortium Treasurer, as and when required.

Future Delivery

8. As a result of the key Programme deliverables and effort made by staff and management to implement changes, ESPO is in a better place to achieve the objectives and priorities identified by Management Committee and COG during the initial review. These are:

Priority 1- Supporting Member Authorities to deliver their strategic objectives and priorities, particularly in relation to enabling the delivery of efficiency savings.

Priority 2– Reducing Member Authorities' exposure to risk and providing greater transparency and accountability for decision making.

Priority 3– Demonstrating and improving confidence in the business efficiency of ESPO, measured by achieving the agreed percentage return on investment of resources employed and demonstrating year on year efficiency improvements

Resources Implications

9. Implementation of the Change Programme was mainly provided through a combination of existing resources, both financial and staff, of ESPO and Member Authorities.
10. A specific budget of £400,000 was set aside by the Management Committee on 24 June 2011 to support its implementation. However, only a small proportion of this budget was required through the use of specialist resources (a locum to support the development of legal documentation and an analyst to gather and analyse financial data to support the business and marketing strategies) and category management training. The overall cost of the programme is £57,350.

Recommendation

11. The Management Committee is asked to:
 - a) note the achievements of the Change Programme and follow on actions arising contained in section 5 of the appendix to this report;
 - b) approve the Programme's closure.

Equal Opportunities Implications

12. An Equality Impact Assessment (EIA) was undertaken during the implementation phase (which included both service design performance and employment) to help identify any equality issues. Equality Impact Assessments have also been identified as a key operational document going forward to help monitor, scrutinise and manage ESPO's operations.

Risk Assessment

13. The Change Programme has made recommendations for a new governance and risk management framework which includes a process for evaluating the level of risk before ESPO takes on any work (the subject of separate reports to Management Committee on 25 March 2011 and 24 June 2011) and which now form part of the proposed Consortium Agreement. Regular updates on risk have since been reported as part of the Director's regular progress reports. An annual review of the organisational review of ESPO's approach to risk management and governance is now also undertaken and is the subject of a separate report elsewhere on this agenda.

Background Papers

Joint Report of the Consortium Secretary and Treasurer to the ESPO Management Committee, 'Review of the Business Strategy for ESPO', 24th September 2010.

Joint Report of the Consortium Secretary and Treasurer to the ESPO Management Committee Business Strategy Review: Outline Implementation Programme, 24 June 2011.

Joint Report of the Consortium Secretary and Treasurer to the ESPO Management Committee - ESPO Change Programme Progress Report, 3 November 2011.

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Appendices

Appendix A– Programme Closure Report

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Appendix A

ESPO Change Programme Programme Closure Report

Status: Final

Prepared by: Ebru Oliver

Version 1.0

Date

January 2013

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1. Document Control

1.1 Control Details

Document Location: H:\Project Closure.doc
Production Software: Microsoft Word 7
Author: [Name], [Directorate], [Service Area]

1.2 Document Amendment Record

Issue	Amendment Detail	Author	Date	Approved
0.1	Initial Draft	Ebru Oliver	10 Oct 12	
0.2	Comments from John Doherty	Ebru Oliver	23 Oct 12	
0.3	Final updates	Ebru Oliver	23 Jan 13	
1.0	Final Review		29 Jan 13	J. Doherty & B. Roberts

1.3 Location of Project Documentation and Products

Document Location:

1.4 Document Sign-off

Programme Manager:

Signature:

Printed Name:Ebru Oliver.....

Position:Programme Manager.....

Date:21st January 2013.....

Programme Sponsor:

Signature:

Printed Name:Brian Roberts.....

Position:Consortium Treasurer.....

Date:29th January 2013.....

2. Purpose

2.1 Purpose of the Report

The purpose of this report is to seek formal agreement from the Chief Officer Group (COG) and the Management Committee (MC) to close the Change Programme and to re-establish the Legal and Governance Workstream as a Task and Finish Group to continue to finalise the Consortium Agreement and Constitution documents.

The report will also inform the Management Committee of:

- The achievements of the programme, and
- Any follow on actions required to address outstanding issues and to allocate responsibility for these actions

2.2 Purpose of the Programme

The Member Authorities agreed to undertake a fundamental review of the role and purpose of ESPO. The aim of the review was to investigate the appropriateness of business strategy, reviewing the role and purpose of ESPO, its alignment with the members' requirements, the value of partnering with ESPO, and the options going forward.

This review resulted in a revised vision and service model being proposed together with a number of recommendations to improve the operational efficiency and effectiveness of ESPO. Subsequently, the Management Committee approved the mobilisation of the Change Programme in November 2011.

2.3 Objectives

The following objectives/priorities were agreed by Member Authorities during the consultation process:

Priority 1- Supporting Member Authorities to deliver their strategic objectives and priorities, particularly in relation to enabling the delivery of efficiency savings.

Priority 2- Reducing Member Authorities' exposure to risk and providing greater transparency and accountability for decision making.

Priority 3- Demonstrating and improving confidence in the business efficiency of ESPO, measured by achieving the agreed percentage return on investment of resources employed and demonstrating year on year efficiency improvements.

2.4 Approach

In order to deliver the above objectives/priorities, the following key deliverables were identified:

- **Constitution-** Revised legal structure to provide protection to Consortium Members so that the accountability and liability is clear and fair and that appropriate indemnities are provided.

- **Decision making (governance) and risk management-** A new governance model to improve the transparency of the decision making process and management of risk.
- **Business model-** A defined model of how ESPO creates, delivers and captures value for its customers. This represents core aspects of the business including purpose, revenue generation mechanism, strategies, infrastructure, trading practices and operational processes and policies.
- **Organisational structures and capabilities-** New ways of working considering the complex relationship between tasks, workflow, responsibility and accountability, and making sure these all support the objectives of the business.
- **Performance Management Framework-** An integrated framework (corporate, operational and individual) that brings together the strategies, plans, policies and performance measures to continuously drive performance improvements and to deliver ESPO vision.
- **Category Management Approach-** A common framework for joint procurement of the agreed categories of spend drawing on the lessons learned from the HR Category Pilot

Four workstreams were established to ensure the delivery of the above.

- a) Legal & Governance workstream led by Warwickshire County Council
- b) Business Strategy & Efficiencies workstream led by ESPO
- c) HR Category Management Pilot led by Lincolnshire County Council
- d) People & Performance led by Leicestershire County Council

Due to a significant amount of work required by EPSO and Member Authorities, the programme was broken down into four distinct stages.

The first stage focused on critical areas of concern and established high level strategies and a legal framework to assist the following stages. The second phase focused on the development of detailed strategies and a governance framework to achieve the agreed priorities and to support the People and Performance workstream. The third phase focused on the development of new ways of working, finalisation of the legal and governance frameworks and completion of category management documentation. The final stage of the programme focused on the embedding of outputs of the programme into business as usual.

3. Programme Performance

3.1 Deliverables and Success Criteria

The Chief Officer Sub-Group had identified the following critical success criteria in the Deloitte stage 2 review report, which have been mapped against the key deliverables of the Programme:

Success Criteria	Key Deliverables	Measure	Original Delivery Date	Actual Delivery Date	Assessment Against Measure
Managing ESPO's risk exposure transparently	Constitution and Decision Making and Risk Management	New Consortium Agreement and Constitution documents developed and agreed by all parties. Effective standard operating procedures, business continuity and risk management strategies are developed and implemented.	May 2012	Jan 2013	Complete
Having a strong governance framework to facilitate a collaborative and transparent relationship	Constitution and Decision Making and Risk Management	A new governance model that provides transparency of the decision making process and management of risks developed and approved. Clear roles and responsibilities of Director of ESPO, The Chief Officer Group and the Management Committee defined and agreed by all parties.	May 2012	Jan 2013	Complete
Ensuring the strategy is achievable and addresses the need for change	Business Model (Business strategy and new ways of working)	Business strategy is developed, member authority consultations completed and it is approved by the Management Committee	Feb 2012	June 2012	Complete

Success Criteria	Key Deliverables	Measure	Original Delivery Date	Actual Delivery Date	Assessment Against Measure
Ensuring the ongoing strategic alignment of ESPO and the Consortium authorities	Business Model and Decision Making and Risk Management	Business model (business strategy, marketing, customer relationship, procurement, business continuity and risk strategies) developed and agreed by Member Authorities and approved by the Management Committee	Feb 2012	June 2012	Complete
Enabling significant savings for the consortium	Business Model & Efficiencies (Business, Procurement and Marketing Strategies)	The key strategies and action plans address many needs of the Member Authorities. Member Authorities have many priorities and the Director of ESPO meets with Members and Chief Officers quarterly to understand their priorities to align resources to support their objectives.	Feb 2012	May 2013	<p>Part complete- Elements of the Marketing Strategy and Action Plan are being implemented. The marketing strategy will be finalised upon the implementation of the new marketing structure in the new year.</p> <p>Good procurement practices are in place and will continue to be implemented. The procurement strategy will be finalised upon the implementation of the new marketing structure in the new year.</p>

Success Criteria	Key Deliverables	Measure	Original Delivery Date	Actual Delivery Date	Assessment Against Measure
Achieving results rapidly	Business Model (Business strategy, Performance Management Framework and People Strategy)	The strategies are outcome focused and performance management culture is implemented and the performance is measured.	Feb 2012	June 2012	Complete
Having a cost neutral plan of investment	Business Model (Business Strategy & MTFS)	Business strategy and medium term financial strategy approved by the Management Committee	Feb 2012	June 2012	Complete
Developing/ recruiting sufficiently skilled resources across the Consortium	Business Model (Business Strategy and Organisational Structure and Capabilities)	Resource capacity and capabilities are identified and appropriate training and development programmes are in place for internal staff to ensure necessary skills are in place to complement ESPO's deliverables. A suite of training and development opportunities are available to Member Authority staff (as per the core service offer)	Feb 2012	Sept 2012	Complete
Providing an ongoing cost effective service	Business Model (Business strategy and efficiencies and Category Management)	The portfolio of efficiency projects is delivered and efficiencies are realised. A common category management framework developed and agreed for all spend categories.	Feb 2012	Ongoing	Mostly complete- Organisational efficiency projects are reviewed regularly and on-going. The Category Management action plan is in place and will be implemented by SOG.

3.2 Performance against Time and Cost Objectives

It was agreed that the implementation of the Review's recommendations would be provided through a combination of existing resources, both financial and staff, of ESPO and Member Authorities.

Initially an allocation of £400k was approved to support the implementation of the Programme including programme management, staff backfill, consultancy and support and organisational change costs (as per the ESPO Management Committee meeting 24 June 2011). However, only a small proportion of this budget was required due to the need for specialist resources (a locum to support the development of legal documentation and an analyst to gather and analyse financial data to support the business and marketing strategies) and the category management training. The overall cost of the programme is £57,350.

3.3 Effect of Changes to the Programme Plan

During the life of the Programme a number of exception reports were presented to the COG detailing issues and seeking direction. The reasons for these exceptions were:

Delay in programme start

Delay in approval of Project Initiation Document (PID) from September to November Committee meant that the project could not start until December, resulting in delays in achieving key dates particularly within the Business Strategy workstream (from Feb 12 to June 12).

Legal & Governance Workstream Issues

Progress was initially slow due to lack of representation and key issues raised by each member authority. Since February 12, full representation has been achieved and key issues have been identified and chief officer direction sought for completion of the consortium agreement and constitution. It is estimated that these issues will result in approximately 10 months of delay to the completion of this workstream (from May 12 to March 13).

HR Category Management Pilot Issues

The availability and capacity of officers from across the Consortium and the need to undergo joint training to gain common understanding of Category Management approach to deliver the pilot resulted in delays. The training and stock take exercise highlighted the need to bring the pilot to an end due the position of each member in how they approach category management concept.

4. Delivery of Benefits

Objectives/Priorities	Benefits and Measures	Owner	Timescales
Priority 1- Supporting Member Authorities to deliver their strategic objectives and priorities, particularly in relation to enabling the delivery of efficiency savings.	The annual business plans are developed in consultation with member authorities considering their objectives and priorities which is incorporated into performance monitoring system. The annual review of core services and regular feedback from by SOG are used to evaluate progress.	Director of ESPO	June 2013
Priority 2- Reducing Member Authorities' exposure to risk and providing greater transparency and accountability for decision making.	Risk and performance management is an integral part of day to day operational performance. Risks are monitored and reviewed through a compliance process, driven through a detailed business case methodology. Risks are assigned to owners and escalated through the senior management team to the ESPO Management Committee when appropriate. Through this comprehensive risk management approach, member authorities' exposure to risk is minimised.	Director of ESPO	Achieved
	A new constitution and consortium agreement are in place that sets out transparency of decision making, clear accountabilities and liabilities and provides protection to member authorities.	Director of ESPO	Apr/May 2013
Priority 3- Demonstrating and improving confidence in the business efficiency of ESPO, measured by achieving the agreed percentage return on investment of resources employed and demonstrating year on year efficiency improvements.	ESPO will achieve 3.5% return on capital ESPO and will have a target of an annual surplus of between £1m to £2m to ensure sufficient working capital, asset and resource replacement, contingency funding, and a dividend to member authorities is maintained.	Director of ESPO	June 2013
	The cost of service delivery is reduced through organisational and supplier efficiencies as well as collaboration with others.	Director of ESPO	

5. Follow On Actions Required

This section summarises any actions required to address outstanding risks, issues and to complete specific products. The reporting on progress towards the completion of the following programme activities, which have been handed over to business as usual will be made to COG and Management Committee, by the Director of ESPO and the Consortium Treasurer, as and when required.

Task	Action Recommended	Responsibility For	Proposed Date
Marketing Strategy	Finalise the marketing strategy	Director of ESPO and Senior Manager responsible for Marketing	May 2013
Procurement Strategy	Finalise the marketing strategy	Director of ESPO and Senior Manager responsible for Procurement	May 2013
Development of Category Management Approach	6 recommendations set out in the project closure and lessons learned report dated June 2012	Senior Officer Group	2013 work plan

6. Programme Closure Recommendations

The Programme Board is recommended that:

- The successful completion of the programme be noted and thanks given to those involved;
- The acceptance and commitment to the completion of the follow on actions set out in section 4;
- The follow on actions listed in section 5 are completed by ESPO;
- Subject to the above, the Programme be formally closed, programme papers archived and communications made to those involved.



ESPO MANAGEMENT COMMITTEE – 7 MARCH 2013

AGENDA ITEM NO. 7

**ANNUAL REVIEW OF ESPO'S ORGANISATIONAL APPROACH TO
RISK MANAGEMENT AND GOVERNANCE**

**JOINT REPORT OF THE DIRECTOR, THE CONSORTIUM SECRETARY
AND CONSORTIUM TREASURER**

Purpose of Report

1. This report is to provide an annual review of ESPO's approach to risk management and governance.

Background

2. The progress report of the Interim Director presented on 2 March 2012 included an updated Risk Management Statement.
3. This clarified the role of the Management Committee in the risk management process; paragraph 6 of Appendix 1 refers.

Governance

4. The Legal & Governance Work-stream have produced a final draft of the proposed Consortium Partnership Agreement and the Constitution. Both documents have been referred to the Management Committee for approval and appear elsewhere on the agenda for this meeting.
5. Appendix 1 sets out the bodies and individuals responsible for implementing ESPO's organisational approach to risk management and governance, including the role of the Management Committee, the Director, the Senior Management Team, Group Buyers and Senior Buyers.

Risk

6. The current ESPO Risk Management Statement has been reviewed and is attached at Appendix 1. There have been no material changes to this document since it was last presented to members.
7. The Corporate Risk Register is a working document and needs regular monitoring. The Corporate Risk Record is attached at Appendix 2, and an example of a Major Risk Record (MRR) is shown in Appendix 3. The key updates to the Corporate Risk Record are:
 - Financial Vetting

- Competition from other Public Sector Buying Organisation's
 - GPS pressure re rebate income
8. Members will be aware that on 25 June 2012, ESPO's Interim Director brought to their attention ESPO's collaboration with the Government Procurement Service (GPS). This had been identified as a major issue in relation to rebate income and members were advised that a Memorandum of Understanding was being prepared.
 9. A Memorandum of Understanding has now been signed. In addition, and of more significance, is the umbrella agreement now in place, which protects ESPO's rebate income streams from the negative consequences of ministerial change and/or central Government policy.
 10. The Corporate Risk Register is reviewed by SMT on a quarterly basis. Any increased risk, or new risk identified that could have a material impact on ESPO's business, will be reported to the Management Committee.

Annual Review of Effectiveness

11. The Management Committee is responsible for reviewing the effectiveness of internal control of the Organisation, based on information provided by the Director, the Consortium Treasurer and auditors.
12. The Director will prepare a report of his review of the effectiveness of the Organisation's internal control system within the Annual Statement of Accounts which is intended to be presented to the Management Committee for consideration and approval in June 2013.

Resources Implications

13. None

Recommendation

14. Members are asked to approve the Risk Management Strategy set out at Appendix 1 to this report.

Equal Opportunities Implications

15. None

Risk Assessment

16. This report and its appendices set out ESPO's approach to risk management.

Officer to Contact

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 Mr B Roberts – Consortium Treasurer (Tel: 0116 305 7831)
 Mr J Doherty - Director (Tel: 0116 265 7931)

Appendices

- Appendix 1 - Risk Management Statement
- Appendix 2 - ESPO Corporate Risk Register
- Appendix 3 - Example Major Risk Record

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Eastern Shires Purchasing Organisation

RISK MANAGEMENT STATEMENT

Policy, Guidance and Register

Version Control

Version	Date	By whom	Changes	Comments
1	Feb 2007		Formulated	Committee March 2007
2	Jan 2012	DS	Review and Update	Circulation to SMT and Audit for comment
2b	Feb 2012	DS	Updated by strengthening commitment	Committee March 2012
2c	Feb 2013	CP	Review and Update	Committee March 2013

Risk Management

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RISK MANAGEMENT POLICY

Definitions:

Eastern Shires Purchasing Organisation - "The Organisation"

Eastern Shires Purchasing Organisation's Risk Management Policy - "The Policy"

Purpose of this document

1. The policy forms part of the Organisation's internal control and corporate governance arrangements.
2. The policy explains the Organisation's underlying approach to risk management, documents the roles and responsibilities of the Management Committee, the Director and Senior Management Team, and other key parties. It also outlines key aspects of the risk management process, and identifies the main reporting procedures.
3. In addition, it describes the process the Management Committee will use to evaluate the effectiveness of the Organisation's internal control procedures.
4. The benefit of risk management is having the knowledge both to anticipate potential risk, but also to understand how through choice such risks can be minimised. ESPO's aim is to reduce the effects of risk, and/or increase its ability to react by maximising its flexibility through responding whilst maintaining organisational stability. Risk management therefore not only includes the ability to anticipate forward events through the marshalling of data into intelligence but also involves developing the organisation's capabilities through continuous improvement.

Underlying approach to risk management

5. The following key principles outline the Organisation's approach to risk management and internal control:
 - the Management Committee has ultimate responsibility for overseeing the process of risk management within the Organisation as a whole and they will approve the Risk Management Strategy on an annual basis.
 - the Director and the Senior Management Team are responsible for anticipating and identifying, assessing and managing risk, and advising and implementing policies approved by the Management Committee. Managing Risk will involve ensuring controls are in place and are regularly monitored, and where documented on the Major Risk Record (MRR) further action is implemented. In addition the Director is responsible for alerting the Management Committee on new identified risks that are deemed to have a potential serious impact on ESPO business.

- the Organisation makes conservative and prudent recognition and disclosure of the financial and non-financial implications of risks
- the Director and Divisional Assistant Directors are responsible for ensuring good risk management practice within their divisions
- the Director will report to the Management Committee annually on the Corporate Risk Register.

Role of the Management Committee

6. The Management Committee has a fundamental role to play in the management of risk. Its role is to:
- i) Influence the culture of risk management within the Organisation.
 - ii) Determine the appropriate risk appetite or level of exposure for the Organisation.
 - iii) Approve major decisions affecting the Organisation's risk profile or exposure.
 - iv) Ensure that a Corporate Risk Register is established, including details of the actions taken to mitigate the risks identified.
 - v) Consider risks attached to proposals for new, or changes to, policies and service delivery arrangements
 - vi) Annually review the Organisation's approach to risk management and approve changes or improvements to key elements of its processes and procedures.

Role of the Director and Senior Management Team

7. Key roles of the Director and Senior Management Team are to:
- i) Establish, gain approval from the Management Committee and implement policies on risk management and internal control .i.e to ensure that an adequate risk management framework and associated control environment is in place
 - ii) Identify, evaluate, and manage the fundamental strategic risks faced by the Organisation for consideration by the Management Committee (these maybe operation, strategic, or both)
 - iii) Ensure regular updating of the Corporate Risk Register and review MMRs and Action Plans. There is a need for the Director and SMT to consider these more frequently than say annually. Perhaps a suitable frequency is align to the criteria on page 12 to assess and review ongoing key risks but also to build in any new or emerging risks
 - iv) Identify, evaluate, and manage all operational risks faced by the Organisation and reported where appropriate to the Management Committee.

- v) Provide information in a timely manner to the Management Committee on the status of risks and controls. (Timing will depend on the level of risk, but at least annually, and where addition or new risks are evaluated and escalated (such as new procurement projects) then these will be approved prior to sign off)
- vi) To maintain awareness of and promote the risk management policy to all relevant staff (use of key documents published via intranet)
- vii) Arranging/providing risk management training as appropriate
- viii) Ensure synergy with other "risk" systems, eg Health and Safety, business continuity and project management
- ix) Undertake an annual review of effectiveness of the system of internal control and provide a report to the Management Committee.

Role of Group and Senior Buyers

8. Key roles of the Group and Senior Buyers are to:
- i) Maintain awareness of risk management principles and take responsibility for managing risk within their own working environment
 - ii) Apply risk management to those risks requiring further action, particularly new developments and "procurement or project" work
 - iii) Maintain, and update where appropriate any project records of risk assessments undertaken and resulting action plans
 - iv) Reporting systematically and promptly to their managers or SMT any perceived new risks or failures of existing control measures

Risk management as part of the system of internal control

9. The system of internal control incorporates risk management. This system encompasses a number of elements that together facilitate an effective and efficient operation, enabling the Organisation to respond to a variety of operational, financial, and commercial risks. These elements include:

a. Policies and procedures

Standard Operating Procedures and policies are used to improve business efficiencies and reinforce a standard approach to documents that are used externally, whilst at the same time underpinning internal control processes. The policies are approved by the SMT and implemented and communicated by senior management to staff. Written procedures support the policies where appropriate.

b. Reporting

Comprehensive reporting is designed to monitor performance, reviewing key risks where appropriate. Decisions to rectify concerns are made at regular meetings of the Senior Management Team, and the Management Committee if appropriate. Market information is vital for developing management knowledge as a core element of the business. The mastering of such information through the monitoring of the external environment goes hand-in-hand with a comprehensive risk management process. Capturing and centralising such market intelligence will lead to developing better expertise and organisational capabilities, improving the quality of decision making, and enable a quick response to changing external conditions.

c. Business planning and budgeting

The business planning and budgeting processes are used to set targets, agree action plans, and allocate resources in order to achieve the long term objectives of the organisation articulated in the Business Strategy. Progress towards meeting business plan targets is monitored weekly/monthly depending on individual targets.

d. High level risk framework (strategic risks)

This framework is compiled by the Senior Management Team and helps to facilitate the identification, assessment and ongoing monitoring of risks fundamental to the Organisation. These are strategic risks that might impact on the high level, medium to long-term, goals and objectives of ESPO, together with those cross cutting issues that have potential to impact significantly on service delivery, business continuity and profit generation.

The Corporate Risk Register document is appraised annually in December with emerging risks being added as required, and improvement actions and risk indicators are monitored regularly.

e. Operational risk management

These have been considered as the following:

- Health and Safety (Office, warehouse, transport);
- Procurement Projects;
- Business Continuity.

The latter has both strategic and operational aspects and has been considered in **separate documentation**.

- i) Health and Safety Committee. To meet quarterly. The meeting will be chaired by the Assistant Director - Operations or the Warehouse Manager. In attendance will be the Director, trade union and staff representatives. The function of the Health & Safety Committee is to review the measures taken to ensure the health and safety at work of employees. The main objective of the Health & Safety Committee is to promote co-operation between staff and management in instigating, developing and carrying out measures to ensure the health and safety at work of the employees.

Specific Objectives of the Safety Committee are:

- The study of accident and notifiable disease statistics and trends, so that reports can be made to management on unsafe and unhealthy conditions and practices, together with recommendations for corrective action;
- Examination of safety audit reports on a similar basis;
- Consideration of reports and factual information provided by inspectors of the enforcing authority appointed under the Health and Safety at Work Act;
- Consideration of reports which safety representatives may wish to submit;

- Assistance in the development of works safety rules and safe systems of work;
 - A watch on the effectiveness of the safety content of employee training;
 - A watch on the adequacy of safety and health communication and publicity in the workplace;
 - The provision of a link with the appropriate enforcing authority;
 - To act as the main forum for fulfilment of the employer's legal duty to consult with Health & Safety Representatives;
 - To discuss and review the effect of new Health and Safety law and the organisation's proposals for implementing the new law;
 - To monitor and review the effectiveness of the organisation's safety policy;
 - To develop and agree health and safety standards and procedures applicable to the workplace;
 - To review the organisation and administration of any occupational health and safety services provided by the organisation.
 - Review of insurance or other such claims and recommend measures to reduce the likelihood of future claims
- ii) Procurement Projects. As ESPO has developed its procurement expertise it has moved (on behalf of customers) into larger more complex contracts. In response to this ESPO has developed a business case process that requires both reward and risk to be evaluated and assessed as part of the compliance process. Risk are assessed at a Pre-Procurement Panel and at Panel (contract award) and escalated where necessary to SMT and then to Committee. Supporting the tender process are a series of Standard Operating Procedures and a library of standard documentation. Procurement practice is discussed at the Senior Officers' Group, and the compliance process outlined.
- iii) Business Continuity

The following statements may be applicable for inclusion within the policy:

f. Fraud and Corruption

The organisation is set against fraud and corruption and is committed to an effective Anti Fraud and Corruption Strategy . Identification and addressing the risk of fraud and corruption are a key element within this risk management strategy.

I think this is already reflected in the MRR or Risk Register as a potential risk area

g. Auditors

LCC Internal Auditors are required to report to the Director and Consortium Treasurer on internal controls and alert Management to any emerging issues. In

addition, the Director and Treasurer oversee internal audit, external audit and management as required in their review of internal controls. They are therefore well-placed to provide advice to the Management Committee on the effectiveness of the internal control system, including the Organisation's system for the management of risk.

h. Internal audit programme

Internal audit is an important element of the risk management process. Apart from its normal programme of work, internal audit is responsible for aspects of the annual review of the effectiveness of the internal control system within the organisation.

i. External audit

External audit provides feedback to the Management Committee on the operation and adequacy of the internal financial controls reviewed as part of the annual audit.

j. Third party reports

From time to time, the use of external consultants will be necessary in areas such as marketing, IT systems and human resources. The use of specialist third parties for consulting and reporting can increase the reliability of the internal reporting systems.

k. Chief Officer Group (COG)

The COG consists of chief officers from all member authorities who meet regularly with the Organisation's senior management. The COG provides advice and guidance to facilitate the identification and assessment of procurement risks to the Organisation.

Annual review of effectiveness

10. The Management Committee is responsible for reviewing the effectiveness of internal control of the Organisation, based on information provided by the Director, Treasurer and auditors. Its approach is outlined below.
11. For the fundamental risks identified, the Director will seek the Management Committee's approval on the results of:
 - A review of the Organisation's prior year record on risk management and internal control
 - A Review of the risk profile for the coming year and of the adequacy of current internal control arrangements.
 - A recommendation, if required, for investment in further control arrangements.
12. In determining recommendations the Management Committee, the Director will consider the following aspects.
 - a. Control environment:

- The Organisation's objectives and its financial and non-financial targets
 - Organisational structure and calibre of staff available.
 - Culture, approach, and resources with respect to the management of risk
 - Delegation of authority
 - Public reporting.
- b. On-going identification and evaluation of fundamental risks:
- Timely identification and assessment of fundamental risks
 - Prioritisation of risks and the allocation of resources to address areas of high exposure.
- c. Information and communication:
- Quality and timeliness of information on fundamental risks
 - Time it takes for control breakdowns to be recognised or new risks to be identified.
- d. Monitoring and corrective action:
- Ability of the Organisation to learn from its problems
 - Commitment and speed with which corrective actions are implemented.
13. The Director prepares a report of his review of the effectiveness of the Organisation's internal control system within the Annual Statement of Accounts and presented to the Management Committee for consideration and approval (normally the Committee meeting in June, prior to the final approval of Accounts in September).

RISK MANAGEMENT GUIDE

Background

ESPO Management and staff have been facing and managing risk for over thirty years resulting in a successful organisation that has exploited opportunities to become one of the UK's largest local authority purchasing consortium.

However, in recent years there has been increasing focus on the corporate governance arrangements of both public and private companies with the aim of achieving greater transparency. This requirements is reinforced by the recommendation that local authorities should make a statement as to how they have complied with their local governance code, and how they have monitored the effectiveness of their corporate governance arrangements in their annual Statements of Accounts.

Risk Management provides assurance that:

- objectives are more likely to be achieved;
- damaging events will not happen or are less likely to happen; and
- beneficial events will be or are more likely to be achieved.

The risk management method enables:

- the identification and evaluation of risks;
- helps in setting acceptable risk thresholds;
- the identification of controls against such risks; and
- helps identify indicators that give early warning that a risk is becoming more serious.

Risk Definition

Risk is the threat or possibility that an action or event will adversely or beneficially affect the organisation's ability to achieve its objectives.

This definition links risk to achieving the strategic and business objectives and also identifies that risk management is not just about recognising and mitigating negative risks but also identifies risk-taking opportunities that may lead to positive benefits.

Risk can be seen as short term, such as an event, or a conjunction of events harmful to both tangible and intangible assets. It can be also be long term where there is a gradual disconnect between the organisation and its external environment.

Risk management is having the knowledge both to anticipate potential risk, but also to understand how through choice such risks can be minimised. ESPO's aim is to reduce the effects of risk, and/or increase its ability to react by maximising its flexibility through responding whilst maintaining organisational stability. Risk management therefore not only includes the ability to anticipate forward events through the marshalling of data into intelligence but also involves developing the organisation's capabilities through continuous improvement.

Internal controls

Internal controls are a range of regulations, procedures and policies the organisation uses to manage its work and any additional controls or mitigating actions taken to deal with a particular situation.

The aim of risk management is to ensure that these controls are effective in identifying, evaluating, monitoring and minimising the risks ESPO faces in its day-to-day activities or any future ventures.

The level of risk faced by an organisation before any internal controls are applied is known as the gross or raw risk.

The level of risk faced by ESPO after internal controls have been applied is known as the net or residual risk. Controls will not eliminate the risk but help us to manage it; therefore this is also known as the organisation's "exposure to risk".

The controls are those management actions taken to deal with a particular risk. A judgement is made on the numerical reduction to the raw risk score to produce the residual risk score.

Risk Indicators provide a series of 'warning lights' which provide early warning that action may be required to mitigate a particular risk through stronger internal controls, or if it is outside ESPO's control, to be aware of it and closely monitor.

ESPO also has to determine where it resides in terms of a spectrum ranging from 'risk-taking' to being 'risk averse'. The amount of risk ESPO is prepared to tolerate before action is required is known as 'risk tolerance'

The Size of Risk - Heat Map represents the ESPO's risk scoring matrix.

The following monitoring varies according to the risk score:

- (a) Residual risk score of 6 or less (low level of risk) should require no mitigating action. However, risk owners should review controls for low risk areas to ensure they are effective and not disproportionate. The risk score should be reviewed annually;
- (b) Residual risk score of 8 to 12 (medium level of risk) should trigger a review of the existing controls, if a new risk, and may require the implementation of additional controls for existing risks. Risks with this score should be reviewed annually or twice a year if necessary; and
- (c) Residual risk score of 14 to 20 (high level of risk) should trigger a review of the existing controls, may require the implementation of additional controls and the problem may need to be escalated to the Management Committee for consultation. Risks with this score should be reviewed at least 6 monthly
- (d) Residual risk score of 20 or above (top level of risk) will trigger a review of the existing controls, is likely to require the implementation of additional controls and the problem should be escalated to the Management Committee for consultation. Risks with this score should be reviewed quarterly.

ESPO's Key Risk Register has a summary table ranking each risk according to its score with detailed analysis sheets attached including information on the above

The Management Committee will receive reports, at least annually, on risk management arrangements and assessments. This will include where appropriate any revised policy, and the corporate risk register. Any changes to risk levels highlighted as a result of the Health and Safety and the management of Business Continuity will be reported upon through the corporate risk register together with a report on risk management included within the annual statement of Accounts.

Risk Management Process

The stages are summarised below with a commentary on the arrangements at ESPO.

Identify the risks

This is the first stage to use where the risks that may affect a particular new activity, existing operational activity or project are listed. At this point opportunities can be considered and risks grouped. This work forms the basis of the risk register.

Risks can be classified as Internal or External with the latter being categorised as:

- Social (impact of society)
- Technological (normally considered through the impact of loss, or introduction of new forms, of information technology and communication systems)
- Economic (financial impact)
- Environmental (impact on the sustainability agenda)
- Political (primarily around governance)
- Legal (primarily around complying with EU procurement legislation)

The criteria for evaluating risk should consider:

- Financial: +ve/-ve for ESPO, Members, and customers;
- Reputation: +ve/-ve in terms of the quality of the outcome, and its impact on ESPO, Members, customers and suppliers;
- The potential for procurement challenges, and the ability to achieve the 'best' outcome;
- Staff: impact on them;
- Assessed against business objectives.

This process is facilitated by the Major Risk Record (MRR) Form which forms the basis of the Corporate Risk Register.

Identify probable risk owner(s) and a risk co-ordinator

The risk owner assesses the risk, detailing how actions can be taken and by when to reduce the likelihood and severity of the risk to an acceptable level.

All actions detailed need to consider and detail who is do what and when. If monitoring or reporting is involved the frequency and responsibility for such reports should also be included.

- All risk assessments should be dated (i.e. date of completion) and certified by the risk owner.
- Responsibility and an action completion date should be assigned to all actions on the MRR record.
- Where risks are high, with further action required, action taken and progress on further action taken should be monitored by the SMT on a quarterly basis

All Risk owners for those risks that affect the whole organisation will be the Senior Management Team. At a project level the risk owner should be the project manager. Risk owners should be added to the risk register.

The risk co-ordinator collates all the risks to create a risk register and manages the risk reporting process.

Evaluate the risks

The risks should then be evaluated for impact and likelihood. An assessment of the timing of the risk can also be made.

The scales used for impact and likelihood are as follows:

Impact:

1. Insignificant
2. Minor
3. Moderate
4. Serious
5. Very Serious

Likelihood:

1. Very Low
2. Low
3. Medium
4. High
5. Very High

The combined scores on a 5 x 5 matrix will give scores ranging from 1 to 25 depending on the severity of the risk. These numbers are indicative only as the process is not an exact science but most importantly it assists in thinking about the risk.

The total risk score divisions are as follows:

- 1 – 6 - Low
- 8 - 12 - Medium
- 14 - 20 - High
- Over 20 - Very high

The Size of Risk - Impact Guide provides examples for likelihood, impact and total risk score. Once this has been completed the risks are prioritised and ranked according to score and proximity. The risk register is updated accordingly.

Identify suitable responses to risk

Where needed, a range of practical responses to each significant risk on the risk register is identified and recorded on the register.

Range of responses (controls) to a risk:

- **Reduce** - take action to reduce either the probability of the risk developing further, or its impact.
- **Accept** - when the probability and impact are low producing a total risk score below 7, or when it would be too expensive to mitigate a risk.
- **Transfer** - transferring the risk to a third party, e.g. insurance.
- **Terminate** - identifying actions to eliminate the risk such as withdrawing from the activity.
- **Contingency** - a plan of action to be implemented when a risk develops further or passes through a risk threshold.
- **Prevent** - identifying measures to prevent a risk having an impact on an organisation.

Responses are proportional to the risk and mapped against the risks on the risk register.

Implement responses

The most appropriate responses to each risk will be determined and implemented by ESPO Management in order of priority. Approval for additional earmarked funding required to implement responses may be requested from the Management Committee. Responses when implemented should bring the most serious risks below the risk tolerance thresholds. Once implemented the responses will be monitored by Management and amended as necessary

The risk tolerance threshold score has been set at 10 or less. The exact meaning of this value is somewhat subjective and this will be reviewed annually to assess whether it is appropriate as a methodology to highlight the key risk areas. All strategic risks even with a score less than 10 will appear on the register. Those that are red will be prioritised and will be considered quarterly by SMT.

Assurances about effectiveness

The risk responses implemented are assessed for effectiveness in keeping the risks within agreed tolerance levels by regular monitoring of the risk indicators. Internal and external audit reports provide further assurance on effectiveness.

Embed and review

The risk management arrangements will be reviewed on an annual basis including a review of the risk register and a report will be produced for the Management Committee in March. The report will assess the effectiveness of the measures to control risk with recommendations for improvement or development.

The Corporate Risk Register will be reviewed quarterly by SMT, including reviewing action taken to mitigate risk. Where appropriate new actions are to be recorded and reviewed in the following quarterly meeting.

The Annual Governance Statement (June Committee) will also include a review of Risk Management policy and processes.

Size of Risk - Impact Guide

This Impact Guide is designed to assist in determining the scores applied to any risk. In the application within ESPO a 5 x 5 scale for impact and likelihood is used.

Impact ranges from Insignificant (1) to Very Serious (5). Likelihood ranges from Very Low (1) to Very High (5). The combined scores on a 5 x 5 matrix will give scores ranging from 1 to 25. The scoring will be determined on the basis of the Senior Management Team’s opinion of the residual risk after taking account of their perception of the effectiveness of the existing controls. These numbers are indicative.

The combined risk score can then be calculated to determine the severity of the risk on the following scale:

- ▶ 1 - 6 Low
- ▶ 8 - 12 Medium
- ▶ 14 - 20 High
- ▶ Over 20 - Very high

Impact Grid

The Impact Grid is the scoring matrix referred to above with risk thresholds applied according to the total risk score. Applying colours in this way is sometimes known as the 'traffic light' method. This gives 3 levels of risk denoted by colours in this case - red being the most serious; yellow being the middle level; and blue the least serious.

If, upon review, a risk crosses one of the thresholds it should trigger either an increase or decrease in the internal controls applied to it.

Severity	5	5	10	15	20	25
	4	4	8	12	16	20
	3	3	6	9	12	15
	2	2	4	6	8	10
	1	1	2	3	4	5
		1	2	3	4	5
		Likelihood				

	Red
	Yellow
	Blue

Size of Risk – Impact Guide

The Impact guides are only for guidance and are not intended to be prescriptive. It should be the worst-case scenario that is usually used to rate the risk.

Severity descriptors	Possible consequences	Examples*
1 - Insignificant	No impact	
2 - Minor Negative outcomes from risks or lost opportunities that are unlikely to have a permanent or significant effect on the ESPO's reputation or performance	<ul style="list-style-type: none"> • Less than <0.5% of total turnover financial impact • No regulatory consequence • Minor adverse publicity • Minor reversible injury 	<ul style="list-style-type: none"> • Employee sues successfully for wrongful dismissal • Senior manager has a work related injury e.g. slips
3 – Moderate Negative outcomes from risks or lost opportunities that will have a significant impact on ESPO but can be managed without major impact in the medium term	<ul style="list-style-type: none"> • Financial loss up to 2% of total turnover in any year • Limited regulatory consequence • Local or limited adverse publicity • Major reversible injury 	<ul style="list-style-type: none"> • Major IT project is late or overspent • Staff injured due to negligence • Loss of a major contract
4 - Serious Negative outcomes from risks or lost opportunities with a significant effect that will require major effort to manage and resolve in the medium term but do not threaten the existence of the organisation in the medium term	<ul style="list-style-type: none"> • Financial loss over 2% of total turnover in a single year • Major savings programme required to break-even in the medium term • Significant regulatory consequence • Negative headlines in the national press • Irreversible injury or death 	<ul style="list-style-type: none"> • Major loss of sales due to staff shortages which stops warehouse functioning. e.g. Bird Flu pandemic. • ESPO IT systems fail completely and cannot be recovered. • Member authority leaves the consortium
5 – Very serious Negative outcomes from risks or lost opportunities which if not resolved in the medium term will threaten the existence of ESPO.	<ul style="list-style-type: none"> • Financial loss (or loss of potential financial surplus) over 2% of turnover for consecutive years • Substantial regulatory consequence • Sustained negative headlines in the regional / national press. • Closure of major part of business • Irreversible multiple injury or death 	<ul style="list-style-type: none"> • Major buildings fire • Withdrawal of ESPO's ability to trade. • Sustained failure to recruit staff • Major accident due to the organisation's negligence

*** the examples can move up or down the matrix accordingly to suit.**

Size of Risk – Likelihood

Descriptor	Likelihood
1 – Very low	2% likely to happen
2 – Low	5% likely to happen
3 – Medium	10% likely to happen
4 – High	20% likely to happen
5 – Very high	50% likely to happen

Total risk score guide

Descriptor	Guide
0 – 6 Low	Low level of risk, should not require much attention but should be reviewed at least annually
8 – 12 Medium	Medium level of risk, should be monitored and reviewed annually as a minimum, 6 monthly if necessary
14 – 20 High	High level of risk, should be constantly monitored and reviewed quarterly or 6 monthly. Possibly escalate to higher committee if required
Over 20 – Very high	Top level of risk, should be constantly monitored and

ESPO CORPORATE RISK REGISTER

ISSUED/ REVISED DATE 22/02/13

Appendix 2

RISK REF:	LINK TO BUSINESS PLAN OBJECTIVES	RISK TYPE	OWNER	9 Update Balanced Scorecard		DESCRIPTION	RAW RISK RATING PRIOR TO CONTROL MEASURES			RESIDUAL RISK RATING FOLLOWING CONTROL			COMMENTS
				DATE IDENTIFIED	LAST REVIEWED		EXPECTED IMPACT (A)	LIKELIHOOD (B)	RISK SCORE (A X B)	EXPECTED IMPACT (A)	LIKELIHOOD (B)	RISK SCORE (A X B)	
4	1. Deliver Procurement efficiencies	Operational Risk	BW	19/02/07	17/02/13	Sustained failure to attract or retain quality staff	5	3	15	5	2	10	
11	1. Deliver Procurement efficiencies	Operational Risk	EW	19/02/07	09/02/13	National/Regional Procurement architecture reduces size of customer base	5	3	15	5	2	10	
21	4. Protect Members' Interests	Operational Risk	CP	01/09/09	25/09/12	Risk of business failure by major commercial debtors	4	4	16	3	4	12	
24	5. Derive value for Members.	Governance & Management Business Risk	Committee	05/01/12	25/09/12	Loss of a Member Authority	4	4	16	3	4	12	
26	4. Protect Members' Interests	Operational Risk	EW	07/02/12	09/02/13	Procurement Directives and Contract Regulations increase potential for supplier challenge	5	3	15	5	2	10	
27	4. Protect Members' Interests	Operational & Reputational Risk	EW	07/02/12	09/02/13	Issues arising from collaborative procurement and joint working	4	4	16	4	3	12	

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Risk Number: 026**Risks identified:****Procurement Directives and Contract Regulations increase potential for supplier challenge.**Risk categories (such as *Reputation, Governance, Finance, Operational*): **Operational and Reputational Risk****Possible consequences if the risk were to emerge?**

1. If challenge arises during the procurement exercise then this could delay the procurement and/or result in its abandonment.
2. If challenge is 'official' and through the courts this would involve considerable resource and expense to defend.
3. Supplier challenge could devalue a potential framework agreement benefit to the sector.

Raw Risk Assessment:

Predicted impact of the risk: (Scale 1–5, see Guide)	Predicted likelihood of the risk: (Scale 1–5, see Guide)	Total risk score: (Impact x likelihood, Scale 0-25)
5	3	15
Explanation for rating:	Explanation for rating:	Low / Medium / high
		High

Control Measures:**Actions to reduce the likelihood and severity of the risk to an acceptable level?**

1. All procurements now subject to either an Outline Business Case and/or Full Business Case which require approval at a Pre-Procurement Panel.
2. All full Business Cases are subject to a full Business Risk Assessment which will highlight any potential residual risk.
3. Residual risk issues will be referred initially to SMT and thereafter to COG and/or Management Committee as deemed appropriate.
4. All procurement exercises are subject to a final Contracts Panel approval to ensure full procurement compliance prior to any award announcement.
5. All procurement awards are fully de-risked in terms of any potential for a remedy of ineffectiveness – by ensuring full compliance with the Remedies Directive in relation to information shared with both successful and unsuccessful tenderers.

Risk indicators to be used to monitor the risk? (These provide early warning, minimum of 3)

1. All supplier complaints, requests for debriefings, FOI requests and/or formal and informal challenges are notified to the Director or Deputy Director.
2. Monitoring of ESPO compliance with procurement timetabling to manage reduction in levels of disaffection from both demand and supply side.
3. Monitor case law developments in the sector and network with other PBOs for their 'lessons learnt'.

*ESPO Major Risk Record (MRR)**Risk Owner: E. Walsh**Risk Number: 026*

Residual Risk Assessment following Control Measures:		
Predicted Impact of the risk: (Scale 1–5, see Guide)	Predicted likelihood of the risk: (Scale 1–5, see Guide)	Total risk score: (Impact x likelihood, Scale 0–25)
5	2	10
Explanation for rating:	Explanation for rating:	Low / Medium / high
		Medium

Further action required to reduce risk:

1. Introduce further standard operating procedures to ensure consistency in market engagements ie standard contract templates.
2. Introduce contract/commercial 'refresher' training in-house for procurement staff.
3. Include new Social Value considerations in all EU Service Contracts.

Recommendation to Director/Committee:

The actions identified all remain relevant and on-going

Signature:

EA Walsh

Date: 13/03/2013

Score Summary:

Raw Risk Score	Risk Tolerance	Residual Risk Score	Effect of Internal Controls
15/25	10/25	10/25	5/25



ESPO MANAGEMENT COMMITTEE – 7 MARCH 2013

AGENDA ITEM 8

PROGRESS REPORT OF THE DIRECTOR

Purpose of Report

1. The purpose of this report is to update members on the actions and progress made since the last Management Committee meeting on 6 December 2012.

External Activities and Developments

2. Members were advised at the last meeting that a meeting was planned with the East Midlands Heads of Procurement Officers and this took place on 24 January at ESPO. Officers consisted of a mix of member and non-member heads of procurement and included wider public sector representation, e.g. the Leicestershire Constabulary. The meeting discussed a range of topics with the resultant actions being to build on existing communication channels, broaden consultation on frameworks and engage with wider procurement challenges with the East Midlands public sector bodies.
3. On 6 February ESPO, Local Government Procurement Service (LGPS) and YPO met, on behalf of Pro5, with the Chair of the London Heads of Procurement Group and the Chair of the London Consortium Supplies Group, to discuss how Pro5's influence in London can be moved forward. As a result of that meeting a proposal will be drafted for consideration by the two London groups with the clear understanding that there will be no rebate income for them as a consequence.
4. A further round of Member Authority visits are in progress with common themes discussed and progressed, e.g. corporate benchmarking, management information through the members' portal and broader, practical application of the Public Services (Social Values) Act. Further insights into current procurement challenges and inter-member procurement training are also key. This is consistent with the iterations around the Core Services schedule which have emerged from members over the last year. I will continue to visit members and chief officers on a quarterly basis and ad hoc as required.
5. ESPO, YPO and GPS have submitted an Expression of Interest to become the procurement arm of the Chief Fire Officers' Association. Proposals are required by mid-March.
6. A trial on GP servicing in Warwickshire has come to a close and phase two will commence in May 2013 in Leicestershire under the guidance of ESPO's Business Development function. In addition, in order to explore broadening our heavy reliance on the education sector, we have started exploratory conversations with a company which has links to the Coventry and Warwickshire Partnership Trust (NHS) to explore mutual opportunities in the NHS sector.

Contracts/Frameworks**ESPO Portfolio**

7. Members will be pleased to note that ESPO now has more than 500 contracts and frameworks in which its customers can participate.

Phonics

8. The DfE will continue with Phonics until October 2013 and is extending the offer to Key Stage 2 students – note that this is to absorb existing funds allocated to Phonics and is not, therefore, new monies. Pro5 downstream marketing activity will continue on that basis until the end of October 2013.

Pro5 Consultancy Framework

9. Pro5 and GPS are developing a suite of frameworks to cover a diverse range of public sector consultancy needs. This includes a new Pro5 framework offering a range of consultancy areas specific to local government and the wider public sector, including (but not limited to):
- a) Environmental
 - b) Food and catering
 - c) Facilities Management
 - d) Social Care
 - e) Health and Safety
 - f) Regeneration
 - g) Waste Management
10. To ensure the new framework is reflective of local government and the wider public needs, Pro5 has consulted with a wide range of customers throughout the procurement, including members of Pro5 and the East Midlands Consultancy Working Group, as well as authorities in London and the South West. The new GPS ConsultancyONE framework will cover a range of business transformation and management consultancy solutions forming part of the suite.
11. Pro5 solutions are developed via established category teams comprising representatives of the participating buying organisations. ESPO is represented on these category teams and we ensure appropriate category leads within the member authorities are consulted on these developments.

Academies

12. The Pro5 Consultancy Framework has now been awarded, with an education category incorporating Academy Conversion Consultancy. Another framework of significant benefit to academies is Insurance Services. This is a collaborative procurement between ESPO/YPO/GPS, and is currently going through evaluation, with a view to award shortly. The potential usage could be considerable, as the procurement of insurance services is an area for which schools have not had responsibility in the past, and is something that they all must hold. Additional work is also taking place on the preliminary stages of a framework to support schools with back office services, with a view to putting this to the market later this year.

13. We are aware of the potential impact on members' existing traded services, particularly where academies choose to explore alternative service provision. In this respect ESPO strategy will maximise the potential for members' traded services to be included within ESPO's framework solutions. This approach will also provide commercial opportunity for members' traded services to be offered to a wider schools and academies customer base. This will form part of the Education Strategy to be implemented by ESPO's newly-formed Education Hub.
14. Creation of the collaborative EduBuy website was referred to at the last Management Committee meeting. GPS launched the concept of EduBuy to schools at The Academies Show in November. There have been some technical issues during testing which are now resolved and the web site will go live during late February. A draft press release has been drawn up and agreed by all parties: ESPO, YPO, GPS and the DfE (Appendix 1) which will be issued shortly. ESPO frameworks are well represented on the site, with EduBuy itself signposting the customers through to ESPO web sites.

Surveys

15. On 6 December 2012 the Management Committee was advised of an on-line Brand Survey and a Customer Survey, which has now been completed.
16. The results and recommendations of the ESPO on-line Brand Survey and the Schools/Academies Survey have been discussed at Senior Management Team level and an action plan is being finalised in conjunction with the marketing agencies utilised for the two surveys. The key outcomes will form part of the Marketing Plan for the next 18 months.
17. The following statements are extracts from the Brand Survey analysis:
 - 91% agree or strongly agree that ESPO has an excellent reputation
 - 95% believe ESPO is a trustworthy, reliable brand
 - "ESPO is a shortcut to compliant procurement"
 - "ESPO engenders thoughts of reliability and quality procurement at the best possible price"
 - "ESPO is the 'John Lewis' of the Public Sector"
18. These highlight the core strengths and possible brand values that ESPO will use to formulate brand identity, image, values and proposition moving forward.
19. The following statements are extracts from the Schools/Academies/FE Colleges Survey which is carried out on a biennial basis nationally, conducted by an independent company:
 - 98% of all respondents consider ESPO to be an impartial resource
 - 98% of all member schools use ESPO for all or most supplies
 - 91% of member area academies use ESPO for all or most supplies
 - 86% of member schools consider ESPO prices to be excellent/competitive
 - 73% of member area academies consider ESPO prices to be excellent/competitive
 - The three most valued attributes customers associate with ESPO:

- Value for money
 - No quibble returns policy
 - Quality Assured
- In describing ESPO's brand values the top five were:
 - Easy to deal with
 - Reliable
 - Supply what teachers want
 - Efficient
 - Responds well whenever I ask
20. Overall these are good results but also offer an insight into those areas we need to focus on in order to continue to improve our business, e.g. with regard to framework contracts where usage and awareness amongst our core customers needs to be strengthened.
21. Due to the commercially sensitive nature of the content, the survey recommendations for both surveys are contained within the Director's Supplementary Information Report contained elsewhere on this agenda, as exempt information.

ESPO Services

22. The Legal and Governance Workstream has now produced a final draft of the Consortium Partnership Agreement, together with a draft Constitution (addressed elsewhere on the agenda).
23. Schedule 2 of the Partnership Agreement is intended to describe the range of ESPO services available. These were considered by the Senior Officer Group on 30 January 2013, with recommendations submitted to the Chief Officer Group on 5 February.
24. Schedule 3 of the Partnership Agreement sets out the obligations of Leicestershire County Council as the Servicing Authority.

ESPO Efficiencies

Efficiency Projects

25. Of the 45 original projects 26 have been completed with a further 3 expected to be completed by the end of the financial year. The remaining 16 projects are currently being reviewed to ensure they remain valid and will deliver the expected efficiencies originally envisaged.

Indigo Warehouse Management System

26. As members will be aware, a proposal to upgrade the Indigo warehouse management system was first approved at Management Committee in March 2011 (please refer to the Interim Director's Progress Report of 25 March 2011).
27. The proposal was based on the report from Indigo of December 2009 and February 2010, submitted as a potential second/third phase of the proposals for the upgrade of the main Enterprise software Infor System 21, that was implemented and went live in August 2010.

28. Customer demand remains high and although we were shipping orders through the Indigo system it became apparent during December that we would not be able to sustain on-time deliveries with the then current levels of output, as the system has not yet proven to be scalable.
29. As customer service is our primary concern we temporarily returned to the existing paper based system which has enabled us to remain on time with customer orders. We have met with representatives from Indigo and together we have developed an action plan that will address the significant issues that are limiting productivity, our expectation is that the action plan will be implemented at the first opportunity without compromising customer service.
30. There are 3 phases to the action plan:
 - To ensure that all the members of the Warehouse Management Team (WMT) are trained to a standard that will allow them to train other staff.
 - To implement 3 operational changes to the packing process to improve efficiency.
 - To train the packing staff incorporating the new operational practices.
31. The first phase of training for the WMT will be complete by 21 February and the programme to retrain the packing staff has commenced. We expect this to continue until the end of March 2013. Throughout this training programme we will gradually increase output through the Indigo system.
32. We are working closely with Indigo to ensure that re-implementation is successful. Engagement with staff is key and workshops/staff forums are linking in with Indigo staff to make sure the operational elements of the system work in tandem with the hardware and software applications.

P-Cards

33. The software has been delivered to ESPO and is currently undergoing IT testing which is going well. It will then be subject to user testing before final implementation. Costs are in line with the revised estimates presented in December. It is expected that the system will be fully live by the end of February. ESPO is working with members towards implementation of P-Cards in their areas, and in particular, is assisting representatives from Warwickshire and Leicestershire.

Sickness Absence

34. ESPO has experienced a seasonal rise in short term sickness absence which we expect will reduce significantly in the run up to the end of the financial year, March 2012. Long term absences also continue at a high level. The results are not acceptable and a revised Sickness Absence action plan is being produced by our LCC HR partner.

Food Mislabelling Investigations

35. Members will be aware that the Food Standards Agency is urgently investigating, in conjunction with other Government departments, local authorities and the food industry, how a number of beef products on sale in the UK came to contain horse meat.
36. ESPO is checking the robustness of the supply chain of its relevant suppliers/distributors. As a matter of course this is done at tender stage (i.e. before a contract is awarded) and then at regular intervals throughout the contract term.
37. Members will know from the BBC News that Lancashire School Meals have identified horse DNA in a cottage pie product that they purchase from their Frozen Food distributor. This distributor is one of the UK's leading food suppliers and an established supplier under ESPO framework 241 (Frozen Foods).
38. A number of ESPO authorities use the same distributor, but do not use the same product. Product from the manufacturer of the cottage pie has been replaced and/or re-sourced by the distributor.
39. ESPO's Head of Category – Food and Catering has met with the Managing Director and Board of the distributor to confirm the robustness of their supply chain. Discussion took place on how authenticity tests on products can be embedded for the remainder of the contract period and consequent contracts.
40. Similar meetings will take place with all ESPO's food suppliers and will now form an intrinsic part of our pre-procurement process.
41. ESPO works closely with Support & Training Services Ltd (STS), a food safety consultancy, and adopts their codes of practice as baseline quality assurance standards for its suppliers. STS are currently requiring all meat product suppliers to submit evidence that satisfactory authenticity tests have been conducted. The outcome of these tests should be known at the time of the Management Committee meeting.
42. ESPO is in liaison with all member authorities and in particular Leicestershire County Council Trading Standards service in respect of independent product sampling. This includes taking product samples independently of those taken by STS.
43. The first batch of test results undertaken by Leicestershire County Council's Trading Standards was received on Friday 22 February 2013. All eight samples have returned negative results for the presence of horse meat. However, the presence of pork has been indicated for two of the samples – beef burgers and chopped and shaped beef - which will now undergo further tests to determine the amount of pork present.
44. Following recent criticism of local authorities in the media, the Chair of the LGA Safer Communities Board responded with "the law is 100 per cent clear that it is the responsibility of the manufacturer, supplier, and retailer to make sure the product they sell us is what it says it is. There has been a major supply chain failure that's not the fault of consumers, councils or hospitals. The companies that supply our food need to take responsibility and focus on getting their house in order. The vast majority of retailers, caterers and manufacturers are doing this".

45. ESPO awards food contracts on a most economically advantageous basis based on exacting qualitative criteria and best value – never on price alone. The majority of meat purchased by member authorities is from known UK sources. ESPO continues to work with all member authorities to co-ordinate activities.
46. Leicestershire County Council has issued a press release regarding the findings of its testing of meat products, a copy of which is attached appended to this report marked Appendix 2. A number of other authorities have also prepared press releases and copies are awaited.

Goods Vehicle Operating Licence

47. A Public Inquiry held by The Traffic Commissioner took place on 16 January. The Traffic Commissioner heard full legal argument and witness evidence in relation to whether or not ESPO was an entity capable of holding an Operating Licence in its own name. The Commissioner accepted the arguments put forward by Leicestershire County Council and ESPO that as a Joint Committee (Under Section 102 of the Local Government Act 1972) ESPO is not a legally distinct entity and that management and control of the ESPO Goods Vehicle fleet should properly remain part of the traffic management responsibility of Leicestershire County Council as ESPO's servicing or host authority and as employers of the drivers of the ESPO vehicle fleet. The Traffic Commissioner expressed concern that the discharge of this responsibility must be by Leicestershire County Council as licence holder only and not, therefore, subject to any external controls or dispute resolution processes, as provided for within the Consortium Agreement.
48. LCC was required, as part of the decision of the Traffic Commissioner, to give an undertaking to use its best endeavours to ensure that a clause is inserted into the Consortium Agreement which explicitly states that control and authority in relation to decision making about the use of Goods Vehicles under the licence vests in Leicestershire County Council only. The Traffic Commissioner instructed Leicestershire County Council to report back to the Traffic Commissioner if this undertaking could not be complied with. The version of the Agreement elsewhere on this agenda contains this amendment under Schedule 3, section 6.16.
49. LCC (on behalf of ESPO) received a warning for its failure to ensure the fleet was operated in accordance with the terms of the licence. The Traffic Commissioner is satisfied with the new arrangements now in place to ensure full and effective traffic management of the fleet between LCC and the ESPO Goods Vehicle operation.

Audit Reports on Risk

50. Only one Internal Audit Report associated with risk has been completed in this period. The report on Legislation Compliance confirmed no High Importance Recommendations.

Supplementary Information Informing the Progress Report

51. Further information of a commercially sensitive nature which informs this report is contained under Item 14 (Exempt Report J), on the agenda for this meeting.

Resource Implications

52. None arising directly from this report. Where particular projects are referred to, such as p-cards and phonics these are within the budgeted lines for the 2012/13 budget.

Recommendation

53. Members are asked to note the contents of this report.

Equal Opportunities Implications

54. None.

Risk Assessment

55. Not applicable.

Background Papers

Progress Report of the Interim Director – 25 June 2012

Officer to Contact:

John Doherty, Director
0116 2657931
j.doherty@espo.org

Appendices:

1. Draft EduBuy Press Release
2. Leicestershire County Council Press Release



Linking education to better buying

DRAFT Press Release (updated 070213)

Date: xx February 2013

Public bodies unite to enable schools and academies to achieve up to £1 billion procurement savings

Public sector procurement organisations ESPO, YPO and Government Procurement Service (GPS) have collaborated with the Department for Education (DfE) to provide a single online platform for academies and schools to access EU compliant contracts which can help them achieve efficiencies with their everyday purchasing requirements, and drive up to £1 billion savings back into the sector.

Schools across the UK currently spend approximately £9.2 billion on non staff costs.¹ and they could potentially make significant efficiency savings through smarter procurement. These savings are critical in the current climate, as funds can be redirected back to the frontline for teaching and learning priorities.

With the aim of linking schools to good deals and simplifying the buying process, a new free website dedicated to providing wider choice and value for the education sector has been developed. www.edubuy.org offers a collective portfolio of over 300 of ESPO, YPO and GPS's EU compliant contracts across core areas, including ICT, stationery, facilities management and energy. It contains practical procurement guidance and case studies to help schools, academies and the wider education market identify savings and efficiency opportunities.

Alyson Gerner, DfE Head of Procurement and chair of the EduBuy Steering Board said: "The EduBuy website will save schools time and money by simplifying and speeding up the buying process for everyday products and services so they can focus on what's most important - teaching and learning.

"The DfE listened to what schools wanted, understood their difficulties with complex EU procurement processes and worked with three major public sector buying organisations to simplify the system. The EduBuy website brings together a comprehensive and compliant set of contracts to make it easier for schools to buy more efficiently and save themselves, and the UK taxpayer, valuable resources."

Simon Hill, EduBuy board member added "Procurement can be a bewildering process for education establishments, particularly with so many contract options available in the market and speed is often of essence. This collaborative website provides a quick and easy solution enabling customers to view a comprehensive range of compliant public sector contracts available to them in a single place."

The website was launched on xx February 2013. It is the latest in a number of collaborative projects between the organisations looking to drive procurement efficiency savings across the whole of the public sector.

- Ends -

For all media enquiries please contact David Lunn on 01924 834907 or email david.lunn@ypo.co.uk.

For more information about EduBuy please visit www.edubuy.org.

Notes to editors:

- As publicly owned bodies, all EduBuy partners invest back into education and the public sector.

EduBuy Partners

About ESPO

- ESPO is one of the UK's largest public sector professional buying organisations. It operates on a self-financing basis and is committed to delivering best value to its customers, suppliers and local communities.
- Established in 1981 to provide a comprehensive procurement service to the public sector, ESPO has the purchasing power to achieve savings to pass on to customers.
- ESPO has a large customer base within the education sector and provides procurement services and supplies goods to schools, academies and further & higher education establishments throughout the UK. The value of ESPO's procurement activity in 2011/12 was more than £1 billion.

About Government Procurement Service

- As an executive agency of the Cabinet Office, Government Procurement Service works on behalf of public sector organisations to deliver significant and sustainable savings, service improvements and innovations in buying.
- GPS creates high quality commercial agreements for customers across common areas of spend covering energy, office solutions, communications services, professional services, travel, fleet, IT commodities (including telecommunications and networks), property and facilities management and eCommerce. All agreements are aligned with government policy and are fully compliant with appropriate European Union and national legislation, saving customers time as well as money.
- GPS works with over 14,500 organisations across the public sector, including nearly 4,000 education establishments. In the last year alone they managed over £8.4 billion of customer spend, and delivered £650m of savings to the public sector.

About YPO

- YPO is the largest public sector buying organisation in the UK, established and owned by 13 local government member authorities. The organisation has an expanding list of associate member authorities across the wider public sector.
- All surplus profit generated through YPO's trading operations are returned to the public sector, helping to protect frontline services. In 2012, YPO is set to pay back an estimated £1.76 million to its customers as part of its Share of Profits Loyalty Scheme.

About Department for Education (DfE)

- The Department for Education (DfE) is the UK government department with responsibility for infant, primary and secondary education, and children's services.

- Every year, schools collectively spend approximately £9.3 billion in areas other than teaching staff. Significant savings can often be made in these areas, which can be reinvested in the school's priorities for teaching and learning.
- The DfE is committed to supporting schools and education organisations to make well informed decisions about how to efficiently spend their budgets. It also offers deals for schools including a wide range of IT related frameworks and contracts.

Other collaborative projects

- A contract for the provision of Photocopiers, Printers and Scanners (Multifunctional Devices (MFD) and Services, Contract ID: RM1599) brought together GPS, YPO and ESPO in spring 2012. The partnership was established in response to reports that many organisations had ineffective and expensive contracts in place for their print requirements. A compliant and cost-effective contract solution was established as a result for the whole public sector, with a bespoke lot created for the education market in consultation with the DfE. The contract covers the provision of photocopiers, printers, scanners, multifunctional devices (MFD) and managed print services with options designed specifically to minimise the risk associated with the purchase of these high cost goods.

ⁱ Department for Education, 2012. Improving Efficiency in Schools. [online] Available at: <https://media.education.gov.uk/assets/files/pdf/i/improving%20efficiency%20in%20schools.pdf> [Accessed 24 January 2013].

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PR 6990

26 February 2013

For Immediate Release

Trading Standards announce horse meat test results

Trading Standards officers have received the first batch of results after testing processed beef product tests for the presence of horse meat.

Leicestershire County Council's Trading Standards Service's tests on eight samples have returned negative for horse meat.

However, the presence of pork has been indicated for two of the samples - beefburgers and chopped and shaped beef - which will now undergo further tests.

The council was one of 28 local authorities to carry out the tests after being approached by the Food Standards Agency.

A further five samples have also been taken by the authority, the results of which are likely to be returned by the end of the week .

David Bull, Head of Leicestershire County Council's Trading Standards Service, said: "It is reassuring that the samples we have tested so far have proved negative for the presence of horse meat.

"However, two samples did indicate the presence of pork, which was not listed in the label or product description. Further testing will now be carried out to ascertain the level of pork present."

The results of tests on two school food products are expected by the end of this week

NB Trading Standards carried out a series of unannounced visits. The samples covered a range of products being sold at / distributed from a range of various types of outlets (ie supermarkets, mobile / takeaways, and other retail outlets)



ESPO MANAGEMENT COMMITTEE – 7 MARCH 2013

AGENDA ITEM 9.

REPORT OF THE CONSORTIUM TREASURER

PUBLIC PROCUREMENT AND SMALL & MEDIUM-SIZED ENTERPRISES

Purpose of Report

1. The purpose of this report is to:
 - (i) Update the Management Committee on progress in respect of work undertaken by the Senior Officers Group (SOG) on public procurement and SMEs;
 - (ii) Request the Management Committee to approve the key priorities identified by SOG (attached as Appendix A to this report).

Background

2. The Management Committee considered a report of the Interim Director on 27th September 2012, the purpose of which was to consider the extent to which ESPO supported SMEs and how this support could be developed. Arising from discussion at the meeting the following key points were noted:
 - (i) There was general consensus that it was not appropriate to assign targets for the number of SMEs with which ESPO worked. It was, however, important to establish tender processes which were as accessible as possible to SMEs;
 - (ii) In noting that local authorities were major employers within their respective areas, it was suggested that, where appropriate, efforts should be made to ensure that local SME suppliers received support to ensure they could appropriately access contracts alongside larger suppliers based elsewhere;
 - (iii) It was suggested that the Chief Officer Group (COG), with support from the Senior Officer Group, should be asked to undertake work on further improving the accessibility of ESPOs procurement processes to SMEs; in particular to prioritise and move forward on

the top four or five possible actions referred to in paragraph 18 of the report;

- (iv) Members indicated that in particular the sharing of best practice should be considered as a high priority given that this action was unlikely to have significant resources implications. It was also important to ensure that Consortium Authorities shared a common definition of SMEs.
3. The Management Committee resolved that the Chief Officer Group be requested to undertake further work, including confirming the needs of Consortium authorities and the sharing of best practice, to prioritise and develop what it considers to be the most important of the possible processes listed in paragraph 18 of the report (attached as Appendix B), with support from the Senior Officer Group, to report on the outcome of this work to the Management Committee at its meeting in March 2013.
 4. The Senior Officer Group considered the feedback from the ESPO Management Committee at its meeting on 10th October 2012. At this meeting SOG: -
 - Noted the linkages of the SME work to the Social Value Act which was implemented from February 2013 and agreed that these 2 pieces of work needed to run in parallel;
 - Agreed to include engagement with SMEs/Social Value in the SOG work plan for 2013/14;
 - Agreed for the project to be led by Paul White of Warwickshire County Council with support from Paul White of Cambridgeshire County Council.
 5. The SOG work plan was approved by COG at its meeting on 14th November 2012.

Update on Progress

6. SOG considered the long list of potential priority actions at its meeting on 30th January 2013 and agreed what it considered to be seven key priorities for improving the accessibility of ESPOs procurement practices to SMEs (see Appendix A).
7. COG considered SOG's recommended key priorities at its meeting on 5 February and agreed to recommend to the Management Committee, for approval, implementation of the agreed priorities to form the deliverables within the SOG work programme for 2013/14 (section 5.2).

Resource Implications

8. The proposed work to be undertaken by SOG on Public Procurement and SME's forms part of its 2013/14 Annual Work Programme. Any incidental costs arising will be met through its proposed 2013/14 budget allocation of £25,000 for use by the Director on behalf of SOG to support delivery of its annual Work Programme.

Recommendation

8. That the Management Committee:
 - (a) notes the contents of this report;
 - (b) approves the priorities contained in Appendix A to this to form the Procurement and SME's deliverables within the SOG work programme for 2013/14;
 - (c) requests the Chief Officer Group to consider and report back to the Management Committee the outcome of SOG's work in 12 months.

Background Papers

9. Report of the Director to Management Committee, 27 September 2012 – Public Procurement and SME's.

Equal Opportunities Implications

10. The subject of this paper is how to remove the obstacles that restrict SMEs' access to public procurement processes and put them at a disadvantage to larger organisations, whilst ensuring compliance with procurement legislation, including the principle of non-discrimination.

Officers to contact:

Brian Roberts
Consortium Treasurer
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Tel. 0116 305 7830

Paul White
Strategic Procurement Manager
Warwickshire County Council (on behalf of the Senior Officer Group)
paulwhite@warwickshire.gov.uk

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Priorities For Inclusion in the SOG Workplan

1. Agree a common definition of SMEs, as well as SME-related key performance indicators (including establishing baselines), across the member authorities;
2. Ensure that internal procedures (for example, the ESPO Business Case proforma) prompt consideration of the need for, and means of, making individual procurement exercises as SME-friendly as possible. Prompts may include consideration of the letting strategy, the extent to which the specification could be based on outcomes, whether to hold a Bidders Conference, SME-friendly contract conditions, allowing enough time for consortia bids¹, and directly notifying known SMEs in the respective market of the contract opportunity;
3. Ensure that the new Pre-Qualification Questionnaire (PQQ), including guidance (currently being developed by ESPO) is not excessively onerous, and can be tailored to be proportionate to a particular procurement exercise (e.g. insurance requirements);
4. Develop, a co-ordinated approach to giving advanced warning of upcoming contract opportunities and the advertising of contract opportunities, including the flagging of SME-friendly contracts;
5. Consider if, and how, the evaluation process can take account of the contribution made to the local economy, including SMEs (e.g. Members community strategy and targets);
6. Include SME friendly contract conditions in contracts with prime contractors, where appropriate. For example, requiring the prime contractor to:
 - a. Apply the same payment terms as agreed with the council to the payment of the sub-contractors they use in delivering the council contract;
 - b. Advertise sub-contracting opportunities, relating to the council contract, on an agreed portal (for example, the appropriate Source East Midlands website).
7. Develop a programme of market development/tendering capacity-building work, including delivering presentations at SME forums, attending 'Meet the Buyer' events, providing advice of how to set up consortia, creating a database of SMEs, and targeting SMEs that have previously been unsuccessful when pre-qualifying/tendering;

¹ It is recognised that recent guidance from central government has encouraged reducing the duration of the procurement process and that longer processes may add cost to both tenderers and the procuring organisation.

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Appendix B

Consideration by Management Committee on 27 September 2012 of ways by which the Consortium might further improve the accessibility of its (and members') procurement processes to SMEs.

- (i) Agree a common definition of SMEs, as well as SME-related key performance indicators (including establishing baselines), across the member authorities;
- (ii) Create a 'Procurement Charter' to which public and private sector organisations/contractors can sign up; committing them to best procurement practice, including ensuring local publicity is given to contract opportunities;
- (iii) Ensure that the SME agenda has a bearing on the appropriate level of collaboration when developing the procurement strategy; for example, whether national, regional or local framework agreement, or contract;
- (iv) Ensure that internal procedures (for example, the ESPO Business Case proforma) prompt consideration of the need for, and means of, making individual procurement exercises as SME-friendly as possible. Prompts may include consideration of the letting strategy, the extent to which the specification could be based on outcomes, whether to hold a Bidders Conference, SME-friendly contract conditions, allowing enough time for consortia bids¹, and directly notifying known SMEs in the respective market of the contract opportunity;
- (v) Develop, a co-ordinated approach to giving advanced warning of upcoming contract opportunities and the advertising of contract opportunities, including the flagging of SME-friendly contracts;
- (vi) Implement an e-Tendering solution, preferably in conjunction with member (and other) authorities, that alerts registered organisations of contract opportunities and stores tenderers' organisation details;
- (vii) Ensure that the new Pre-Qualification Questionnaire (PQQ), including guidance (currently being developed by ESPO) is not excessively onerous, and can be tailored to be proportionate to a particular procurement exercise (e.g. insurance requirements);
- (viii) Include questions within the new PQQ (as optional supplementary questions) that require tenderers to explain how they select and manage sub-contractors where appropriate;
- (ix) Evaluate the details (including finances) of all tender consortia members, rather than just the 'lead' partner (though this could be impractical and too complex; particularly risk arrangements may not be known at the tender stage);

¹ It is recognised that recent guidance from central government has encouraged reducing the duration of the procurement process and that longer processes may add cost to both tenderers and the procuring organisation.

- (x) Consider if, and how, the evaluation process can take account of the contribution made to the local economy, including SMEs (e.g. Members community strategy and targets);
- (xi) Include SME friendly contract conditions in contracts with prime contractors, where appropriate. For example, requiring the prime contractor to:
 - Apply the same payment terms as agreed with the council to the payment of the sub-contractors they use in delivering the council contract;
 - Advertise sub-contracting opportunities, relating to the council contract, on an agreed portal (for example, the appropriate Source East Midlands website).

Although laudable, imposing contractual restrictions may increase the cost of a contract. In these circumstances it may be more appropriate to provide contractors with information on the council's strategy/objectives;
- (xii) Proactively provide verbal debriefings to unsuccessful SME applicants/tenderers, rather than awaiting a request for a debrief. (Again this might increase procurement costs);
- (xiii) Develop a programme of market development/tendering capacity-building work, including delivering presentations at SME forums, attending 'Meet the Buyer' events, providing advice of how to set up consortia, creating a database of SMEs, and targeting SMEs that have previously been unsuccessful when pre-qualifying/tendering;
- (xiv) Develop and deliver a training session for commissioners that increases their awareness of the obstacles faced by SMEs, as well as the means of removing or reducing the impact of these obstacles.

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