



**Meeting: Corporate Governance Committee**

**Date/Time: Tuesday, 17 November 2015 at 10.00 am**

**Location: Guthlaxton - County Hall**

**Contact: Mr E Walters (tel: 0116 305 6016)**

**Email: [euan.walters@leics.gov.uk](mailto:euan.walters@leics.gov.uk)**

### **Membership**

Mr. A. M. Kershaw CC (Chairman)

Mr. G. A. Boulter CC    Mr. T. J. Richardson CC  
Mr. G. A. Hart CC    Mr. S. D. Sheahan CC  
Mr. K. W. P. Lynch CC    Mr. R. J. Shepherd CC

### **AGENDA**

<b><u>Item</u></b>	<b><u>Report by</u></b>	
1. Minutes of the meeting held on 25 September 2015.		(Pages 3 - 8)
2. Question Time.		
3. Questions asked by members under Standing Order 7(3) and 7(5).		
4. To advise of any other items which the Chairman has decided to take as urgent elsewhere on the agenda.		
5. Declarations of interest in respect of items on the agenda.		
6. Annual Audit Letter 2014/2015	Director of Corporate Resources	(Pages 9 - 20)



7. New external auditors KPMG - introduction to the Committee.

*Presentation provided by Daniel Hayward and John Cornett of KPMG.*

- |  |   |  |                   |
|--|---|--|-------------------|
| 8.   | Clinical Governance Update.   | Director of Public Health                            | (Pages 21 - 36)   |
| 9.   | Quarterly Treasury Management Report.                               | Director of Corporate Resources                      | (Pages 37 - 42)   |
| 10.  | Proposed Changes to the Contract Procedure Rules.                   | Director of Corporate Resources and County Solicitor | (Pages 43 - 74)   |
| 11.  | Proposed Changes to the Financial Procedure Rules.                  | Director of Corporate Resources                      | (Pages 75 - 80)   |
| 12.  | Risk Management Update.   |  | (Pages 81 - 102)  |
| <i>As part of this item a presentation will be provided on mitigating the risk of fraud.</i> |   |  |                   |
| 13.  | Quarterly Internal Audit Service Progress Report.                   | Director of Corporate Resources                      | (Pages 103 - 110) |
| 14.  | Regulation of Investigatory Powers Act 2000 (RIPA) - Annual Report. | County Solicitor                                     | (Pages 111 - 118) |
| 15.  | Any other items which the Chairman has decided to take as urgent.   |  |                   |
| 16.  | Date of next meeting.   |  |                   |

19 February 2016 at 10:00am.



Minutes of a meeting of the Corporate Governance Committee held at County Hall, Glenfield on Friday, 25 September 2015.

PRESENT

Mr. A. M. Kershaw CC (in the Chair)

Mr. G. A. Boulter CC  
Mr. G. A. Hart CC  
Mr. K. W. P. Lynch CC

Mr. T. J. Richardson CC  
Mr. S. D. Sheahan CC  
Mr. R. J. Shepherd CC

65. Minutes of the meeting held on 12 June 2015.

The minutes of the meeting held on 12 June 2015 were taken as read, confirmed and signed.

66. Question Time.

The Chief Executive reported that no questions had been received under Standing Order 35.

67. Questions asked by members under Standing Order 7(3) and 7(5).

The Chief Executive reported that no questions had been received under Standing Order 7(3) and 7(5).

68. To advise of any other items which the Chairman has decided to take as urgent elsewhere on the agenda.

There were no urgent items for consideration.

69. Declarations of interest in respect of items on the agenda.

The Chairman invited members who wished to do so to declare any interest in respect of items on the agenda for the meeting.

Mr Shepherd CC and Mr Lynch CC declared personal interests in item 6: External Audit of the 2014/15 Statement of Accounts, as members of the teachers' pension scheme.

Mr Richardson CC declared a personal interest in item 9: Quarterly Treasury Management Report as he was in receipt of a pension from Lloyds Bank.

70. External Audit of the 2014/15 Statement of Accounts and the Annual Governance Statement.

The Committee considered a report of the Director of Corporate Resources, the purpose of which was to present the findings from a review by the Council's external auditor of the

2014/15 financial statements. A copy of the report marked 'Agenda Item 6' is filed with these minutes.

The Chairman welcomed Richard Bacon and Matthew Elmer of PricewaterhouseCoopers (PwC) to their last meeting as external auditors before KPMG took over the role. Thanks were given to Richard and Matthew for their work over the previous 6 years and the positive working relationship they had helped create with Leicestershire County Council. Richard Bacon thanked officers for their professionalism during the external audit work and praised the Council for having proper regard to the processes.

Arising from discussion, the following points were noted:

- i. No material weaknesses had been identified and it was anticipated that an unqualified audit opinion would be issued. Whilst there were challenges ahead the Council had sound arrangements in place to deal with those challenges. PwC had reviewed the assumptions which lay behind the MTFS and had identified no concerns. Leicestershire County Council had a strong track record and its assumptions had proved to be accurate in the past. However, if there was a change in the global economy those assumptions would need to be reassessed.
- ii. Although the Government were encouraging Local Authorities to use their reserves to lessen the impact of budget cuts, PwC were of the view that the County Council's reserves were at an appropriate level, though they advised that the levels should be continually monitored in future. In response to a question regarding whether there would be scrutiny of whether the reserves were sufficient for the transformation programme, the Committee was reminded that there was a Governance framework in place including the Transformation Board, and the MTFS would be considered at County Council and Cabinet meetings.
- iii. It was noted that there was a risk of corporate memory being lost due to staff redundancies, however workforce planning work had been undertaken to deal with the issue. Redundancies could also cause skills to be lost from the Council however senior managers were conscious of this and the issue would be picked up through the internal management processes.
- iv. The Council would not be affected by the decision of the Pension Ombudsman in the case of Milne v Government Actuary's Department (GAD) because the decision did not affect employees of the County Council.
- v. Evaluation would take place regarding the value for money of the street lighting project however as it was in the early (procurement) stages this would not take place for at least 2 years.

RESOLVED:

(a) That the External Audit of the Financial Statements be approved;

(b) That it be agreed that PwC's conclusion on its independence and objectivity, as contained on page 14 of the Appendix to the report (page 25 of the agenda), be agreed.

#### 71. Ombudsman Annual Review 2014-15 and Corporate Complaint Handling.

The Committee considered a joint report of the Chief Executive and the Director of Corporate Resources, the purpose of which was to inform Members of the Ombudsman Annual Review letter for the Authority for 2014/15 and to provide Members with an

update on improvements to the Corporate Complaints procedures. A copy of the report marked 'Agenda Item 7' is filed with these minutes.

It was noted that for the twelve month period ending 31 March 2015 there had been 61 complaints against the County Council which was a significant reduction compared to the previous such period. It was reported that complaints issues were being better resolved within the County Council and when those issues had not been resolved the County Council had been able to provide evidence to the Ombudsman as to the reasons why. The County Council had accepted all of the Ombudsman's recommendations from that period. The County Council policy was to accept the Ombudsman's recommendations as far as possible because disputes would lead to a public report on the case which could cause reputational damage to the authority.

Whilst the Ombudsman's Annual Review reported that nationally waiting times for complaints to be resolved were too long, this was not the case for Leicestershire County Council. For the 2014/14 financial year 96% of Corporate Complaints against the County Council had been resolved within 20 working days. Statutory social care complaints tended to be more complex and take slightly longer however in this area 90% were still resolved within 20 working days.

Although it was not thought there were problems regarding the accessibility of the complaints procedures for Leicestershire County Council, a new Corporate Complaints leaflet was being produced and the complaints section of the website was being refreshed.

There was a statutory obligation for local authorities to have a report regarding complaints considered at Cabinet meetings however Leicestershire County Council went further than was required and complaints were considered by Scrutiny Committees as well.

Consideration was given to the best method of making all Members aware of the Councillor Workbook entitled 'Handling complaints for service improvement'. It was suggested that the Workbook could be put on the agenda of a future meeting of the Member Learning and Development Working Party.

In answer to a query regarding the timely acknowledgement of enquiries the Committee was informed that the customer service standards required an acknowledgement to be sent within 3 days. It was noted that it was difficult for the Corporate Complaints team to monitor whether these service standards were being complied with across the organisation but that the issue would be considered at the next meeting of the Customer Care Steering Group. The County Solicitor would report back to the Committee on progress with this issue.

#### RESOLVED:

- (a) That the contents of the report be noted;
- (b) That a copy of the report and Appendices B and C to the report be circulated to all members of the County Council for information.

72. Annual Report on the Operation of Members' Code of Conduct 2014-15.

The Committee considered a report of the County Solicitor, the purpose of which was to advise members on the operation of the Members' Code of Conduct since the last annual report to the Committee in September 2014. It was noted that no complaints against Members had been received during that period.

Discussion took place regarding the changes to the Officers Code of Conduct and in particular the requirement that a decision to dismiss the Head of the Paid Service, the Monitoring Officer or Chief Financial Officer be approved by the full Council. It was noted that this requirement raised the question as to which members could then deal with any appeal against dismissal, and the County Solicitor informed Members that no guidance had been received from the Government on this problem. It was suggested one solution may be for a limited number of Members to absent themselves from the full Council meeting which made the decision, to enable them to sit on the appeals panel. However, this potentially raised further problems.

RESOLVED:

That it be noted that no action was required to be taken by the Monitoring Officer in discharging his responsibilities under the Procedure for dealing with allegations of a breach of the Members' Code of Conduct because no complaints had been received.

73. Quarterly Treasury Management Report.

The Committee considered a report of the Director of Corporate Resources, the purpose of which was to provide an update on the actions taken in respect of treasury management in the quarter ended 30 June 2015. A copy of the report marked 'Agenda Item 9', is filed with these minutes.

In response to a question regarding how counterparties were assessed, Members were informed that the assessment was based on credit ratings using the methodology of Capita the County Council's Treasury Management advisor and that whilst officers were aware of potential concerns around the ethical status of certain counterparties this did not limit the ability of officers when deciding where to place funds to the best financial advantage to the County Council.

RESOLVED:

That the Quarterly Treasury Management update be noted.

74. Risk Management Update.

The Committee considered a report of the Director of Corporate Resources which provided an overview of key risk areas and the measures being taken to address them. The report also provided an update on related risk management matters and counter fraud initiatives. A copy of the report marked 'Agenda Item 10' is filed with these minutes.

The Committee also received a presentation on the risks associated with the County Council's work regarding Child Sexual Exploitation in Leicestershire. A copy of the slides forming the presentation is filed with these minutes.

## Presentation – Child Sexual Exploitation (CSE) in Leicestershire.

The Committee received a short presentation which set out the governance arrangements in relation to the Council's response to the Independent Inquiry into Child Sexual Abuse (the National Goddard Inquiry) and the sub-regional governance responsible for the Child Sexual Exploitation service.

It was noted that lessons learned through national inquiries such as the Jay Report, which considered the CSE and other related issues in Rotherham were being reflected in Leicestershire's response to the issue.

The Committee welcomed the presentation, the update on the positive partnership working in this important area as well as the robustness of the governance in place. It was noted that future presentations to the Committee would be considered in due course.

### Risk Register

It was clarified that where it stated 'The Council does not have the capacity to meet the demand on the CSE service' under Risk 7 on page 111 this was a perceived risk rather than a factual state of affairs.

With regard to the risk that the £5.5m funding received for implementing the Care Act could be claimed back by the Government, Members were informed that £2.0m was at a high risk of being claimed back but it was possible that the whole £5.5m could be claimed.

It was clarified that reference to 'front loading' in risk 1.1 of the register on the MTFS regarded the possibility that the Government could make the majority of the funding cuts during the first year of the 5 year cycle.

The Committee was informed that over the summer there had been considerable counter fraud activity and more was to be reported in November, so it was thought that even though it was not on the Corporate Risk Register, mitigating the risk of fraud was a suitable topic for the next presentation.

### **RESOLVED:**

- (a) That the current status of the strategic risk, the addition of new risks facing the Council and the updated Corporate Risk Register be approved.
- (b) That the Council's initiatives to improve the prevention and pursuit of fraud be noted.
- (c) That a presentation be provided at the next meeting of the Committee on mitigating the risk of fraud.

## **75. Internal Audit Service Progress Report.**

The Committee considered a report of the Director of Corporate Resources, the purpose of which was to provide a summary of the work finalised by the Internal Audit Service since the last report to the Committee and to highlight audits where high importance recommendations had been made to managers. A copy of the report marked 'Agenda Item 11' is filed with these minutes.

RESOLVED

That the contents of the report be noted.

76. Dates of future meetings.

RESOLVED:

That the next meeting of the Committee be held on 17 November 2015 at 10:00am.

10.00 am - 12.00 pm  
25 September 2015

CHAIRMAN

**CORPORATE GOVERNANCE COMMITTEE – 17 NOVEMBER 2015****REPORT OF THE DIRECTOR OF CORPORATE RESOURCES****ANNUAL AUDIT LETTER 2014/15****Purpose**

1. To present the Annual Audit Letter for 2014/15 for approval.

**Background**

2. A copy of the Annual Audit Letter for 2014/15 is included in the Appendix attached to this report. Matthew Elmer from the former external auditors, PricewaterhouseCoopers, will attend the meeting in order to present the letter and answer any questions.

**Recommendation**

3. The Committee will be requested formally to approve the Annual Audit Letter and agree its distribution to all Members of the Council.

**Equality and Human Rights Implications**

4. None.

**Circulation Under the Local Issues Alert Procedure**

5. None.

**Background Papers**

6. None.

**Officers to Contact**

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# Leicestershire County Council

*Annual Audit Letter*  
2014/15

Government and  
Public Sector

October 2015

**Code of Audit Practice and  
Statement of Responsibilities  
of Auditors and of Audited  
Bodies**

*In April 2010 the Audit Commission issued a revised version of the ‘Statement of responsibilities of auditors and of audited bodies’. It is available from the Chief Executive of each audited body. The purpose of the statement is to assist auditors and audited bodies by explaining where the responsibilities of auditors begin and end and what is to be expected of the audited body in certain areas. Our reports and management letters are prepared in the context of this Statement. Reports and letters prepared by appointed auditors and addressed to members or officers are prepared for the sole use of the audited body and no responsibility is taken by auditors to any Member or officer in their individual capacity or to any third party.*

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*Introduction*

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An audit is not designed to identify all matters that may be relevant to those charged with governance. Our audit does not ordinarily identify all such matters.

# Introduction

## The purpose of this letter

This letter summarises the results of our 2014/15 audit work for members of the Authority.

We have already reported the detailed findings from our audit work to the Corporate Governance Committee in the following reports:

- Medium Term Financial Strategy report;
- Audit opinion for the 2014/15 financial statements, incorporating conclusion on the proper arrangements to secure economy, efficiency and effectiveness in its use of resources; and
- Report to those charged with Governance (ISA (UK&I) 260).

## Scope of Work

The Authority is responsible for preparing and publishing its Statement of Accounts, accompanied by the Annual Governance Statement. It is also responsible for putting in place proper arrangements to secure economy, efficiency and effectiveness in its use of resources.

As an administering Authority of a pension fund, the Authority is also responsible for preparing and publishing Accounting Statements for the Leicestershire Pension Fund. Our 2014/15 audit work has been undertaken in accordance with the Audit Plan that we issued in February 2015 and is conducted in accordance with the Audit Commission's Code of Audit Practice, International Standards on Auditing (UK and Ireland) and other guidance issued by the Audit Commission.

We met our responsibilities as follows:

Audit Responsibility	Results
Perform an audit of the accounts and pension fund accounting statements in accordance with the Auditing Practice Board's International Standards on Auditing (ISAs (UK&I)).	We reported our findings to the Corporate Governance Committee on 25 September 2015 in our 2014/15 Report to those charged with governance (ISA (UK&I) 260).  All of the outstanding matters outlined in the ISA 260 report were addressed. On 29 September 2015 we issued an unqualified audit opinion.
Report to the National Audit Office on the accuracy of the consolidation pack the Authority is required to prepare for the Whole of Government Accounts.	We reported our findings to the National Audit Office on 29 September 2015.  We identified no significant issues as part of this work.
Form a conclusion on the arrangements the Authority has made for securing economy, efficiency and effectiveness in its use of resources.	On 29 September 2015 we issued an unqualified value for money conclusion.

Audit Responsibility	Results	Audit Responsibility	Results
<p>Consider the completeness of disclosures in the Authority's annual governance statement, identify any inconsistencies with the other information of which we are aware from our work and consider whether it complies with CIPFA / SOLACE guidance.</p>	<p>There were no issues to report in this regard.</p>	<p>Issue a certificate that we have completed the audit in accordance with the requirements of the Audit Commission Act 1998 and the Code of Practice issued by the Audit Commission.</p>	<p>We have not been able to issue our audit certificate because the Leicestershire Pension Fund Annual Report is not required to be completed until December 2015.</p> <p>When this is done we will be in a position to issue our completion certificate. There are no other outstanding matters.</p>
<p>Consider whether, in the public interest, we should make a report on any matter coming to our notice in the course of the audit.</p>	<p>There were no issues to report in this regard.</p>	<p>Issue a report noting whether or not the pension fund financial statements in the pension fund annual report and accounts are consistent with those in the authority's statement of accounts.</p>	<p>The Leicestershire Pension Fund Annual Report is not required to be completed until December 2015.</p>
<p>Determine whether any other action should be taken in relation to our responsibilities under the Audit Commission Act.</p>	<p>There were no issues to report in this regard.</p>		

# Audit Findings

## Accounts

We audited the Authority's accounts in line with approved Auditing Standards and issued an unqualified audit opinion on 29 September 2015.

We noted no significant issues arising from our audit within our Report to Those Charged with Governance (ISA (UK&I) 260). This report was presented to the Corporate Governance Committee on 25 September 2015. We wish to draw the following points, included in that report, to your attention in this letter:

- The accounts include property, plant and equipment with a net book value of £794.3 million, largely made up of land and buildings (£448.5 million) and infrastructure assets (£317.8 million). We reviewed the work of the Authority's professional Valuer and the key assumptions made. We identified no significant issues; and
- One of the most significant amounts in the Statement of Accounts is the net pension liability for employees in the Leicestershire Pension Fund. The net pension liability rose to £731 million as at 31 March 2015 from £603.3 million as at 31 March 2015.

## Use of Resources

We carried out sufficient, relevant work in line with the Audit Commission's guidance, so that we could conclude on whether the Authority had in place, for 2014/15, proper arrangements to secure economy, efficiency and effectiveness in the use of resources.

Leicestershire County Council

In line with Audit Commission requirements, our conclusion was based on two criteria:

- that the organisation has proper arrangements in place for securing financial resilience; and
- that the organisation has proper arrangements for challenging how it secures economy, efficiency and effectiveness.

To reach our conclusion, we carried out a programme of work that was based on our risk assessment.

We issued an unqualified conclusion on the ability of the organisation to secure proper arrangements to secure economy, efficiency and effectiveness in its use of resources. However, we wish to bring to your attention the following matters:

- The Authority has robust programme management arrangements in place. However, the scale of the financial challenge is more significant than what has been faced to date. This is something the Authority recognise through the establishment of the Transformation Programme;
- The Authority has applied appropriate assumptions in setting its Medium Term Financial Strategy (MTFS). In some cases these were more cautious than at other similar Authorities. However, we believe these assumptions which will help to appropriately manage financial risks over the plan period;

- The Public Sector Audit Appointments (PSAA) value for money profile continues to show a number of key areas where the Authority is providing services which can demonstrate value for money when compared with other County Councils;
- The Authority has set aside an appropriate level of earmarked reserves and contingency to manage risk, in particular future cost pressures;
- Up to 700 posts may be lost as a result of the changes needed over the next 4 years. The Authority needs to ensure that corporate memory is retained during this process, and that gaps in controls do not arise as a result; and
- The Better Care Fund is an important aspect of the Medium Term Financial Strategy. The local Better Care Fund submission met the relevant planning deadlines and governance arrangements have been put in place.

Given the scale of the changes the Authority is making, there are a number of risks that remain:

- Slippage: not identifying or achieving the savings required either from a service reduction or through efficiencies;
- Timing: Changes in the timing of savings, service reductions and funding announcements will impact delivery of the MTFS;
- Assumptions: If these turn out to be incorrect the level of savings required could change; and
- Policy: Current and future changes in government

policy have the potential to fundamentally alter the framework within which the MTFS has been developed.

The Authority has acknowledged these risks and put in place arrangements to monitor and manage their impact.

## *Annual Governance Statement*

Local authorities are required to produce an Annual Governance Statement (AGS) that is consistent with guidance issued by CIPFA/SOLACE. The AGS accompanies the Statement of Accounts.

We reviewed the AGS to consider whether it complied with the CIPFA/SOLACE guidance and whether it might be misleading or inconsistent with other information known to us from our audit work. We found no areas of concern to report in this context.

## *Whole of Government Accounts*

We undertook our work on the Whole of Government Accounts consolidation pack as prescribed by the National Audit Office. The audited pack was submitted on 29 September 2015. We found no areas of concern to report in this context.

## *Certification of Claims and Returns*

We presented our most recent Annual Certification Report for 2013/14 to those charged with governance in February 2015. We certified 1 claim worth £6,537,697 million. Some minor amendments were made to the claim but no changes to the value was required. These details were also set out in our Annual Certification Report for 2013/14.

# Other matters reported to those charged with governance

These are the matters we consider to be **most significant** for the Authority and have been raised with those charged with governance. Other, less significant recommendations have been brought to the attention of the Director of Finance.

Recommendation	Management Response	Target Implementation Date
<b>East Midlands Shared Service (EMSS)</b> The Authority should consider how they receive assurance that the controls are operating effectively across the whole of the financial year in future periods.	The Authority is liaising with its assurance providers to ensure that any reports cover the full financial year during 2015/16 and subsequent years.	March 2016
<b>Level of Reserves</b> With further reductions in funding likely and a number of policy reforms requiring implementation, the Authority continues to face higher levels of risk in the short and medium term. It should continue to take this in account in its assessment of the level of reserves held.	The Authority is undertaking an annual review of the level of reserves it holds. This process will consider all relevant factors, including the financial context in which the Authority will be operating.	November 2015

# Final Fees

## Final Fees for 2014/15

We reported our fee proposals in our audit plan.

Our actual audit fees were in line with our proposals at £102,600.

Our fees charged were therefore:

	2014/15 outturn	2014/15 fee proposal	2013/14 final outturn
Audit work performed under the Code of Audit Practice	£102,600	£102,600	£102,600
- Statement of Accounts			
- Conclusion on the ability of the organisation to secure proper arrangements for the economy, efficiency and effectiveness in its use of resources			
- Whole of Government Accounts			
Certification of Claims and Returns	0	0	2,789
<b>TOTAL</b>	<b>102,600</b>	<b>102,600</b>	<b>105,389</b>

We have also performed some work which fell outside of the Code of Audit Practice requirements:

- VAT claim (£4,000) – we provided administrative assistance with a VAT claim.
- East Midlands Councils (estimated final fee of £12,000) – we undertook an audit of the East Midlands Councils 2013/14 accounts.
- Teacher’s Pension Return (£13,000) – we undertook a review of this return, relating to 2013/14, in November 2014. We are also undertaking a review of the 2014/15 return.
- VAT Helpline (£3,000) – a helpline service covering the 2015/16 financial year.



In the event that, pursuant to a request which Leicestershire County Council has received under the Freedom of Information Act 2000, it is required to disclose any information contained in this report, it will notify PwC promptly and consult with PwC prior to disclosing such report. Leicestershire County Council agrees to pay due regard to any representations which PwC may make in connection with such disclosure and Leicestershire County Council shall apply any relevant exemptions which may exist under the Act to such report. If, following consultation with PwC, Leicestershire County Council discloses this report or any part thereof, it shall ensure that any disclaimer which PwC has included or may subsequently wish to include in the information is reproduced in full in any copies disclosed.

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**CORPORATE GOVERNANCE COMMITTEE****17 NOVEMBER 2015****REPORT OF THE DIRECTOR OF PUBLIC HEALTH****CLINICAL GOVERNANCE REPORT****Purpose of Report**

1. The purpose of this report is to:
  - (a) Outline the approach taken by Public Health in assuming oversight of clinical governance
  - (b) Provide a summary of Leicestershire County Council's Clinical Governance Board's work in the past 12 months;

**Background**

2. This paper provides the Corporate Management Team with information and assurance on the clinical governance arrangements that have been established in Leicestershire County Council to ensure that its commissioned clinical services are of a high standard, continuously improving, cost-effective, safe and provide a good patient experience.

After 1<sup>st</sup> April 2013, upper tier local authorities acquired public health functions that included responsibility for commissioning a number of clinical services previously commissioned by the NHS.

It is a condition attached to the allocation of the public health grant that local authorities must have appropriate clinical governance arrangements to cover services commissioned with grant funds.

3. 'Clinical governance' is a systematic approach to maintaining and improving the quality of patient care within a health system. It was originally elaborated within the National Health Service (NHS), and its most widely cited formal definition is: *'A framework through which [NHS] organisations are accountable for continually improving the quality of their services and safeguarding high standards of care by creating an environment in which excellence in clinical care will flourish'*.

Clinical Governance embodies three key attributes: recognisably high standards of care, transparent responsibility and accountability for those standards, and a constant dynamic of improvement.

4. Clinical governance refers directly to 'clinical services'. Broadly speaking clinical services are services delivered by clinical staff i.e. healthcare professionals e.g. doctors, nurses, allied health professionals including physiotherapists and others. Clinical care involves diagnosing, treating and caring for patients. The main clinical services now commissioned by Public Health in Leicestershire County Council are as follows: (see **Appendix 1** for the full list):

- Substance misuse services including substance misuse shared care, criminal justice substance misuse pathway, alcohol brief advice, inpatient detoxification, alcohol liaison team
- Integrated Sexual Health Services including GP contraceptive services and pharmacy based emergency contraception
- NHS Health Checks
- School nursing service
- Health visiting service
- Community infection prevention and control service

The range of service providers includes NHS, non-NHS statutory and voluntary/private sector

### **Summary of progress-what we have done in Leicestershire County Council**

5. Development of clinical governance arrangements in LCC has focussed on:
- Establishing clear lines of responsibility and accountability to promote the overall quality of clinical care.
  - Developing a comprehensive programme of quality improvement activities, including clinical audit.
  - Having effective awareness, and management of risks associated with the delivery/commissioning of clinical services
  - Putting in place effective governance of the processes in place for clinical audit/governance
  - Having clear procedures in place to identify and remedy poor performance
6. The overall clinical governance responsibility now sits with one of the public health consultants (delegated from the Director of Public Health). In terms of delivering on our requirements we have:
- Appointed a full time clinical governance manager
  - Appointed 2 full time contract managers/quality leads
  - Established a Quality and Clinical Governance Board that meets bi-monthly and is accountable to the council's corporate governance and

health scrutiny committees. The Quality & Clinical Governance Board has now been fully functional for two years.

- Established a work programme for the clinical governance team and board to systematically examine the cost-effectiveness, safety and patient experience of all its commissioned clinical services based on a proportionate approach determined by the level of clinical risk
- Created a new performance management framework to support assurance in relation to clinical governance. This provides a consistent approach for Contract Managers to follow when monitoring the performance of commissioned services
- Developed a clinical governance risk register with clear lines of accountability

7. A Leicestershire County Council internal audit report on the Public Health Clinical Governance Framework in July 2015 concluded:

***‘Based on the answers provided during the audit and the testing undertaken, substantial assurance can be given that the internal controls in place to reduce exposure to those agreed risks currently material to the system’s objectives are adequate and being managed effectively’.***

**Summary of issues dealt with in the past 12 months by Leicestershire County Council’s Clinical Governance Board (Table 1):**

**Table 1:**

<b>Heading</b>	<b>Issue</b>	<b>Action</b>
<b>General</b>	It is important to regularly measure indicators of effectiveness, safety and patient experience	The Clinical Governance Board considers reports covering effectiveness, safety and patient experience from each provider on a bi-monthly basis. These reports cover e.g. performance activity, untoward events, complaints and compliments
<b>Clinical Audit</b>	Clinical audit is a means of finding out if healthcare is being provided in line with established standards of best practice. It lets care providers, commissioners and patients know where their service is doing well, and	Our main contracts require our providers to choose and agree several clinical audits each year aimed at improving quality of patient care. The Clinical Governance Board oversees the process of carrying out

	where there could be improvements.	and acting upon the results of clinical audit. Audits carried out in 2014/15 included on Emergency Contraception, insertion of Intra-Uterine Contraceptives and on screening for health and wellbeing issues in patients attending substance misuse services
<b>Medication</b>	Importance of establishing robust mechanisms for reporting and acting on medication errors	Detailed assurance arrangements have been established with providers to ensure medication errors are swiftly and comprehensively reported.  Providers now keep a log of medication related incidents and inform PH of any incidents and themes or trends that appear.
<b>Patient Group Directions (PGDs)</b>	PGDs provide a legal framework that allows the supply and/or administration of a specified medicine(s) to a group of patients, who may not be individually identified prior to presentation for treatment.	The clinical governance lead agreed to work with the providers to update the relevant PGDs. PGDs are then signed off by the Clinical Governance Board
<b>Safeguarding including Child Sexual Exploitation (CSE)</b>	The Clinical Governance Board oversees safeguarding arrangements in our providers and must be assured that robust arrangements are in place.  Nationally CSE has been identified as an issue of growing concern and the Clinical Governance Board is particularly focussed on its implications for our providers	Regular checks are carried out into safeguarding policies and their application. The Clinical Governance Board requested assurance that all our providers are fully compliant with their requirements in relation to tackling CSE. A CSE audit was carried out on all providers of public health services in February, 2015. All providers were found to

		be either fully compliant or working towards full compliance.
<b>Re-procurement</b>	Re-procurement of clinical services creates opportunities to update and improve the clinical quality and safety of new services	The Clinical Governance Board has sought regular assurance and reports during the period of re-procurement of new services to ensure that clinical effectiveness, safety and patient experience are central considerations during the process. The current re-procurement of integrated substance misuse services is under regular review by the Clinical Governance Board

## 8. **Resource Implications**

A proportion of the public health grant is needed to support the council's obligations in relation to clinical governance e.g. in terms of staffing (clinical governance managers and contract managers).

## 9. **Recommendation**

That the contents of the report be noted.

## **Appendix**

Appendix 1 - List of services commissioned by Public Health Directorate

Appendix 2 - Quality and Clinical Governance Board Terms of Reference

## **Officer to Contact**

Dr Mike McHugh  
 Consultant in Public Health  
 Tel: 0116 3054236  
 E-mail: [mike.mchugh@leics.gov.uk](mailto:mike.mchugh@leics.gov.uk)

## Appendix 1

## LCC PH Commissioned PH Services

<b>Commissioned PH Services (higher value and higher clinical risk)</b>				
<b>Contract Title / Service</b>	<b>Provider</b>	<b>Current Contract Type</b>	<b>Annual Value (approx.)</b>	<b>Quality/Clinical Governance Issues</b>
Substance misuse treatment service	Swanswell	Standard LA Contract	£2.9 million	Relatively high risk contract due to prescribing and safeguarding issues.
Integrated Sexual Health Service	Staffordshire & Stoke on Trent Partnership Trust	Service started January 2014	£2.96 million	Relatively high risk service-prescribing, IUCD, unwanted pregnancy, management and contract tracing of Sexually Transmitted disease including HIV, contact tracing etc.
School Nursing	Leicestershire Partnership Trust	Standard NHS Contract	£2.75 million	Medium-high risk due to safeguarding issues.
Health Visiting	Leicestershire Partnership Trust	Standard NHS Contract	£6.3 million	Medium-high risk due to safeguarding issues.
Stop smoking service	QUIT 51	Standard NHS Contract	£1.1 million	Low-medium risk
NHS Health Checks	Community Based Service-GPs	Standard PH Contract	£750k	Low-medium risk
Criminal justice substance misuse pathway	LiFT	Standard NHS Contract	£888k	High risk area due to prescribing and safeguarding issues. Jointly commissioned with Leicester City Councils
IUCD (Inter-Uterine Contraceptive Device) & Implanon	Community Based Service-GPs	Standard PH Contract	£520k	Moderate to high risk-misplacement of, failure of device, infection etc .Multiple providers
Inpatient detox	Nottinghamshire Healthcare Trust	Standard NHS contract (CCG)	£217k	High risk area due to nature of conditions treated.
Substance misuse shared care	Community Based Service	Standard PH Contract	£335k	High risk area due to prescribing and safeguarding issues etc. Multiple providers

Community infection prevention and control	In house (LCC) service	Standard NHS Contract	£90k	Potentially risky area-risk of outbreaks if service not delivered properly.
<b>Contracts of lower value (below £200k)</b>				
<b>Contract Title / Service</b>	<b>Provider</b>	<b>Current Contract Type</b>	<b>Annual Value</b>	<b>Quality/Clinical Governance Issues including clinical risk</b>
Alcohol brief advice	Community Based Service	Standard PH Contract	£100k	Moderate risk.
Alcohol liaison team	UHL	NHS Standard Contract	£54k	Moderate risk.
Chlamydia Screening	Community Based Service	Standard PH Contract	£25k	Moderate risk. Multiple providers
Emergency hormonal contraception	Community Based Service	Standard PH Contract	£48k	Moderate to high risk. Clinical and safeguarding issues. Multiple providers
Pharmacy Chlamydia	Community Based Service	Standard PH Contract	£0.25k	Moderate risk Multiple providers
HIV - Positive People	Voluntary Sector	Standard PH Contract	£20k	Relatively low risk
HIV - MSM	Voluntary Sector	Standard PH Contract	£40k	Relatively low risk
HIV - African Heritage	Voluntary Sector	Standard PH Contract	£5k	Relatively low risk.
HIV – Sex Workers	Voluntary Sector	Standard PH Contract	£20k	Relatively low risk.
Older People Activity	Voluntary Sector	Pilot	£30k	Low clinical risk (prevention). Will require standard contract performance monitoring
Commercial Weight Management	Weightwatchers	Short LCC Contract	£70k	Low clinical risk (prevention)
Master Gardeners	Garden Organic	Short LCC Contract	£70k	Low clinical risk (prevention). Will require standard contract performance monitoring

Physical Literacy 5-11	SAQ International	Short LCC Contract	£50k	Low clinical risk (prevention). Will require standard contract performance monitoring
Additional exercise on referral (heartsmart)	Leicestershire & Rutland Sport	District Commissioned	£50k	Low clinical risk (prevention). Will require standard contract performance monitoring
Travellers health ambassadors	Leicestershire Partnership Trust	NHS Standard Contract	£46k	Low-Medium risk due to vulnerability of client group, safeguarding etc CCG monitoring on our behalf Issues around data from LPT
Travelling families service	Leicestershire Partnership Trust	NHS Standard Contract	£50k	Medium risk due to vulnerability of client group, safeguarding etc
Probation Health trainers	Probation Service	LCC Contract	75K	Medium risk due to vulnerability of client group, safeguarding etc Leicester City Council monitoring on our behalf
Healthy Workplaces	Leicester Fit for Work	New Service	£75k	Low-Medium risk in terms of advice and services delivered to patients/public
Teenage Mediation Service	The Bridge, Loughborough	LCC Contract	£36k	Medium risk due to vulnerability of client group, safeguarding etc
<b>Contracts of Higher value (over £100k) but relatively low clinical risk</b>				
<b>Contract Title / Service</b>	<b>Provider</b>	<b>Current Contract Type</b>	<b>Annual Value</b>	<b>Quality/Clinical Governance Issues</b>
Food for life	Food For life Partnership	New Service	£100K year 1, £200K year 2 & 3	Low clinical risk (prevention). Will require standard contract monitoring
Additional exercise on referral	District Councils	District Commissioned	£170K	Low clinical risk (prevention). Will require standard contract monitoring

## **Appendix 2**

### **Quality and Clinical Governance Board**

#### **Terms of Reference**

The purpose of the Quality and Clinical Governance Board is to assess clinical governance information in order to provide assurance to Leicestershire County Council's Corporate Management Team and Corporate Governance Committee and to Rutland County Council's SMT and Governance Group that quality standards and clinical governance obligations for Public Health Services are being met across the following three domains:-

1. Patient Safety
2. Patient Experience
3. Effectiveness of Care.

This work will be carried out in line with the Quality & Clinical Governance Board Four Stages of Assurance Framework (see below) and will incorporate the following dimensions: -

#### **1. Patient Safety**

- (a) To monitor the delivery of clinical contracts to ensure that quality standards and clinical governance obligations are met and to ensure that remedial action plans are in place and compliance with them monitored.
- (b) To ensure that the principles of clinical governance and quality assurance are integral within consultation, service redesign, evaluation of services and patient experience.
- (c) To provide arrangements for the management of clinical risks and escalate concerns as appropriate.
- (d) To consider and review patient safety incidents and serious incident reports from the two County Councils' commissioned public health service providers to identify themes and trends and make recommendations for change in practice.
- (e) To ensure that processes are in place to safeguard children and adults in receipt of public health clinical services.
- (f) To manage the adoption of Patient Group Directives (PGDs), in relation to prescribing activity, from other organisations and oversee their development, authorisation, implementation and review.

#### **2. Patient Experience**

- (g) To consider complaints and commendations reports in relation to public health services and, where themes and trends have been identified, make

recommendations for changes in practice through the commissioning process.

- (h) To consider any issues relating to patient experience raised by Leicestershire or Rutland Healthwatch.
- (i) To ensure that due regard is paid to the Public Sector Equality Duty through the delivery of Public Health clinical contracts.

### **3. Effectiveness of Care**

- (j) To develop and monitor key performance measures for clinical quality, patient safety and clinical standards.
- (k) To receive and respond to assurance reports regarding the implementation of NICE guidance.
- (l) To receive and respond to reports on Healthcare Associated Infections providing the Board with assurance that all clinical commissioned services are compliant with the requirements set out in the legislation in force for the time being.
- (m) To monitor the implementation of recommendations and actions arising from national inquiries and national and local reviews undertaken by external agencies (e.g. the Care Quality Commission) of public health services.
- (n) To receive and respond to reports regarding education and workforce development where such reports identify areas for change in practice.
- (o) To ensure that there is an appropriate mechanism in place for action to be taken in response to the results of clinical audit.
- (p) To ensure that variations in clinical practice are identified and addressed and that clinical intervention is based upon best available evidence.

### **4. Joined Up Working**

- (q) To ensure that the County Council's quality and clinical governance processes are aligned with those of the CCGs and NHS England Local Area Team.
- (r) To work proactively with the Leicestershire CCGs and provider organisations to develop a culture of quality improvement and promote safety and excellence in patient care across partners.
- (s) To identify ways in which quality can be improved across the patient pathway rather than in individual organisations.

## **Membership**

The membership of the Quality and Clinical Governance Board will be as follows:-

Director of Public Health (Chair)  
 Representative of LCC Chief Executive's Department (Legal Services)  
 Representative of LCC Adults and Communities Department  
 Representative of LCC Commissioning Support Unit  
 Representative of LCC Children and Young People's Service  
 RCC Head of Commissioning or delegated representative  
 Chairman of Safeguarding Adults Board and Local Safeguarding Children Board (co-opted)  
 Patient/Public Representative

If any member is unable to attend they nominate a deputy of appropriate strategic level to attend.

Membership will be reviewed regularly.

The Quality and Clinical Governance Manager will support the Board.

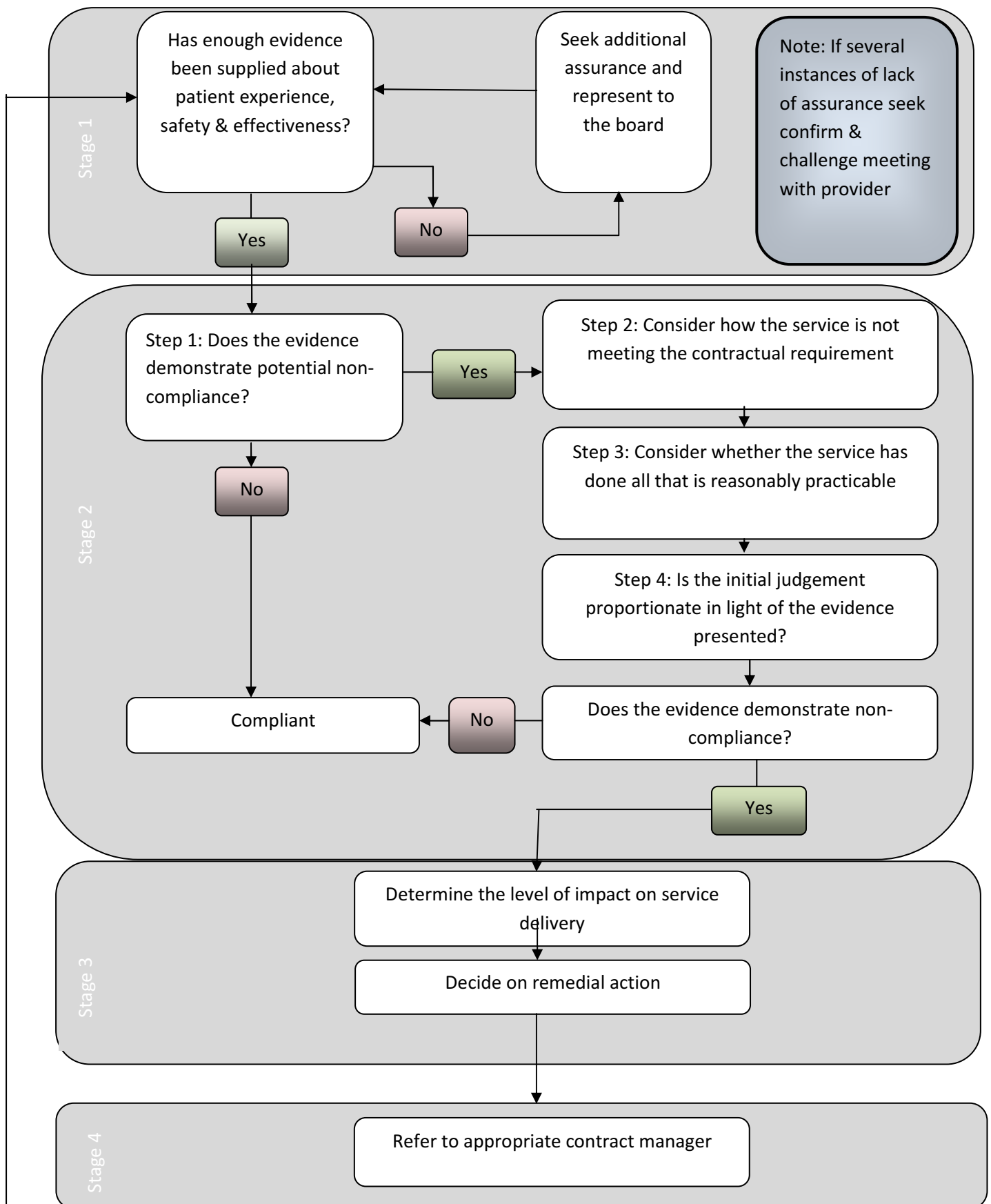
## **Standing Orders**

The quorum for the meeting shall be a quarter of the membership or three members to include the Director of Public Health or his deputy, whichever is the greater.

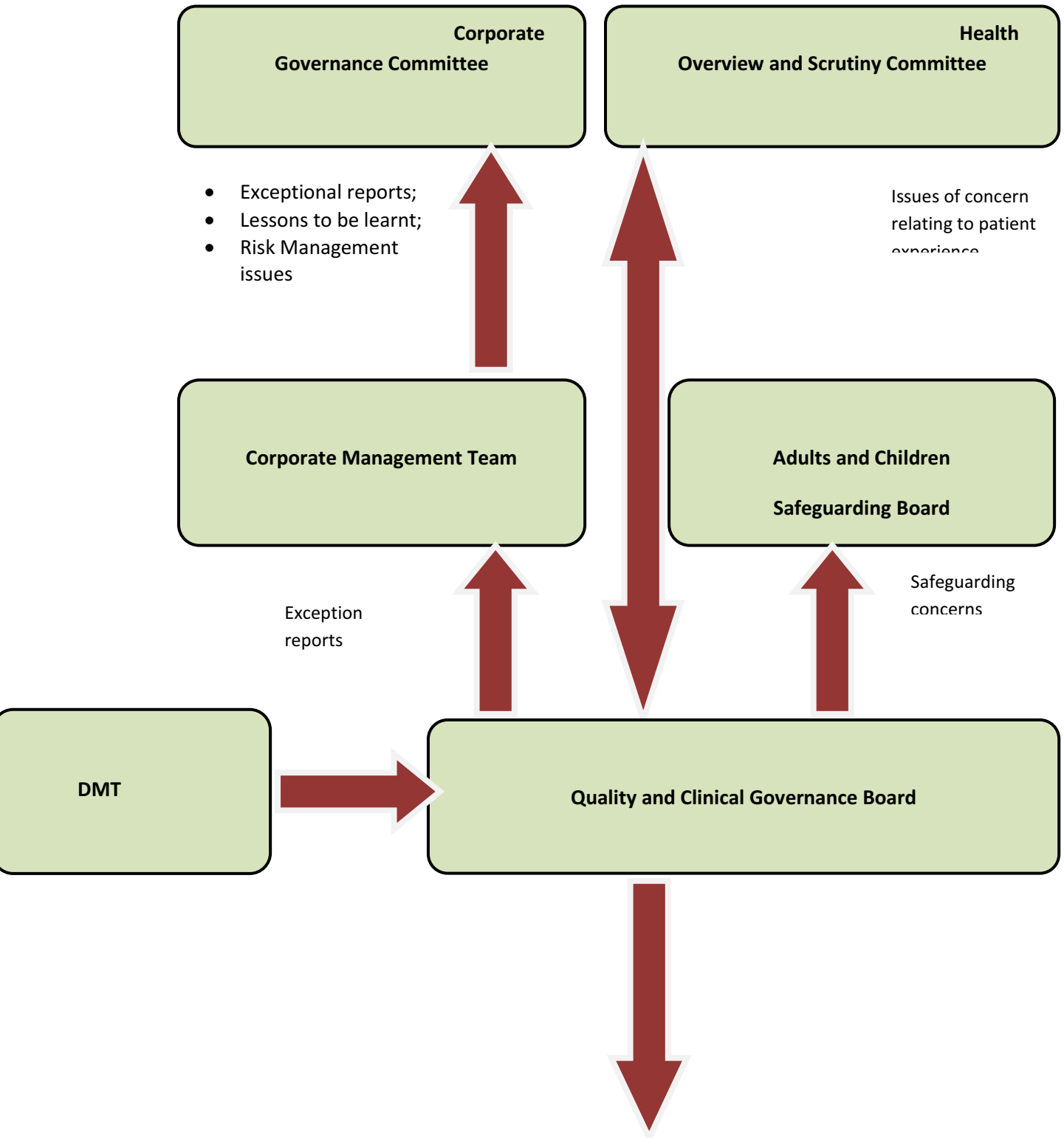
It is hoped that decisions of the Board can be reached by consensus without the need for formal voting. A decision put to the vote at a meeting shall be determined by a majority of votes of members present. In the case of an equal vote, the Chair will have a second and casting vote.

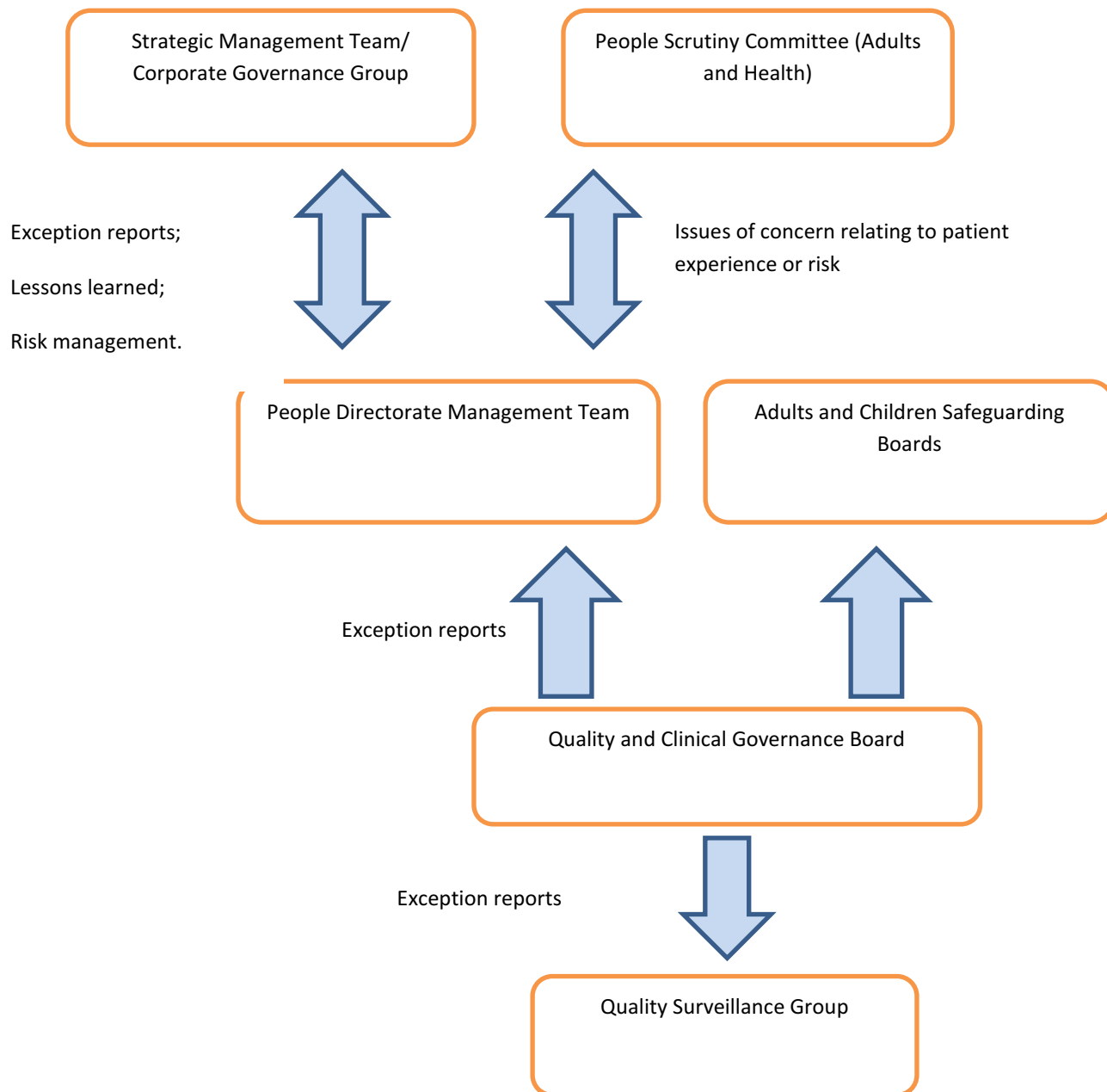
## Quality & Clinical Governance Board Four Stages of Assurance Framework

(Adapted from Care Quality Commission Judgement Framework April 2012)



## Accountability Arrangements – Leicestershire



**Quality Surveillance Group****Accountability Arrangements – Rutland**

Signature	
Name	Mike Sandys
Position	Director of Public Health
Date terms of reference approved	24 <sup>th</sup> August 2015
Date for review	

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## **CORPORATE GOVERNANCE COMMITTEE – 17<sup>TH</sup> NOVEMBER 2015**

### **QUARTERLY TREASURY MANAGEMENT REPORT**

#### **REPORT OF THE DIRECTOR OF CORPORATE RESOURCES**

##### **Purpose of the Report**

1. To update the Corporate Governance Committee about the actions taken in respect of treasury management in the quarter ended 30<sup>th</sup> September 2015.

##### **Background**

2. Treasury Management is defined as:-

“The management of the organisation’s investments and cash flows, its banking, money market and capital market transactions; the effective control of the risks associated with those activities; and the pursuit of optimum performance consistent with those risks”.

3. A quarterly report is produced for the Corporate Governance Committee to provide an update on any significant events in the area of treasury management.

##### **Economic Background**

4. The UK economy grew by a provisional estimate of 0.5% during the September quarter, which was below the 0.7% growth of the previous quarter. Given the headwinds to exporters from the appreciation of sterling, allied to continuing weakness in Europe and a slowdown in Emerging Markets (notably China), this slowdown in growth was fully expected and forward-looking surveys suggest that there may be a further slowdown in the final quarter of the year. Inflation remained subdued, with the Consumer Price Index recording deflation of -0.1% in the year to September due mainly to falls in the prices of food and petrol. Despite this slowdown the UK continues to perform very well relative to other developed economies, and within the G7 only the US is performing anywhere near as well.
5. The immediate outlook for UK inflation is also muted, and as a result the possibility of a near-term increase in bank bases rates appears to be low. Very few market commentators are now expecting a base rate increase until at least the end of the first quarter of 2016. Commodity prices – an input into inflation that is almost exclusively affected by what happens elsewhere in the world – are likely to remain low, partly due to the slowdown in China and its rebalancing from an investment-led economy to a consumer-led one.
6. In the Eurozone the massive quantitative easing programme continued to boost consumer and business confidence, and economic growth continued. The recent slowdown elsewhere has raised questions about whether there will be a need for an

even larger quantitative easing programme if growth is to be maintained, and if inflation is to return to anything like its target of 2%.

7. The US economy showed continued signs of resilience, but an increase in interest rates at the Federal Reserve's September meeting - widely anticipated in the summer – did not materialise. Economic weakness elsewhere in the world was cited as the main factor that led to a 'no change' decision, and there is increasing concern over when the US will feel comfortable enough to increase interest rates. An increase in interest rates will be a clear signal that the global economy has entered a self-sustaining phase of growth, as opposed to one that is built on ultra-accommodative monetary policy.

#### **Action Taken during September Quarter**

8. The balance of the investment portfolio increased over the quarter and stood at £185.5m at the end of the quarter, an increase of £6.8m from the opening position. Variations in the size of the portfolio of this magnitude are quite normal.
9. Activity during the quarter was relatively subdued. A one year loan to Bank of Scotland at a rate of 0.95% matured and was renewed with the same counterparty for a period of six months at 0.70% – due to Government share sales of Lloyds Banking Group (the parent company of Bank of Scotland), Lloyds has lost its 'special situation' position that was based on significant state-ownership and slipped to maximum loan period of 6 months. A 3 month loan to HSBC (at 0.57%) matured and was renewed for the same term at a rate that was marginally higher. There was a new loan placed with Royal Bank of Scotland for a period of one year at a rate of 0.98%, and a new 6 month loan placed with Santander at 0.73%.
10. The impact of this action was to increase the average rate of interest from 0.79% to 0.81% over the course of the quarter. The reduction in the balance of cash held in Money Market Funds (from £28.7m to £20.5m) had the biggest impact on the increase in the average interest rate, given that this cash earns a below-average rate within the portfolio of c.0.48%. How much money is held in Money Market Funds is a function of cash flows, availability of counterparties at attractive rates of interest and views on how future interest rates will change.
11. The loan portfolio at the end of June was invested with the counterparties shown in the list below.

	£m
Lloyds Banking Group/Bank of Scotland	50.0
Royal Bank of Scotland	50.0
HSBC	15.0
Santander UK	20.0
Nationwide Building Society	10.0
Landesbank Hessen Thuringen	10.0
Lancashire County Council	10.0
Money Market Funds	<u>20.5</u>
	<u>185.5</u>

13. There are also five further loans with Lloyds Banking Group which are classified as 'service investments' for the Local Authority Mortgage Scheme (LAMS). These do not form part of the treasury management portfolio, but are listed below for completeness:
- 5 year loan for £2m, commenced 5<sup>th</sup> September 2012 at 2.72%
  - 5 year loan for £1.4m, commenced 27<sup>th</sup> November 2012 at 2.19%
  - 5 year loan for £2m, commenced 12<sup>th</sup> February 2013 at 2.24%
  - 5 year loan for £2m, commenced 1<sup>st</sup> August 2013 at 2.31%
  - 5 year loan for £1m, commenced 31<sup>st</sup> December 2013 at 3.08%
14. The Leicestershire Local Enterprise Fund has been making financing available to small and medium sized Leicestershire companies, via an association with Funding Circle, since December 2013. There are a number of hurdles that companies must clear before being able to access this funding, and any loans made will be classed as 'service investments'. As such, these loans are not covered within the Treasury Management Policy but at the end September 2015 there had been 48 loans made totalling £464,200 and the average interest rate on these loans was 8.6%.

### **Resource Implications**

15. The interest earned on revenue balances and the interest paid on external debt will impact directly onto the resources available to the Council.

### **Equal Opportunities Implications**

16. There are no discernable equal opportunity implications.

### **Recommendation**

17. The Committee is asked to note this report.

### **Background Papers**

None

### **Circulation under the Local Issues Alert Procedure**

None

### **Officers to Contact**

Colin Pratt - telephone 0116 3057656, email [colin.pratt@leics.gov.uk](mailto:colin.pratt@leics.gov.uk)  
 Chris Tambini - telephone 0116 3056199, email [chris.tambini@leics.gov.uk](mailto:chris.tambini@leics.gov.uk)

## APPENDIX

**List of acceptable counterparties for lending of surplus funds****UK part State-Owned institutions - maximum limit £50m for 1 year**

Lloyds Banking Group (including Bank of Scotland and Lloyds)

Royal Bank of Scotland Group (including Nat West and Royal Bank of Scotland)

**UK institutions - maximum limit £30m for 1 year**

HSBC (including HSBC Bank USA and The Hong Kong and Shanghai Banking Corporation. These overseas subsidiaries both have individual limits of £15m for 1 year)

Standard Chartered

*NB. Bank of New York Mellon (international) Ltd is classed as a subsidiary of Bank of New York Mellon. The overall limit for the group is £15m for 6 months*

**UK institutions - maximum limit £20m for 6 months**

Barclays

Close Brothers

Coventry Building Society

Merrill Lynch International

Nationwide

Santander UK Group (including Abbey National Treasury Services and Cater Allen)

Sumitomo Mitsui Banking Corporation Europe Ltd

*NB. Citibank International is classed as a subsidiary of Credit Suisse AG. The overall limit for the group is £10m for 6 months*

*NB. Credit Suisse International is classed as a subsidiary of Credit Suisse AG. The overall limit for the group is £10m for 6 months*

*NB. UBS Ltd is classed as a subsidiary of UBS AG. The overall limit for the group is £10m for 6 months*

**Abu Dhabi/U.A.E. (maximum limit to all banks within country is £30m)**

National Bank of Abu Dhabi (£15m for 1 year)

**Australia (maximum limit to all banks within country is £30m)**

Australia & New Zealand Banking Group (£15m for 1 year)

Commonwealth Bank of Australia (£15m for 1 year)

Macquarie Bank (£10m for 6 months)

National Australia Bank (£15m for 1 year)

Westpac Banking Corporation (£15m for 1 year)

**Belgium (maximum limit to all banks within country is £30m)**

BNP Paribas Fortis (£10m for 6 months)

*NB. Classed as part of a BNP Paribas together with French parent.  
£10m limit is for the group*

KBC Bank NV (£10m for 6 months)

**Canada (maximum limit to all banks within country is £30m)**

Bank of Montreal (£15m for 1 year)

Bank of Nova Scotia (£15m for 1 year)

Canadian Imperial Bank of Commerce (£15m for 1 year)

National Bank of Canada (£10m for 6 months)

Royal Bank of Canada (£15m for 1 year)

Toronto Dominion Bank (£15m for 1 year)

**Denmark (maximum limit to all banks within country is £30m)**

Danske Bank (£10m for 6 months)

**Finland (maximum limit to all banks within country is £30m)**

Nordea Bank Finland (£15m for 1 year)

*NB. Classed as part of a group with Nordea Bank (included in Swedish banks).*

*£15m limit is for the group.*

Pohjola Bank (£15m for 1 year)

**France (maximum limit to all banks within country is £30m)**

BNP Paribas (£10m for 6 months)

*NB. Classed as part of same group as BNP Paribas Fortis (included in*

*Belgian banks). £10m limit is for the group*

Credit Agricole Corporate and Investment Bank (£10m for 6 months)

*) Part of Credit Agricole group. £10m limit*

Credit Agricole (£10m for 6 months)

*) is for the group.*

Credit Industriel at Commercial (£15m for 12 months)

**Germany (maximum limit to all banks within country is £30m)**

BayernLB (£10m for 6 months)

DZ Bank (Deutsche Zentral-Genossenschaftsbank) (£15m for 1 year)

Deutsche Bank AG (£10m for 6 months)

Helaba (Landesbank Hessen-Thüringen Girozentrale (£10m for 6 months)

Landesbank Baden Württemberg (£15m for 12 months)

Landesbank Berlin AG (£10m for 6 months)

Landwirtschaftliche Rentenbanken (£15m for 1 year)

NRW.BANK (£15m for 1 year)

**Luxembourg (maximum limit to all banks within country is £30m)**

Banque at Caisse d'Epargne de l'Etat (£15m for 1 year)

Clearstream Banking (£15m for 1 year)

**Netherlands (maximum limit to all banks within country is £30m)**

Bank Nederlandse Gemeenten (£15m for 1 year)

Cooperative Centrale Raiffeisen Boerenbank (Rabobank Nederland) (£15m for 1 year)

ING Bank (£10m for 6 months)

Nederlandse Waterschapsbank (£15m for 1 year)

**Norway (maximum limit to all banks within country is £30m)**

DnB Bank (£15m for 12 months)

**Qatar (maximum limit to all banks within country is £30m)**

Qatar National Bank (£15m for 1 year)

**Saudi Arabia (maximum limit to all banks within country is £30m)**

Arab National Bank (£10m for 6 months)

Riyad Bank (£10m for 6 months)

Samba Financial Group (£15m for 1 year)

**Singapore (maximum limit to all banks within country is £30m)**

DBS Bank (£15m for 1 year)

Overseas Chinese Banking Corporation (£15m for 1 year)

United Overseas Bank (£15m for 1 year)

**Sweden (maximum limit to all banks within country is £30m)**

Nordea Bank AB (£15m for 1 year)

*NB. Classed as part of a group with Nordea Bank Finland. £15m limit for group.*

Skandinaviska Enskilda Banken (£15m for 1 year)

Svenska Handelsbank (£15m for 1 year)

Swedbank (£15m for 1 year)

**Switzerland (maximum limit to all banks within country is £30m)**

Credit Suisse (£10m for 6 months).

*NB Group limit of £10m/6 months to include UK subsidiary*

UBS AG (£10m for 6 months)

*NB Group limit of £10m/6 months to include UK subsidiary*

**USA (maximum limit to all banks within country is £30m)**

Bank of New York Mellon (£15m for 1 year)

*NB Group limit of £15m/1 year to include UK subsidiary*

Bank of America N.A. (£10m for 6 months)

BOKF NA (£10m for 6 months)

Citibank International (£10m for 6 months)

*NB Group limit of £10m for 1 year to include UK subsidiary*

HSBC Bank USA (£15m for 1 year)

*NB to be included as part of UK Group limit £30m/1 year*

JPMorgan Chase (£15m for 1 year)

Northern Trust Company (£15m for 1 year)

Silicon Valley Bank (£10m for 6 months)

State Street Bank and Trust Company (£15m for 1 year)

U.S. Bancorp (£15m for 1 year)

Wells Fargo Bank (£15m for 1 year)



**CORPORATE GOVERNANCE COMMITTEE**  
**17 NOVEMBER 2015**

**JOINT REPORT OF THE DIRECTOR OF CORPORATE  
RESOURCES AND THE COUNTY SOLICITOR**

**PROPOSED CHANGES TO THE  
CONTRACT PROCEDURE RULES**

**Purpose of Report**

1. The purpose of this report is to:
  - a. report on the operation of the Contract Procedure Rules between 1 July 2014 and 30 September 2015;
  - b. bring to the Committee's attention actions being taken to continue to ensure compliance with the Contract Procedure Rules;
  - c. propose that recommendations to the County Council are made to revise the Contract Procedure Rules.

**Background**

2. Rule 8 (Annual Reporting) of the Council's Contract Procedure Rules stipulates that the Director of Corporate Resources, in consultation with the County Solicitor, shall at least once in each financial year submit a report to the Corporate Governance Committee in relation to the operation of these Rules. This includes (amongst other things) details of the approved exceptions to these Rules and approved extensions to contract where this has not been provided for in the contract, and 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.
3. Following consideration by the Committee, the proposed revisions to the Contract Procedure Rules will be submitted to the County Council at its meeting on 2 December 2015 for approval.

**Approved Exceptions to the Rules**

4. Between 1 July 2014 and 30 September 2015, 33 approved exceptions, which are allowed for under Rule 6 have been recorded in the Exceptions Logs maintained by the Commissioning Support Unit and Chief Officers. These have been consolidated and are detailed in Appendix A of this report. In the previous annual report to this Committee for the period 1 July 2013 to

30 June 2014 there were 27 exceptions with a combined total value of £1.26m.

5. The aggregate value of the 33 approved exceptions is £19.8m. This is because two contracts, one in Children's Education Services and another in Public Health had a combined total value of £17.9m. The Public Health contract involved the transfer of commissioning responsibilities for 0-5 children's public health services (Health Visiting) from NHS England to Leicestershire County Council from October 1st 2015. The Children's Education Services involved a contract for the provision of 16-19 Careers Information, Advice and Guidance. The two contracts fell within 'Part B' (Non-priority) services category and therefore were not subject to the full regime of the Public Contracts Regulations 2006 (now replaced by the Public Contracts Regulations 2015). The two contracts were approved by Cabinet.
6. Among the reasons for the 33 approved exceptions included:
  - a. the implementation of short-term contracts pending a service review to facilitate the Council's transformational change;
  - b. the specialist nature of the requirements;
  - c. the limited nature of the supply markets;
  - d. the urgency of the requirements.
7. With the exception of the two contracts referred to in paragraph 5 above, all but one of the exceptions was below the relevant EU threshold (£172,514 for service and supplies contracts, and £4,322,012 in the case of works contracts). The one approved exception over the Public Contracts Regulations 2006 threshold for services was for a *Software Maintenance and Support Contract* (Total value £355,686) a proprietary software available from a single contractor. The Council is in the process of procuring a new call-logging software along with the associated maintenance and support.

#### **Approved Contract Extensions where no provision in the Contract**

8. During the same reporting period, in compliance with Rule 31(iii) and (iv), there were 11 approved contract extensions where there was no provision within the original contract (see Appendix A). The total value of these extended contracts was £4.8m. The main reasons for extending these contracts included:
  - a. unforeseen delays in the award of replacement contracts;
  - b. reviewing, consultation, and reconfiguring services before re-tendering of the services.
9. Four of the 11 contract extensions involved contracts whose value was above the EU threshold and fell within the priority services category ('Part A' services). The four contracts involved were:

- a. A service contract for the collection and recycling/disposal of gypsum Waste which was extended to facilitate the re-tender process.
  - b. A service contract for mail services which was extended to take account of the delay in the award of a replacement framework agreement by the Crown Commercial Services.
  - c. A service contract for the provision of self-service kiosks in Council managed libraries which was extended to take account of the Council's transformation programme so that a new service delivery model could be developed.
  - d. A supplies contract for the supply, support and maintenance of a (Children's) Social Care System.
10. A framework agreement for *Domiciliary Care and Support Services* with a total contract value of £105m (covering Adults and Children's social care) had to be formally extended. Whilst Cabinet had approved an extension period prior to tendering and it was tendered on this basis, the eventual contract document did not reflect the extension options.

#### **Actions Taken to Further Increase Compliance**

- 11. The implementation of electronic tendering is supporting compliance with the Rules by forcing users to follow procedures as laid out in the system. Since its implementation, over 80% of the Council's contracting activity above the advertising threshold of £20,000 has been conducted electronically.
- 12. A procurement toolkit is under development to help ensure relevant staff have easy access to relevant procurement guidance, tools and template documents in a single repository.
- 13. The use of departmental Exceptions Logs to record exception/extension approvals given by each Chief Officer continues to give visibility of approved exceptions to the Rules, particularly lower value/risk contracts.
- 14. Following an audit report concerning the application of the Rules, communication was sent out to all Chief Officers and staff involved in procurement reminding them of the correct application of the Rules.
- 15. The Corporate Management Team continues to review, on a quarterly basis, approved exceptions as part of corporate performance monitoring.

#### **Proposed Revisions to the Rules**

- 16. In February 2015, the UK government transposed the new EU procurement directive into UK law. The Public Contracts Regulations 2015 introduced substantial changes to the practice of public procurement. For this reason a comprehensive review of the Council's Contract Procedure Rules was undertaken to ensure that the Council's Rules align with the new regulations. The revisions to the Rules (see Appendix B) are supported by the County Solicitor and the Chief Financial Officer (i.e. the Assistant Director of Corporate Resources (Strategic Finance and Property) and will be presented

to the County Council for approval on 2 December 2015 for approval (subject to this Committee's agreement).

17. The new Public Contracts Regulations aim to:

- (a) facilitate participation of small and medium-sized enterprises (SMEs) in public procurement;
- (b) enable procurers/commissioners to make better use of procurement in support of community goals;
- (c) clarify the procurement rules.

18. Should the County Council approve the draft revised Contract Procedure Rules, on 2 December 2015 they will be published on the Council's internet and intranet sites and communicated to all relevant managers and staff within the Council, including via newsletters and presentations.

### **Recommendations**

19. It is recommended that:

- a. The contents of this report on the operation of the Contract Procedure Rules between July 2014 and September 2015 be noted;
- b. The County Council be recommended to approve the proposed amendments to the Contract Procedure Rules, as set out in Appendix B to this report;
- c. The Director of Corporate Resources be granted delegated authority to revise the value threshold currently stated as £172,514 contained within Rule 6 (Exceptions), Rule 11 (Procurement exercise process), Rule 19 (Irregular Tenders), Rule 20 (Receipt and opening of tenders), and Rule 32 (Early termination), in the proposed Contract Procedure Rules to align with the new EU thresholds coming into force in January 2016.

### **Equality and Human Rights Implications**

20. The Rules ensure that all suppliers and potential suppliers receive equal treatment when bidding for contracts.

### **Background Papers**

21. The Constitution of Leicestershire County Council.

### **Circulation under the Local Issues Alert Procedure**

22. None

**Officers to Contact**

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**Appendices**

Appendix A - Contract Procedure Rules Exceptions & Contract Extensions  
(July 2014- September 2015)

Appendix B - Proposed Amendments to Part 4 G - Contract Procedure Rules

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APPENDIX A: CPR Exceptions July 2014 - September 2015

Exceptions

No.	Contract Title	Contract Description	Total Contract Value (£)	Approval Type	Rationale	Approval Date	Approved By	Category Group	Department
1	Debt Collection.	Contract for the short term outsourcing of Adult Social Care debt collection.	£147,577	Exception -Rule 6	Urgent requirement due to the highly time sensitive nature of the requirement – everyday there is a delay in implementing remedial strategies, the aged debt grows; and as aged debts grows it potentially becomes harder to collect	27-Nov-14	Appropriate Chief Officer	Consultancy & Professional Services	Corporate Resources
2	Polling Districts Population Project.	Provision of electoral forecasting up to 2021 to the Local Government Boundary Commission for England.	£19,250	Exception -Rule 6	Use of a subject matter expert.	19-Nov-14	Appropriate Chief Officer	Miscellaneous	Chief Executive's
3	Audio Visual Equipment.	Provision of audio/visual equipment in Council Chamber and Committee Suite.	£15,000	Exception -Rule 6	Replacement of compatible audio/visual equipment.	11-Dec-14	Appropriate Chief Officer	ICT	Chief Executive's
4	Healthy Relationships.	Healthy Relationships social marketing/media campaign.	£8,730	Exception -Rule 6	Use of proprietary material/ services.	11-Aug-14	Appropriate Chief Officer	Healthcare Services	Public Health
5	Health Visiting Services for children aged 0-5 years.	Provision of Children's Health Visiting Services.	£9,600,000	Exception -Rule 6	Exception to the Council's Contract Procedure Rules in order to allow time to develop the proposed commissioning and procurement plan following the transfer of health visiting responsibility to the Council.	06-Feb-15	<a href="#">Cabinet Report</a>	Healthcare Services	Public Health
6	Healthy child programme 0-19 review.	Healthy child programme 0-19 review carried out by an external consultant.	£15,000	Exception -Rule 6	Urgent requirement ahead of the Council assuming responsibility for commissioning of 0-5 children's health visiting services.	23-Jun-15	Appropriate Chief Officer	Healthcare Services	Public Health
7	Help to Live at Home Customer Insight	Provision of support services for the design, facilitation and including independent write up of discussion groups with customers and potential customers being supported to live at home.	£4,900	Exception -Rule 6	The timescales for including outcomes as part of the delivery of the business case and commissioning specifications leaves insufficient time for a full procurement process for Customer Insight.	29-Apr-15	Appropriate Chief Officer	Consultancy and Professional Services	Adults & Communities
8	Collection and treatment of waste gypsum-based material	Award of a 2-year contract for the collection and treatment of waste gypsum-based material to Mid UK Recycling Ltd.	£160,000	Exception -Rule 6	Request for Quotations submissions came back above the estimated value and exceeded the formal tender threshold, exception sought to regularise this.	24-Feb-15	Appropriate Chief Officer	Waste Management	Environment & Transport
9	Continuing Professional Development Programme	Provision of a continuing professional development programme through the Education of Children in Care Service.	£8,450	Exception -Rule 6	Use of proprietary material/ services.	19-Mar-15	Appropriate Chief Officer	Education Services	Children & Family Services
10	Opearational Redesign to Deliver Integration with Health	Provision of consultancy services for health & adult social care integration until end of March.	£157,400	Exception -Rule 6	Subject matter expert, the Council conducted a benchmarking exercise to ascertain Best Value.	15-Aug-14	Appropriate Chief Officer	Social Care	Adults & Communities
11	Review of alternative options arising from Libraries Consultation	Contract to undertake an independent assessment of a number of the alternative proposals.	£5,000	Exception -Rule 6	Urgent requirement using a subject matter expert.	14-Aug-14	Appropriate Chief Officer	Consultancy & Professional Services	Adults & Communities
12	External Support and Challenge.	Provision of independent review of departmental spending in Adults & Communities.	£2,250	Exception -Rule 6	Urgent requirement using an expert resource.	27-Oct-14	Appropriate Chief Officer	Consultancy & Professional Services	Adults & Communities
13	Consultancy Services - Snibston Discovery Museum and County Park.	Evaluation of the future of Snibston Discovery Museum and Country Park.	£1,800	Exception -Rule 6	Contract awarded due to the urgency and limited timescales for reporting to Cabinet in early December/January 2015.	25-Nov-14	Appropriate Chief Officer	Consultancy & Professional Services	Adults & Communities
14	Data Centre Consultancy.	Provision of Data Centre Consultancy.	£63,000	Exception -Rule 6	Urgent requirement to facilitate the delivery of a key deliverable of the Property and Assets Transformation Enabler (delivery for Autumn 2015)	22-Nov-14	Appropriate Chief Officer	ICT	Corporate Resources
15	Website Hosting Services.	Procurement of website hosting services.	£44,590	Exception -Rule 6	Whilst a competitive exercise was conducted under a Crown Commercial Services framework, there was a slight irregularity on the supplier's name hence an exception was sought to rectify the issue and ensure compliance.	19-Dec-14	Appropriate Chief Officer	ICT	Corporate Resources
16	Software Maintenance and Support Contract.	Service management tool used by ICT Services to deliver their Service Management function.	£355,686	Exception -Rule 6	Market research has concluded that there are no other suppliers that can provide maintenance and support for Marval.	30-Apr-15	Appropriate Chief Officer	ICT	Corporate Resources
17	Support for Community Partnership Libraries.	Purchase of targeted support for voluntary and community sector organisations wishing to develop a community-managed library in Leicestershire.	£51,781	Exception -Rule 6	Due to the time constraints involved, in particular between the cabinet decision and the start of the implementation, there is no opportunity to go out for a formal tender.	20-Nov-14	Appropriate Chief Officer	Consultancy & Professional Services	Chief Executive's
18	Tobacco Free Schools Programme.	Provision of a Tobacco Free Schools Programme in Leicestershire for the 2014-2015 school (academic) year.	£99,500	Exception -Rule 6	Limited provider market to deliver the entire programme comprising the following elements:educational,clinical, regulatory, economic and social strategies.	22-Oct-14	Appropriate Chief Officer	Healthcare Services	Public Health
19	16-19 Careers Information, Advice and Guidance.	Provision of 16-19 Careers Information, Advice and Guidance.	£8,300,000	Exception -Rule 6	Limited provider market to deliver the service.	19-Sep-14	<a href="#">Cabinet Report</a>	Education Services	Children & Family Services
20	Community Based Groups - Melton.	Provision of short breaks for disabled children (after school, weekend and holiday provision).	£36,520	Exception -Rule 6	Change of Charity's Legal Status / Change of name of Commissioning Agreement.	02-Mar-15	Appropriate Chief Officer	Social Care	Children & Family Services
21	Community Based Groups -Hinckley.	Provision of short breaks for disabled children (after school, weekend and holiday provision).	£56,000	Exception -Rule 6	Change of Charity's Legal Status / Change of name of Commissioning Agreement.	02-Mar-15	Appropriate Chief Officer	Social Care	Children & Family Services
22	Family Values Project.	Support the Fostering Service in the increasing number of enquiries it receives and also increasing the conversion rate of those enquiries into approved Foster Carers.	£99,000	Exception -Rule 6	Proprietary product/services.	30-Mar-15	Appropriate Chief Officer	Social Care	Children & Family Services
23	External Support and Challenge Looking after Leicestershire.	Provision of technical consultancy for Highways management.	£2,800	Exception -Rule 6	Limited timescale to design and implement a new target operating model for the department.	10-Nov-14	Appropriate Chief Officer	Building & Civil Engineering	Environment & Transport
24	Treatment of residual waste.	Award of a contract to Stoke City Council for waste disposal at Hanford Energy from Waste Facility	£100,000	Exception -Rule 6	Pilot exercise for a cost effective diversion of waste from landfill.	13-Apr-15	Appropriate Chief Officer	Waste Management	Environment & Transport
25	Dry recycling credit options.	Assessment of options for achieving savings from recycling credits.	£22,500	Exception -Rule 6	Contract awarded on the basis of specialist advice and the interdependency of projects.	24-Mar-15	Appropriate Chief Officer	Waste Management	Environment & Transport
26	Online resource prevention monitoring tool development	Development work by 'Resource Futures'	£30,000	Exception -Rule 6	Use of a subject matter expert.	16-Mar-15	Appropriate Chief Officer	Waste Management	Environment & Transport
27	Learning Management System	Provision of a system for corporate learning and development.	£168,750	Exception -Rule 11(b)	Quotes obtained but the contract opportunity was not advertised due to time constraints.	29-Jan-15	Appropriate Chief Officer	ICT	Corporate Resources

28	Engagement with Leicestershire Families as part of SEND reform.	Provision of specific additional activity to engage with families as part of SEND reform.	£5,000	Exception -Rule 6	Use of a subject matter expert and proprietary material.	02-Apr-15	Appropriate Chief Officer	Education Services	Children & Family Services
29	Business Mentoring Programme for Looked After Children.	Mentoring scheme to support identified young people in care.	£19,950	Exception -Rule 6	Exception sought to regularise the non-publication of the opportunity.	20-Oct-14	Appropriate Chief Officer	Education Services	Children & Family Services
30	Room Booking System.	Purchase of a one year support and maintenance agreement for Condeco	£2,572	Exception -Rule 6	Proprietary product/services.	09-Mar-15	Appropriate Chief Officer	ICT	Corporate Resources
31	Bureau and Maintenance Services	Provision of site specific weather forecasting / modelling & maintenance of weather stations	£34,484	Exception -Rule 6	Direct award of contract on the basis of specialist advice.	22-Sep-15	Appropriate Chief Officer	Building & Civil Engineering	Environment & Transport
32	Season Tickets for the transport of eligible school children	Purchase of season tickets for the eligible school children to Lutterworth Schools for the academic year 2015-16	£170,000	Exception -Rule 6	Urgent requirement.	09-Jul-15	<a href="#">Cabinet Report</a>	Passenger Transport Services	Environment & Transport
33	Social Care in Prisons	Provision of social care in prisons as required under the Care Act 2014 which commenced in April 2015.	£62,500	Exception -Rule 6(b)(ii)	Provision of equivalent social care services to prisoners under the Care Act 2014, first year of contract is designated to be a 'shadow' year where robust and accurate data can be collated from real cases to enable better commissioning in the future.	06-Jul-15	Appropriate Chief Officer	Social Care	Adults & Communities
			£19,847,490						

Contract Extensions

No.	Contract Title	Contract Description (if required)	Total Contract Value (£)	Approval Type	Rationale	Approval Date	Approved By	Category Group	Department
1	Composting of Green Waste at Lount and Kibworth Sites.	Contracts for composting of green waste at two Recycling Household Waste Sites.	£150,000	Contract Extension- Rule 31(iv)	Contracts extended to allow for mobilisation of the newly awarded contracts.	19-Aug-14	Appropriate Chief Officer	Waste Management	Environment & Transport
2	School Nursing Services.	Provision of school nursing services.	£2,800,000	Contract Extension- Rule 31(iv)	Extension of contract in order to allow time to develop the proposed commissioning and procurement plan.	06-Feb-15	<a href="#">Cabinet Report</a>	Healthcare Services	Public Health
3	Collection and Recycling/Disposal of Gypsum Waste.	This is a contract for the Collection and Recycling/Disposal of Gypsum Waste arising at 14 Recycling Household Waste Sites in Leicestershire.	£362,000	Contract Extension- Rule 31(iv)	Extension of the contract to facilitate a re-tender exercise.	12-Nov-14	Appropriate Chief Officer	Waste Management	Environment & Transport
4	Provision of self-service kiosks in LCC managed libraries.	30 self-service kiosks deployed across the library network.	£240,000	Contract Extension -Rule 31(iv)	Extending the existing contract for 1 year to enable market testing and develop a clearer service model.	18-Jun-15	Appropriate Chief Officer	ICT	Adults & Communities
5	Education of Children in Care Transition Project.	Provision of transitional support to key projects and staff.	£18,980	Contract Extension - Rule 31(iv)	Extension of service contract brought on by unforeseen circumstances.	15-Dec-14	Appropriate Chief Officer	Education Services	Children & Family Services
6	Sharing Reading Groups.	The Public Health team conducted a pilot project to introduce Shared Reading groups in Leicestershire to evidence the impact that creative reading interventions might have on well-being and mental health.	£40,000	Contract Extension -Rule 31(iv)	Contract extended for a further year in order to consolidate the project and evaluate its success using expert support.	18-Feb-15	Appropriate Chief Officer	Consultancy & Professional Services	Adults & Communities/ Public Health
7	Mail Services.	Contract for the provision of 2nd class machine readable mail collection from County Hall.	£720,000	Contract Extension - Rule 31(iv)	Contract extended due to the delay in award of the new Crown Commercial Services framework.	05-Feb-15	Appropriate Chief Officer	Facilities Management	Corporate Resources
8	Domiciliary Care and Support Services.	Extension to contract for a maximum end date of 2nd April 2017.	£105,074,076	Contract Extension - Rule 31(iv)	The contract notice and the tender documents stipulated that the contract had a 2 year extension option due to an administrative error within the Adults and Communities dept this option was not reflected in the contract document.	12-Feb-15	Appropriate Chief Officer	Social Care	Adults & Communities
9	Collection of Waste Electronic and Electrical Equipment and Waste Household Batteries.	Provision of WEEE from Whetstone recycling center.	£132,000	Contract Extension - Rule 31(iv)	Uncertainty over new regulations meant an extension of contract offered the best interim decision for 1st January to 31st December 2015.	29-Jul-14	Appropriate Chief Officer	Waste Management	Environment & Transport
10	Reuse of waste	Provision of re-use trials in Leicestershire and Rutland	£25,000	Contract Extension - Rule 31(iv)	To enable the continuing and uninterrupted gathering of data and learning that will inform the inclusion of reuse within the operation of the Recycling Household Waste Sites.	01-Sep-15	Appropriate Chief Officer	Waste Management	Environment & Transport
11	Supply, support and maintenance of a (Children's) Social Care System.	Provision of software system which supports the provision of children's social care operations.	£388,000	Contract Extension -Rule 31(iv)	Extension of the contract to facilitate an options appraisal prior to re-tender exercise.	06-Jul-15	Appropriate Chief Officer	Social Care	Children & Family Services
			£109,950,056						

Current Provisions	Proposed Amendments
<p><b>GENERAL</b></p> <p><b>RULE 1</b></p> <p><b>Compliance</b></p> <p>Officers must comply with these Rules. Failure to do so may result in disciplinary action.</p>	<p><b>No proposed change</b></p>
<p><b>RULE 2</b></p> <p><b>Delegation</b></p> <p>Appropriate Chief Officers may delegate their responsibilities under these Rules in accordance with Rule 6 of Section D (General scheme of delegation to heads of departments) of Part 3 (Responsibility for Functions) of the Constitution.</p>	<p><b>RULE 2</b></p> <p><b>Delegation</b></p> <p>Appropriate Chief Officers <b>and the County Solicitor</b> may delegate their responsibilities under these Rules in accordance with Rule 6 of Section D (General scheme of delegation to heads of departments) of Part 3 (Responsibility for Functions) of the Constitution.</p>
<p><b>RULE 3</b></p> <p><b>Interpretation</b></p> <p>Words and expressions used in these Rules are to be interpreted in accordance with the provisions of Schedule 1.</p>	<p><b>No proposed change</b></p>
<p><b>RULE 4</b></p> <p><b>Application</b></p> <p>These Rules apply to every procurement contract made by or on behalf of the Council except contracts:</p> <p>(i) for only the acquisition or disposal of any interest in land;</p> <p>(ii) for the lending or borrowing of money;</p> <p>(iii) of employment (making an individual a direct employee of the Council).</p>	<p><b>RULE 4</b></p> <p><b>Application</b></p> <p>These Rules apply to every procurement contract made by or on behalf of the Council <b>EXCEPT</b> contracts:</p> <p>(i) for only the acquisition or disposal of any interest in land;</p> <p>(ii) for the lending or borrowing of money;</p> <p>(iii) of employment (making an individual a direct employee of the Council).</p>
<p><b>Rule 5</b></p> <p><b>General Requirements</b></p> <p>(a) Every contract or official order for works, supplies or services made by the Council shall be for the purpose of implementing the Council’s policies and must be made in accordance with the Council's duty of Best Value and Sustainable Commissioning and Procurement Strategy.</p> <p>(b) When proposing to procure or making arrangements for procuring a service contract where the Estimated Value exceeds the EU Threshold then consideration must be given as to how the Contract might improve the economic, social and environmental wellbeing of Leicestershire, as required by the Public Services (Social Value) Act 2012*. This duty also relates to Part B Services where the Estimated Value exceeds the EU Threshold for Services.</p>	<p><b>RULE 5</b></p> <p><b>General Requirements</b></p> <p>a) Every <b>Contract</b> or official order for works, supplies or services made by the Council shall be for the purpose of implementing the Council’s policies and must be made in accordance with the Council's duty of Best Value and <b>Commissioning and Procurement Strategy</b>.</p> <p>(b) When proposing to procure or making arrangements for procuring a service contract where the Estimated Value is <b>equal to or greater than</b> the EU Threshold then consideration must be given as to how the Contract might improve the economic, social and environmental wellbeing of Leicestershire, as required by the Public Services (Social Value) Act 2012 (“Social Value Act”).</p> <p><b>(c) Where the services are Light-Touch Services the threshold for contracts for public supply or services contracts</b></p>

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- (c) The Procuring Officer must ensure that whenever Corporate Contracts have been approved by a Category Manager that supplies, services and works are ordered via these, unless it is agreed by the Category Manager that better value for money can be clearly demonstrated outside of these approved Corporate Contracts. All such instances involving ESPO must be notified to ESPO by the Category Manager.
- (d) Procedures set out in the relevant EU Directives, EU Treaties, Acts of Parliament and UK legislation must be complied with at all times.
- (e) Based on criteria laid down by the Executive, the Chief Financial Officer will be responsible for evaluating the financial status of Tenderers and suppliers.
- (f) The Procuring Officer must ensure that sufficient budget provision has been agreed with the budget holder prior to any Procurement Exercise being undertaken.
- (g) 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 County Solicitor in consultation with the Director of Corporate Resources.
- (h) Subject to the provisions of Rule 28(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 Corporate Resources on advice of the appropriate Category Manager. Any such approval shall be sought prior to the commencement of the Procurement Exercise.

**RULE 6**

**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 Appropriate Chief Officer, on the advice of the Category Manager, 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 the Council’s Standard Financial Instructions subject to the provisions of Rule 30 (Contract Variations), Rule 31

- applies for the purposes of the Social Value Act, being the sum specified in Regulation 5 (1) (d) of the Public Contracts Regulations 2015.**
- (c) The Procuring Officer must ensure that whenever Corporate Contracts have been approved by a **Commercial Specialist** that supplies, services and works are ordered via these, unless it is agreed by the **Commercial Specialist** that better value for money can be clearly demonstrated outside of these approved Corporate Contracts. All such instances involving ESPO must be notified to ESPO by the **Commercial Specialist**.
- (d) Procedures set out in the relevant EU Directives, EU Treaties, Acts of Parliament and UK legislation **(including for the avoidance of doubt the Public Contracts Regulations 2015 and where applicable the Public Contracts Regulations 2006)** must be complied with at all times.
- (e) Based on criteria laid down by the Executive, the Chief Financial Officer will be responsible for evaluating the financial status of Tenderers and suppliers.
- (f) The Procuring Officer must ensure that sufficient budget provision has been agreed with the budget holder prior to any Procurement Exercise being undertaken.
- (g)** Procurement Exercises should usually 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 County Solicitor **following** consultation with the Director of Corporate Resources.
- (h) **Subject to the provisions of Rule 28(b) Contracts** shall not be longer than 5 years (including extensions) in duration or of indeterminate length without the prior written approval of the Director of Corporate Resources such approval to be obtained prior to the commencement of the Procurement Exercise.

**RULE 6**

**Exceptions**

- (a) Subject to the requirements of EU Directives, EU Treaties, Acts of Parliament and the **Public Contracts Regulations 2015** 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 **and/or** patented articles, services or works from one contractor or supplier and/**or** for which the Appropriate Chief Officer, on the advice of the **Commercial Specialist** , 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 **is equal to or exceeds £172,514** , a copy of the note and reasons must be provided to the Director of Corporate Resources **and the County Solicitor**.
- (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 the Council’s Standard Financial Instructions subject to the provisions of Rule 30 **(Contract Modifications and**

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<p>(Contract Extensions) and Rule 32 (Novation of Existing Contracts);</p> <p>(iv) for the following social care services:</p> <ul style="list-style-type: none"><li>a. residential placements sought for an individual with a registered care provider of their choice;</li><li>b. supported living services sought for an individual with an appropriate care and support provider of their choice under the National Health Service and Community Care Act 1990;</li><li>c. individual school placements sought for a child with Special Educational Needs (SEN);</li><li>d. social care packages managed by or on behalf of individual clients under the personalisation agenda;</li><li>e. where certain needs of an individual (either an adult or a child) require a particular social care package, which is only available from a specific provider in the opinion of the Appropriate Chief Officer.</li><li>f. residential placements sought for an individual under the Shared Lives scheme (or any equivalent scheme).</li></ul> <p>In each case the Appropriate Chief Officer must ensure that the provider meets the relevant national minimum standards (for example those standards set by the Health and Social Care Act 2008, OFSTED and HMI) and that a record of the reasons for the choice of provider is maintained on the individual’s case notes. A record of the annual cumulative expenditure with each provider will be maintained by each directorate and made available for audit.</p> <p>v) for those unforeseen emergencies, where immediate action is required in order to fulfil the Council’s statutory obligations under the Civil Contingencies Act 2004.</p> <p>(b) Other exceptions to these Rules may only be made within the relevant law and with the authority:-</p> <ul style="list-style-type: none"><li>(i) of the Appropriate Chief Officer where the Estimated Value of the proposed contract is under £100,000. The Appropriate Chief Officer shall maintain a record specifying the reason for all such departures; or</li><li>(ii) of the Executive where it is satisfied that an exception is justified on its merits. In an urgent case the Chief Executive after consultation with the Council Leader or Deputy Leader (save where this is not practicable) may direct that an exception be made subject to this being reported to the next meeting of the Executive.</li></ul>	<p><b>Extensions</b>) and <b>Rule 31</b> (Novation of Existing Contracts);</p> <p>(iv) for the following social care services <b>provided that the Estimated Value of such services does not exceed the EU threshold for Light-Touch Service contracts:</b></p> <ul style="list-style-type: none"><li><b>(aa)</b> residential placements sought for an individual with a registered care provider of their choice;</li><li><b>(bb)</b> supported living services sought for an individual with an appropriate care and support provider of their choice under the National Health Service and Community Care Act 1990;</li><li><b>(cc)</b> individual school placements sought for a child with Special Educational Needs (SEN);</li><li><b>(dd)</b> social care packages managed by or on behalf of individual clients under the personalisation agenda;</li><li><b>(ee)</b> where certain needs of an individual (either an adult or a child) require a particular social care package, which is only available from a specific provider in the opinion of the Appropriate Chief Officer.</li><li><b>(ff)</b> residential placements sought for an individual under the Shared Lives scheme (or any equivalent scheme).</li></ul> <p>In each case the Appropriate Chief Officer must ensure that the provider meets the relevant national minimum standards (for example those standards set by the Health and Social Care Act 2008, OFSTED and HMI) and that a record of the reasons for the choice of provider is maintained on the individual’s case notes. A record of the annual cumulative expenditure with each provider will be maintained by each directorate and made available for audit.</p> <p>v) for those unforeseen emergencies, where immediate action is required in order to fulfil the Council’s statutory obligations under the Civil Contingencies Act 2004.</p> <p>(b) Other exceptions to these Rules may only be made within the relevant law and with the authority:-</p> <ul style="list-style-type: none"><li>(i) of the Appropriate Chief Officer where the Estimated Value of the proposed contract is under <b>£172,514</b>. The Appropriate Chief Officer shall maintain a record specifying the reason for all such departures; or</li><li>(ii) of the Executive where it is satisfied that an exception is justified on its merits. In an urgent case the Chief Executive after consultation with the Council Leader or Deputy Leader (save where this is not practicable) may direct that an exception be made subject to this being reported to the next meeting of the Executive.</li></ul> <p><b>(c) In all cases under Rule 6 a full record of the reasons for the exception shall be maintained.</b></p>
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**APPENDIX B: Proposed Amendments to Part 4 G - Contract Procedure Rules**

<p><b>RULE 7</b></p> <p><b>Financial Thresholds and Delegation</b></p> <p>(a) Financial limits and thresholds within these Rules may be varied from time to time by the Corporate Governance Committee.</p> <p>(b) Arrangements for delegation of functions to Officers within these Rules may be varied from time to time by the Chief Executive.</p>	<p><b>No proposed change</b></p>
<p><b>RULE 8</b></p> <p><b>Annual Reporting</b></p> <p>The Director of Corporate Resources, in consultation with the County Solicitor, shall at least once in each financial year submit a report to the Corporate Governance Committee in relation to the operation of these Rules, including, among other things, details of the approved exceptions to these Rules and approved extensions to contract where not provided for in the contract, and 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.</p>	<p><b>No proposed change</b></p>
<p><b>RULE 9</b></p> <p><b>Prevention of Corruption / Conflict of Interest</b></p> <p>(a) The Employee Code of Conduct (Part 5b of the Constitution) applies to any Procurement Exercise.</p> <p>(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 25(c):</p> <p>"The Council 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:</p> <p>(i) offer, give or agree to give to anyone any personal inducement or reward in respect of this or any other Council contract (even if the contractor does not know what has been done); or</p> <p>(ii) commit an offence under the Bribery Act 2010 or give any fee or reward, the receipt of which is an offence under Section 117(2) of the Local Government Act 1972; or</p> <p>(iii) commit any fraud in connection with this or any other Council contract whether alone or in conjunction with Council members, contractors or employees.</p> <p>Any clause limiting the Contractor's liability shall not apply to this clause".</p>	<p><b>No proposed change</b></p>

APPENDIX B: Proposed Amendments to Part 4 G - Contract Procedure Rules

<p><b>PROCUREMENT EXERCISE</b></p> <p><b>RULE 10</b></p> <p><b>Pre-Estimate</b></p> <p>(a) Before any Procurement Exercise is begun the Procuring Officer must calculate its Estimated Value in accordance with this clause.</p> <p>(b) The Estimated Value shall be calculated as follows:</p> <p>(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;</p> <p>(ii) Where the contract period is indeterminate the Estimated Value shall be calculated by multiplying the estimated average monthly value by 48;</p> <p>(iii) For feasibility studies the Estimated Value shall be the value of the scheme or contracts which may be awarded as a result;</p> <p>(iv) For Concessions the Estimated Value shall be the estimated gross value of the service before income over the contract period.</p> <p>(v) The Estimated Value must exclude Value Added Tax (VAT) but must include all other taxes and duties.</p> <p>(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.</p> <p>(vii) Where the Council may be contributing only part of the Total Value of a contract, it is nevertheless the total Estimated Value that should be applied in determining the correct procedures to be applied under these Rules.</p> <p>(c) Where there is any doubt as to the Estimated Value then the procedure for the higher threshold in Rule 11 must be used.</p> <p>(d) Where the Estimated Value is £10,000 or more the Procuring Officer must notify in writing the appropriate Category Manager of the Estimated Value before proceeding. A written record of that Estimated Value must then be kept on file by the Procuring Officer.</p>	<p><b>PROCUREMENT EXERCISE</b></p> <p><b>RULE 10</b></p> <p><b>Pre-Estimate</b></p> <p>(a) Before any Procurement Exercise is begun the Procuring Officer must calculate its Estimated Value in accordance with this <b>Rule</b>.</p> <p>(b) The Estimated Value shall be calculated as follows:</p> <p>(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;</p> <p>(ii) Where the contract period is indeterminate the Estimated Value shall be calculated by multiplying the estimated average monthly value by 48;</p> <p>(iii) For feasibility studies the Estimated Value shall be the value of the scheme or contracts which may be awarded as a result;</p> <p>(iv) For Concessions the Estimated Value shall be the estimated gross value of the service before income over the contract period;</p> <p>(v) The Estimated Value must exclude Value Added Tax (VAT) but must include all other taxes and duties;</p> <p>(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;</p> <p>(vii) Where the Council may be contributing only part of the Total Value of a contract, it is nevertheless the total Estimated Value that should be applied in determining the correct procedures to be applied under these Rules.</p> <p>(c) Where there is any doubt as to the Estimated Value then the procedure for the higher threshold in Rule 11 must be used.</p> <p>(d) Where the Estimated Value is £10,000 or more the Procuring Officer must notify in writing the appropriate <b>Commercial Specialist</b> of the Estimated Value before proceeding. A written record of that Estimated Value must then be kept on file by the Procuring Officer.</p>
<p><b>RULE 11</b></p> <p><b>Procurement Exercise Process</b></p> <p>(a) Based on the Estimated Value, as identified in Rule 10, Table 1 below makes provision for the minimum requirements for the subsequent Procurement Exercise.</p> <p>(b) All contracts with an Estimated Value of £100,000 or more must be referred to ESPO subject to any general exceptions agreed with ESPO prior to the commencement of the Procurement Exercise by the Procuring Officer unless the Procuring Officer acting on advice of the Category Manager considers that the Council can better comply with its duty of Best Value by not using ESPO. All such cases must be confirmed in</p>	<p><b>RULE 11</b></p> <p><b>Procurement Exercise Process</b></p> <p>(a) Based on the Estimated Value, as identified in Rule 10, Table 1 below makes provision for the minimum requirements for the subsequent Procurement Exercise.</p> <p>(b) <b>All Contracts with an Estimated Value equal to or greater than the EU threshold must be referred to the Commissioning Support Unit prior to the commencement of the Procurement Exercise, the Commissioning Support Unit shall advise the Procuring Officer on the appropriate route to market which may include the use of ESPO and ESPO</b></p>

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writing to the Director of Corporate Resources.

Table 1: Minimum requirements for a Procurement Exercise (for exceptions see Rule 6):

Estimated Contract Value From	Estimated Contract Value Up To	Procurement Process	Minimum Contract Opportunity Publication	Documentation
£0	£1,000	Obtain a minimum of one oral/written Quotation	None	Record details
£1,000	£20,000	Obtain three written Quotations (where practical)	When inviting quotations officers should consider the benefits of including a local supplier in the invitation to quote where appropriate or applicable to the contract.*	Record details. (If three Quotations cannot be obtained a record of the reasons for this must be maintained and forwarded to the appropriate Category Manager.)
£20,000	£100,000	Seek written Quotations (to be based on a Request for Quotation document where practical) For exceptions see Rule 5(b)	Website approved by the Director of Corporate Resource 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 Corporate	Formal Tender and sealed bids (may be submitted via an electronic

framework agreements, Crown Commercial Services framework agreements, etc.

Table 1: Minimum requirements for a Procurement Exercise (**for exceptions see Rule 6**):

Estimated Contract Value From	Estimated Contract Value Up To	Procurement Process	Minimum Contract Opportunity Publication	Documentation
£0	£5,000	Obtain a minimum of one oral/written Quotation	None	Record details
Above £5,000	£25,000	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 and forwarded to the appropriate <b>Commercial Specialist</b> .) When inviting quotations officers should consider the benefits of including a local supplier in the invitation to quote where appropriate or applicable to the contract.*
Above £25,000	Up to but not including £172,514	Seek written Quotations (to be based on a Request for Quotation document where practical) For exceptions see Rule 6(b)	Website approved by the Director of Corporate Resource for the purpose of notifying the supply market.	Request for Quotation issued by the Procuring Officer and Quotations received.
Equal to or Above £172,514	To the relevant EU Threshold	Formal Tender Process	<b>OJEU where required, Contracts Finder</b> and on a Website approved by the Director of Corporate Resources for the purpose of notifying the	Formal Tender and sealed bids (may be submitted via an electronic tendering system, see Rule 5(g) (ii)).

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<div>Resources for the purpose of notifying the supply market.</div> <div>OJEU and on a website approved by the Director of Corporate Resources for the purpose of notifying the supply market.</div>			supply market.	
			Above Relevant EU Threshold	OJEU, Contracts Finder and on a Website approved by the Director of Corporate Resources for the purpose of notifying the supply market
<div>EU Threshold</div> <div>Above</div> <div>Formal Tender Process</div>			<div>* The Council cannot give preference to local suppliers, as there are legislative constraints and such a policy would be incompatible with Best Value. However, the Council recognises that there can be barriers limiting or restricting the ability of smaller suppliers to compete for Council business. The Council will seek to reduce the impact of such barriers, where it can do so legally, without discrimination, and without placing unacceptable levels of risk on the Council.</div> <div>(c) Details of oral Quotations must be recorded in writing.</div> <div>(d) Where any Corporate Contracts or Standing Lists have been set up for supplies, services or works then these Rules are deemed to have been satisfied when the arrangement was set up and do not have to be further applied, if appropriately used. When the Corporate Contract is a Framework Agreement then the Procuring Officer must comply with Rule 28(c). When using a Standing List the Procuring Officer must comply with Rule 27.</div>	
<div>RULE 12</div> <div>Selection and Award Evaluation Criteria</div> <div>(a) A Procurement Exercise must include both selection and award criteria;</div> <div>(b) Selection criteria must be included in the evaluation process where employing the Open Tendering procedure (Rule 15) or must be the only criteria used for the shortlisting methodology where employing the Restricted procedure (Rule 16).</div>			<div>RULE 12</div> <div>Suitability Assessment and Award Evaluation Criteria</div> <div>(a) The Council shall not include a pre-qualification questionnaire stage where the value of the procurement is below the EU Threshold set out in Reg. 5 (1)(c ) of the Public Contracts Regulations 2015. Below the EU Threshold only Suitability Assessment Questions may be asked. A standardised form of Suitability Assessment Questions must be used.</div> <div>(b) In a Procurement Exercise with an Estimated Value equal to or greater than the EU Threshold both selection and award criteria must be included. A Standardised Pre-Qualification Questionnaire must be used for the selection criteria;</div> <div>(c) Selection criteria must be included in the evaluation process where applying the Open Tendering procedure (Rule 15) or must be the only criteria used for the shortlisting methodology where applying the Restricted Tendering procedure (Rule 16).</div>	

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<p><b>RULE 13</b></p> <p><b>Award Methodology and Evaluation Criteria</b></p> <p>(a) The award methodology must be either:</p> <ul style="list-style-type: none"><li>the most economically advantageous Tender based on a range of predetermined evaluation criteria which must be set out in the Invitation to Tender; or</li><li>the lowest price (where the Council is to pay the supplier); or</li><li>the highest price (where the supplier is to pay the Council).</li></ul> <p>(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 15) or where the only criteria used for the shortlisting methodology where employing the Restricted procedure (Rule 16).</p> <p>(c) In the case of a Procurement Exercise with an Estimated Value of £20,000 or more the process for identifying the most economically advantageous Tender, including selection and award criteria, must be agreed in consultation with the appropriate Category Manager and included in the RFQ/Invitation to Tender and a copy retained on file.</p> <p>(d) 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.</p>	<p><b>RULE 13</b></p> <p><b>Award and Evaluation Criteria</b></p> <p>(a) The award criteria shall be based on the most economically advantageous Tender from the Council’s point of view. That Tender shall be identified on the basis of price or cost, using a cost-effectiveness approach, such as Life-Cycle Costing and may include the best price-quality ratio which shall be assessed on the basis of criteria, such as qualitative, environmental and/or social aspects or any other criteria linked to the subject-matter of the Contract in question.</p> <p>(b) Before a contract can be awarded following an Open Tender procedure the supplier must meet the minimum standard for the selection criteria included in the evaluation process.</p> <p>(c) In the case of a Procurement Exercise with an Estimated Value of £25,000 or more the process for identifying the most economically advantageous Tender, including selection and award criteria, must be agreed in consultation with the appropriate Commercial Specialist and included in the RFQ/Invitation to Tender and a copy retained on file.</p> <p>(d) 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.</p>
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## APPENDIX B: Proposed Amendments to Part 4 G - Contract Procedure Rules

<p><b>RULE 14</b></p> <p><b>Contract Opportunity Publication</b></p> <p>(a) Unless otherwise agreed by the Appropriate Chief Officer, 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 Contract Opportunity Publication is given on a website approved by the Director of Corporate Resources for the purpose of notifying the supply market.</p> <p>(b) For all proposed contracts where the Total Value is below the EU threshold, a period of at least fifteen days should be allowed between the closing date for requests for the Invitation to Tender and either:</p> <p>(i) the deadline for receipt of Tenders where an Open Tendering procedure is being used; or</p> <p>(ii) the deadline for receipt of Pre-Qualification Questionnaires or Expressions of Interest, where a Restricted Tendering procedure is being used.</p> <p>(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 in response to the Contract Opportunity Publication.</p> <p>(d) If the Estimated Value exceeds the relevant EU Threshold the Procuring Officer must ensure that Contract Opportunity Publication is first published in the OJEU and then on a website approved by the Director of Corporate Resources for the purpose of notifying the supply market. Part B Services need only be advertised on a website approved by the Director of Corporate Resources for the purpose of notifying the supply market.</p> <p>(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.</p> <p>(f) Rule 14 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 Council website).</p>	<p><b>RULE 14</b></p> <p><b>Contract Opportunity Publication</b></p> <p>(a) Unless otherwise agreed by the Appropriate Chief Officer, the Procuring Officer must ensure, for all Procurement Exercises with an Estimated Value of <b>£25,000</b> or more but less than the relevant EU Threshold, that Contract Opportunity Publication is given on a website approved by the Director of Corporate Resources for the purpose of notifying the supply market.</p> <p><b>(b) All Procurement Exercises with an Estimated Value of £25,000 or more must be advertised on Contracts Finder within 24 hours of the time when the Procurement Exercise is advertised in any other way. Procurement Exercises over the relevant EU Threshold must be advertised in the OJEU and on Contracts Finder.</b></p> <p>(c) For all proposed contracts which are advertised where the Total Value is below the EU threshold, a period of at least <b>ten</b> working days should be allowed between <b>the date when an Invitation to Tender becomes available to all bidders</b> and either:</p> <p>(i) the deadline for receipt of Tenders where an Open Tendering procedure is being used; or</p> <p>(ii) the deadline for receipt of <b>Suitability Assessment Questionnaire</b>, where a Restricted Tendering procedure is being used.</p> <p>(d) The Contract Opportunity Publication must express the nature and purpose of the Procurement Exercise, stating where further details may be obtained, <b>how and to whom an interested supplier is to respond and any other requirements such as suitability requirements or explanatory information.</b></p> <p>(e) If the Estimated Value exceeds the relevant EU Threshold the Procuring Officer must ensure that Contract Opportunity Publication is first published in the OJEU and then on a website approved by the Director of Corporate Resources for the purpose of notifying the supply market <b>and in Contracts Finder.</b></p> <p><b>(f) A Procurement Exercise that is equal to or more than the EU Threshold for Light-Touch Services must be procured in compliance with Chapter 3, Section 7 of the Public Contracts Regulations 2015.</b></p> <p>(g) <b>Only in exceptional circumstances should</b> a Contract Opportunity Publication appear in <b>ANY</b> form <b>before</b> publication in the OJEU and neither should any advertisement contain any more information than that published in the OJEU.</p> <p>(h) <b>The advertising requirements set out in this Rule 14 are minimum requirements</b> and do not preclude further Contract Opportunity Publication where appropriate (e.g. in the local newspaper, trade or professional journal, the Council website).</p>
<p><b>PROCUREMENT PROCESS</b></p> <p><b>RULE 15</b></p> <p><b>Open Tendering</b></p> <p>Under Open Tendering, Procuring Officers must send Invitations to Tender to all those Persons who respond to the Contract Opportunity Publication and who meet the requirements stated therein.</p>	<p><b>No proposed change</b></p>

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<p><b>RULE 16</b></p> <p><b>Restricted Tendering</b></p> <p>(a) Rule 16 applies to Tenders where the Estimated Value is equal to or exceeds the EU Threshold.</p> <p>(b) Under Restricted Tendering, Procuring Officers need only send Invitations to Tender to:</p> <p>(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 13(b); or</p> <p>(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 13(b).</p> <p>(c) The shortlisting criteria and process must be prepared (in consultation with the Category Manager) in advance of the issue of the Pre-Qualification Questionnaire and a copy retained on file.</p> <p>(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 the Council's decision.</p>	<p><b>RULE 16</b></p> <p><b>Restricted Tendering</b></p> <p>(a) Subject to Rule 16 (b), this Rule applies to Tenders where the Estimated Value is equal to or exceeds the EU Threshold.</p> <p>(b)Where the services being tendered are Light-Touch Services the Procuring Officer may choose to use this Restricted Tendering procedure but is not required to.</p> <p>(c) Under Restricted Tendering, Procuring Officers need only send Invitations to Tender to:</p> <p>(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(c); or</p> <p>(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(c).</p> <p>(d) The shortlisting criteria and process must be prepared (in consultation with the Commercial Specialist) in advance of the issue of the Standardised Pre-Qualification Questionnaire and a copy retained on file.</p> <p>(e) 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 the Council's decision.</p>
<p><b>RULE 17</b></p> <p><b>Negotiated Procedure and Competitive Dialogue Procedure</b></p> <p>(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.</p> <p>(b) The Negotiated Procedure or Competitive Dialogue Procedure must only be used with the prior approval of the Director of Corporate Resources.</p>	<p><b>RULE 17</b></p> <p><b>Negotiated Procedure, Competitive Procedure with Negotiation, Competitive Dialogue Procedure and Innovation Partnership Procedure</b></p> <p>The Negotiated Procedure, Competitive Procedure with Negotiation, Competitive Dialogue Procedure or Innovation Partnership Procedure must only be used with the prior approval of the County Solicitor and the Director of Corporate Resources.</p>
<p><b>RULE 18</b></p> <p><b>Invitations to Tender</b></p> <p>(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 19.</p> <p>(b) Procuring Officers 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.</p> <p>(c) Procuring Officers 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.</p>	<p><b>RULE 18</b></p> <p><b>Invitations to Tender</b></p> <p>(a) Every Invitation to Tender must specify the latest day and hour and the place appointed for the receipt of Tenders and must state the effect of Rule 19.</p> <p>(b) Procuring Officers 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.</p> <p>(c) Procuring Officers 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.</p> <p>(d) All Procurement Exercises equal to or greater than £25,000 shall be handled via an Electronic Tendering System. Only in exceptional cases may a Procurement Exercise be undertaken not using an Electronic Tendering System. Paper</p>

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- (d) Tenders where the Estimated Value is below £100,000 may be returned directly to the Procuring Officer.
- (e) Tenders, where the Estimated Value is £100,000 or more, must be addressed to and opened by the Chief Executive or handled via an electronic tendering system approved in accordance with Rule 9(g).
- (f) Where Tenders are to be received by the Chief Executive, the Procuring Officer must send to the Chief Executive 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 19**

**Irregular Tenders**

- (a) An Irregular Tender must not be accepted by either the Chief Executive 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 18 and not later than the appointed day and hour.
- (c) Tenders other than E-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 Chief Executive. The envelope or package must bear the word “Tender” followed by the subject to which it relates.
- (d) E-Tenders must be submitted in accordance with the requirements of the electronic tendering process used.
- (e) 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 19(b) or 19(c), the provisions of Rules 19(f) and 19(g) apply.
- (f) A Tender other than an E-Tender which is received after the closing date and time may be opened and evaluated in accordance with Rule 20 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 Chief Executive considers that there are exceptional circumstances and that the Tenderer who submitted the Irregular Tender has gained no advantage from its irregularity he may determine to accept the Irregular Tender and authorise that it be opened and evaluated together with any other Tenders in accordance with Rule 20. The Chief Executive shall record in writing the reasons why each Irregular Tender has been accepted or rejected.
- (g) Irregular Tenders that the Chief Executive has rejected under this Rule must be returned to the Tenderer by the Chief Executive with a covering letter stating the reason for their rejection.

**Tenders must be submitted to, addressed to and opened by the Chief Executive. Where the Estimated Value is below £25,000 the Tenders may be returned directly to the Procuring Officer.**

- (e) Where Tenders are to be received by the Chief Executive, the Procuring Officer must send to the Chief Executive 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 19**

**Irregular Tenders**

- (a) An Irregular Tender must not be accepted by either the Chief Executive or the Procuring Officer, other than in accordance with this Rule.
- (b) A Tender is not valid unless it has been **either submitted via an Electronic Tendering System or in the case of paper tenders** delivered to the place appointed in accordance with Rule 18 and not later than the appointed day and hour.
- (c) Tenders other than E-Tenders where the Estimated Value **is equal to or greater than £172,514** are not valid unless they are received in a plain sealed envelope or parcel addressed to the Chief Executive. The envelope or package must bear the word “Tender” followed by the subject to which it relates.
- (d) E-Tenders must be submitted in accordance with the requirements of the **Electronic Tendering System** used.
- (e) 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 19(b) or 19(c), the provisions of Rules 19(f) and 19(g) apply.
- (f) A Tender other than an E-Tender which is received after the closing date and time may be opened and evaluated in accordance with Rule 20 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.
- (g) If in other cases of Irregular Tenders the Chief Executive considers that there are exceptional circumstances and that the Tenderer who submitted the Irregular Tender has gained no advantage from its irregularity he may determine to accept the Irregular Tender and authorise that it be opened and evaluated together with any other Tenders in accordance with Rule 20. The Chief Executive shall record in writing the reasons why each Irregular Tender has been accepted or rejected.
- (h) Irregular Tenders that the Chief Executive has rejected under this Rule must be returned to the Tenderer by the Chief Executive with a covering letter stating the reason for their rejection.

**APPENDIX B: Proposed Amendments to Part 4 G - Contract Procedure Rules**

<p><b>RULE 20</b></p> <p><b>Receipt and Opening of Tenders</b></p> <p>(a) Rules 20(b) to (f) apply only to Tenders where the Estimated Value is £100,000 or more and the Tender is not an E-Tender. Rule 20(g) applies to e-Tenders only.</p> <p>(b) On receipt, envelopes containing Tenders must be date and time stamped by the Chief Executive and shall remain in his custody until they are opened.</p> <p>(c) The Chief Executive must keep a record of all Tenders received.</p> <p>(d) 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 Chief Executive. Each Officer must initial each Tender once opened which must also be date stamped.</p> <p>(e) Particulars of all Tenders opened must be entered by the Chief Executive upon the record which must be signed by the Officers present at the opening, together with a note of all Irregular Tenders.</p> <p>(f) The Chief Executive must forthwith send a copy of the record to the appropriate Procuring Officer (with the Tenders) and must retain a copy himself.</p> <p>(g) E-Tenders must be opened in accordance with the requirements of the electronic tendering process used.</p>	<p><b>RULE 20</b></p> <p><b>Receipt and Opening of Tenders</b></p> <p>(a) Rules 20(b) to (f) apply only to Tenders where the Estimated Value <b>is equal to or greater than £172,514</b> and the Tender is not an E-Tender. Rule 20(g) applies to <b>E-Tenders</b> only.</p> <p>(b) On receipt, envelopes containing Tenders must be date and time stamped by the Chief Executive and shall remain in his custody until they are opened.</p> <p>(c) The Chief Executive must keep a record of all Tenders received.</p> <p>(d) 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 Chief Executive. Each Officer must initial each Tender once opened which must also be date stamped.</p> <p>(e) Particulars of all Tenders opened must be entered by the Chief Executive upon the record which must be signed by the Officers present at the opening, together with a note of all Irregular Tenders.</p> <p>(f) The Chief Executive must forthwith send a copy of the record to the appropriate Procuring Officer (with the Tenders) and must retain a copy himself.</p> <p>(g) E-Tenders must be opened in accordance with the requirements of the <b>Electronic Tendering System</b> used.</p>
<p><b>RULE 21</b></p> <p><b>Errors or Discrepancies in Tenders</b></p> <p>(a) Tenderers are not allowed to alter their Tenders after opening save in accordance with this Rule or Rule 22.</p> <p>(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:</p> <p>(i) ensure that the Tender is constructed correctly; or</p> <p>(ii) ensure that the Tenderer has fully understood the specification; or</p> <p>(iii) seek clarification from Tenderers of cost, quality and performance indicators.</p> <p>(c) A written note of the discussions must be made to record the suspected error, date, time, detail of the discussion and any agreement reached.</p>	<p><b>No proposed change</b></p>
<p><b>RULE 22</b></p> <p><b>Discussions and Post Tender Negotiations</b></p> <p>(a) 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 in consultation with the appropriate Category Manager may carry out Post Tender Negotiations in an attempt to secure</p>	<p><b>RULE 22</b></p> <p><b>Discussions and Post Tender Negotiations</b></p> <p>(a) In the case where the Estimated Value was below the relevant EU Threshold, <b>the Procuring Officer in consultation with the appropriate Commercial Specialist</b> may carry out Post Tender Negotiations <b>with the Tenderer submitting the most competitive Tender</b> in an attempt to secure improvements in the price or economic advantage in one or more of</p>

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<p>improvements in the price or economic advantage in one or more of the following circumstances:</p> <p>(i) where the most competitive Tender (according to the pre-determined award methodology and evaluation criteria) submitted exceeds the Estimated Value;</p> <p>(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;</p> <p>(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;</p> <p>(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.</p> <p>(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), only the Tenderer submitting the most competitive Tender in accordance with the award methodology and evaluation criteria (Rule 13) may be invited to participate in Post Tender Negotiations.</p> <p>(c) When conducting Post Tender Negotiations, the following additional rules shall apply:</p> <p>(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.</p> <p>(ii) During negotiations in person there must always be present at least two officers of the County Council.</p> <p>(iii) A note of the negotiations will be made by one of the Officers present recording those present, the time and location of the negotiations, detail of the discussion and any agreement reached.</p> <p>(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.</p> <p>(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 21.</p>	<p>the following circumstances:</p> <p>(i) where the most competitive Tender (according to the pre-determined award methodology and evaluation criteria) submitted exceeds the Estimated Value;</p> <p>(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;</p> <p>(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;</p> <p>(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.</p> <p>(b) When conducting Post Tender Negotiations, the following additional Rules shall apply:</p> <p>(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.</p> <p>(ii) During negotiations in person there must always be present at least two officers of the Council.</p> <p>(iii) A note of the negotiations will be made by one of the Officers present recording those present, the time and location of the negotiations, detail of the discussion and any agreement reached.</p> <p>(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.</p> <p>(c) 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 21.</p>
<p><b>AWARD OF CONTRACT</b></p> <p><b>RULE 23</b></p> <p><b>Acceptance of Tenders</b></p> <p>(a) A Tender can only be accepted in accordance with the initial award methodology and evaluation criteria as set out in Rule 13. Any evaluation sheets must be maintained on file in accordance with Rule 35.</p>	<p><b>AWARD OF CONTRACT</b></p> <p><b>RULE 23</b></p> <p><b>Acceptance of Tenders</b></p> <p>(a) A Tender can only be accepted in accordance with the initial award methodology and evaluation criteria as set out in Rule 13. Any evaluation sheets must be maintained on file in accordance with Rule 34.</p>

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<p>(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 Appropriate Chief Officer.</p> <p>(c) If the Tender to be accepted exceeds the budget which was agreed in accordance with Rule 9(f) the Procuring Officer must ensure that sufficient funds are available and approved by the appropriate budget holder, Appropriate Chief Officer or Executive prior to accepting the Tender.</p> <p>(d) An abnormally low Tender may not be rejected without first giving the Tenderer the opportunity to explain the tendered price.</p> <p>(e) The Appropriate Chief Officer shall have the authority to accept a Tender but in any particular circumstance may decline to give approval and refer the decision to the Executive to determine.</p>	<p>(b) Any Tender with an Estimated Value of below <b>£25,000</b> (where a Request for Quotation or an Invitation to Tender is not used) may only be accepted with the prior written approval of the Appropriate Chief Officer.</p> <p>(c) If the Tender to be accepted exceeds the budget which was agreed in accordance with <b>Rule 5(f)</b> the Procuring Officer must ensure that sufficient funds are available and approved by the appropriate budget holder, Appropriate Chief Officer or Executive prior to accepting the Tender.</p> <p>(d) <b>Where an abnormally low Tender is submitted the Council shall require the Tenderer to explain in writing the price or costs proposed and may only reject the Tender where the explanation is unsatisfactory. Where it is established that the Tender is low due to breaches of environmental, social or labour law, the Council must reject the Tender.</b></p> <p>(e) The Appropriate Chief Officer shall have the authority to accept a Tender but in any particular circumstance may decline to give approval and refer the decision to the Executive to determine.</p>
<p><b>RULE 24</b></p> <p><b>Notification of Contract Award</b></p> <p>(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.</p> <p>(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.</p> <p>(c) In the case where the Estimated Value is equal to or above the appropriate EU Threshold the following additional Rules shall apply:</p> <p>(i) The notice in Rule 24 (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 24 (c)(ii) will come to an end.</p> <p>(ii) A minimum period of 10 calendar days must elapse between the day of sending the notice in Rule 24 (b) and the date on which the Council enters 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 must elapse. In all cases counting the day after sending the notice as day 1. The standstill period must end on a working day.</p> <p>(iii) The Procuring Officer shall ensure that an OJEU contract award notice is placed within 48 days of the contract award.</p> <p>(d) The Procuring Officer must notify the appropriate Category Manager in writing of any contract that has been awarded with a Total Value of £10,000 or more.</p>	<p><b>RULE 24</b></p> <p><b>Notification of Contract Award</b></p> <p>(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 <b>£5,000</b> or more this notification must be in writing.</p> <p>(b) In the case where the Estimated Value is <b>£25,000</b> 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.</p> <p><b>(c) Where a Contract with an Estimated Value of £25,000 or more is awarded the Council must publish information as required by the Public Contracts Regulations 2015 on Contracts Finder within a reasonable time.</b></p> <p>(d) In the case where the Estimated Value is equal to <b>or greater</b> than the relevant EU Threshold the following additional Rules shall apply:</p> <p>(i) The notice in Rule 24 (b) shall include the award criteria, the reasons for the decision, including the successful <b>Tenderer's</b> score, the score (if any) of the <b>Tenderer</b> receiving the notice, and the characteristics and (if appropriate) relative advantages of the successful <b>Tenderer's</b> Tender, any reasons why the recipient of the notice did not meet the technical specification, the name of the <b>Tenderer</b> awarded the contract, as well as the date when the standstill period required in accordance with Rule 24 (d)(ii) will come to an end.</p> <p>(ii) A minimum period of 10 calendar days must elapse between the day of sending the notice in Rule 24 (b) and the date on which the Council enters 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 must elapse. In all cases counting the day after sending the notice as day 1. The standstill period must end on a working day.</p> <p>(iii) The Procuring Officer shall ensure that an OJEU contract award notice is placed within <b>30 days</b> of the contract award <b>where required. In the case where contracts are awarded under the regime covering Light Touch Services or Dynamic Purchasing System, award notices may be grouped together in accordance with regulation 74 for Light-Touch Services and regulation 50(5) for Dynamic Purchasing Systems.</b></p> <p>(e) The Procuring Officer must notify the appropriate <b>Commercial Specialist</b> in writing of any contract that has been</p>

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	awarded with a Total Value of £10,000 or more.
<p><b>RULE 25</b></p> <p><b>Form of Contract</b></p> <p>(a) A contract shall be formed:</p> <p>(i) by exchange of letter or electronic communication accepting the successful Tender and incorporating the Invitation to Tender or Request for Quotation and the outcome of any subsequent negotiations and discussions; or</p> <p>(ii) by completion of a formal contract incorporating the Invitation to Tender or Request for Quotation, the Tender and the outcome of any subsequent negotiations and/or discussions; or</p> <p>(iii) by placing an order in accordance with Rule 26.</p> <p>(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 appropriate Category Manager considers it inappropriate to do so.</p> <p>(c) All contracts with an Estimated Value of £20,000 or more must be in writing and where appropriate the Appropriate Chief Officer shall:</p> <p>(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.</p> <p>(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.</p> <p>(iii) ensure that the contract provides for the supplier to have an insurance policy, which can be inspected during the contract period. The Chief Financial Officer shall be consulted on the insurance requirements.</p> <p>(iv) consult the Chief Financial Officer on the appropriate VAT requirements.</p> <p>(d) Every contract must be signed by the Appropriate Chief Officer or an Officer designated by him and in cases determined by the County Solicitor shall be under seal in the form prepared or approved by him or her.</p> <p>(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 entered into between the Council and the supplier, until the County Solicitor has advised that the contract has been signed by the supplier.</p>	<p><b>RULE 25</b></p> <p><b>Form of Contract</b></p> <p>(a) A contract shall be formed:</p> <p>(i) by exchange of letter or electronic communication accepting the successful Tender and incorporating the Invitation to Tender or Request for Quotation and the outcome of any subsequent negotiations and discussions; or</p> <p>(ii) by completion of a formal contract incorporating the Invitation to Tender or Request for Quotation, the Tender and the outcome of any subsequent negotiations and/or discussions; or</p> <p>(iii) by placing an order in accordance with Rule 26.</p> <p>(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 <b>the County Solicitor</b> and the appropriate <b>Commercial Specialist</b> considers it inappropriate to do so.</p> <p>(c) All contracts with an Estimated Value of <b>£25,000</b> or more must be in writing and where appropriate the Appropriate Chief Officer shall:</p> <p>(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.</p> <p>(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.</p> <p>(iii) ensure that the contract provides for the supplier to have an insurance policy, which can be inspected during the contract period. The Chief Financial Officer shall be consulted on the insurance requirements.</p> <p>(iv) consult the Chief Financial Officer on the appropriate VAT requirements.</p> <p>(d) Every contract must be signed by the Appropriate Chief Officer or an Officer designated by him and in cases determined by the County Solicitor shall be under seal in the form prepared or approved by him.</p> <p>(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 entered into between the Council and the supplier, until the County Solicitor has advised that the contract has been signed by the supplier.</p>

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<p><b>RULE 26</b></p> <p><b>Orders for work, goods and services</b></p> <p>Orders for work, goods and services must only be placed in accordance with Instruction 8 of the Standard Financial Instructions.</p>	<p><b>No proposed change</b></p>
<p><b>STANDING LISTS</b></p> <p><b>RULE 27</b></p> <p><b>Standing Lists</b></p> <p>(a) Standing Lists must not be created or added to without the prior written approval of the Appropriate Chief Officer in consultation with the appropriate Category Manager.</p> <p>(b) Procuring Officers 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.</p> <p>(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.</p> <p>(d) At least four weeks before a list is first compiled, the Procuring Officer must publish on a website approved by the Director of Corporate Resources for the purpose of notifying the supply market a notice inviting applications by a specified date for inclusion in it.</p> <p>(e) Procuring Officers 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. Procuring Officers must ensure that notices inviting applications for inclusion in the list are published in the manner provided by Rule 27(d).</p> <p>(f) 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 Category Manager advises otherwise.</p> <p>(g) The Procuring Officer in consultation with the Category Manager shall determine the criteria for selecting Persons from the list.</p> <p>(h) In such circumstances as the Director of Corporate Resources shall determine, Procuring Officers shall provide such information as shall reasonably be necessary of the extent to which Standing Lists have been utilised.</p>	<p><b>STANDING LISTS</b></p> <p><b>RULE 27</b></p> <p><b>Standing Lists</b></p> <p>(a) Standing Lists must not be created or added to without the prior written approval of the Appropriate Chief Officer in consultation with the appropriate <b>Commercial Specialist</b>.</p> <p>(b) Procuring Officers 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.</p> <p>(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.</p> <p>(d) At least four weeks before a list is first compiled, the Procuring Officer must publish on a website approved by the Director of Corporate Resources for the purpose of notifying the supply market a notice inviting applications by a specified date for inclusion in it.</p> <p>(e) Procuring Officers 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. Procuring Officers must ensure that notices inviting applications for inclusion in the list are published in the manner provided by Rule 27(d).</p> <p>(f) 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 <b>Commercial Specialist</b> advises otherwise.</p> <p>(g) The Procuring Officer in consultation with the <b>Commercial Specialist</b> shall determine the criteria for selecting Persons from the list.</p> <p>(h) In such circumstances as the Director of Corporate Resources shall determine, Procuring Officers shall provide such information as shall reasonably be necessary of the extent to which Standing Lists have been utilised.</p>

<p><b>FRAMEWORK AGREEMENTS</b></p> <p><b>RULE 28</b></p> <p><b>Framework Agreements</b></p> <p>(a) Procuring Officers must establish all Framework Agreements in accordance with these Rules.</p> <p>(b) Framework Agreements must not be awarded for more than 4 years, including any extensions without the prior written consent of the Director of Corporate Resources.</p> <p>(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.</p> <p>(d) New suppliers may only be added to a Framework Agreement throughout its duration in circumstances where:</p> <p>(i) the Estimated Value is below the EU Threshold; or</p> <p>(ii) the services tendered are Part B Services to which the full regime of the Public Contracts Regulations 2006 is not considered to apply: and</p> <p>provided that the Invitation to Tender states:</p> <p>(aa) that new suppliers may be added to the Framework Agreement; and</p> <p>(bb) how many suppliers can apply to be added to the Framework Agreement; and</p> <p>(cc) that the same evaluation criteria and award methodology are applied when deciding whether to award a place on the Framework Agreement to new suppliers as was applied at the time of the original award.</p>	<p><b>FRAMEWORK AGREEMENTS</b></p> <p><b>RULE 28</b></p> <p><b>Framework Agreements</b></p> <p>(a) Procuring Officers must establish all Framework Agreements in accordance with these Rules.</p> <p>(b) Framework Agreements must not be awarded for more than 4 years, including any extensions without the prior written consent of the Director of Corporate Resources following <b>consultation with the County Solicitor</b>.</p> <p>(c) All suppliers on the Framework Agreement <b>capable of performing the contract</b> 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.</p> <p>(d) <b>Additional</b> suppliers may only be added to a Framework Agreement throughout its duration in circumstances where:</p> <p>(i) the Estimated Value is below the EU Threshold; or</p> <p>( ii) the services tendered are <b>Light-Touch Services</b> to which the full regime of the <b>Public Contracts Regulations 2015</b> is not considered to apply: and</p> <p>provided that the Invitation to Tender states:</p> <p>(aa) that new suppliers may be added to the Framework Agreement; and</p> <p>(bb) how many suppliers can apply to be added to the Framework Agreement; and</p> <p>(cc) that the same evaluation criteria and award methodology are applied when deciding whether to award a place on the Framework Agreement to new suppliers as was applied at the time of the original award.</p>
<p><b>RULE 29</b></p> <p><b>Dynamic Purchasing Systems</b></p> <p>Procuring Officers must only establish Dynamic Purchasing Systems with the prior written approval of the Director of Corporate Resources and in accordance with the requirements of the EU Directives and these Rules where appropriate.</p>	<p><b>RULE 29</b></p> <p><b>Dynamic Purchasing Systems</b></p> <p>Procuring Officers must only establish Dynamic Purchasing Systems with the prior written approval of the Director of Corporate Resources and in accordance with the requirements of the <b>Public Contracts Regulations 2015</b> and these Rules where appropriate.</p>

<p><b>CONTRACT AMENDMENTS</b></p> <p><b>RULE 30</b></p> <p><b>Contract Variations</b></p> <p>In the case of a contract which was originally approved by the Executive and where any variations are considered significant by the Director of Corporate Resources or the County Solicitor in consultation with the appropriate Category Manager, then authority must be gained from the Executive. In all other circumstance the following applies:</p> <p>(a) Prior to any variation being agreed which would result in an increase in the Total Value of the contract the Procuring Officer must ensure that sufficient additional budget provision has been approved by the budget holder.</p> <p>(b) If the Total Value of the contract is under £100,000, including the planned variation, the Appropriate Chief Officer in consultation with the appropriate Category Manager shall be authorised to vary the contract.</p> <p>(c) In the case of a contract with a Total Value of £100,000 or more:</p> <p>(i) for variation(s) that would increase or decrease the Total Value of the contract by 10% or more, the Appropriate Chief Officer in consultation with the appropriate Category Manager and the County Solicitor must gain the prior approval of the Director of Corporate Resources. This authorisation must be issued before the work is carried out, or in the case of an emergency, immediately thereafter;</p> <p>(ii) for any variation(s) that would increase or decrease the Total Value of the contract by less than 10% the Appropriate Chief Officer in consultation with the appropriate Category Manager 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.</p> <p>(d) In the case of a contract which was originally approved by the Executive and where any variations are considered significant by the Director of Corporate Resources or the County Solicitor in consultation with the appropriate Category Manager, then the Executive must be informed as soon as practicable.</p> <p>(e) All contract variations must be within the scope of the original contract.</p> <p><b>RULE 31</b></p> <p><b>Contract Extensions</b></p> <p>If the contract was originally approved by the Executive 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 Executive. In all other circumstances the following applies:</p> <p>(i) If the Total Value of a contract, including the planned extension, is under £100,000 and the contract provides for the extension the Appropriate Chief Officer shall be authorised to extend the contract;</p> <p>(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 Appropriate Chief Officer shall be authorised to extend the contract in</p>	<p><b>CONTRACT AMENDMENTS</b></p> <p><b>RULE 30</b></p> <p><b>Contract Modifications and Extensions</b></p> <p><b>Contract Modifications</b></p> <p>(a) Subject to Rule 30(b) below, Contracts may be modified where the value of the modification is;</p> <p>(i) below the current EU Threshold for service/supply/works contracts; and</p> <p>(ii) is less than 10% of the initial Contract value for service and supply contracts and less than 15% of the initial Contract value for works.</p> <p>(b) The Appropriate Chief Officer in consultation with the Commercial Specialist shall be authorised to modify the contract in accordance with Rule 30(a) above provided:</p> <p>(i) the modification does not alter the overall nature of the Contract; and</p> <p>(ii) where there is, or has been more than one modification, the value shall be the net cumulative value of all modifications for the purpose of Rule 30(a) above.</p> <p>(c) In all other circumstances, where the proposed modification exceeds the values stated under Rule 30(a) (i) and/or 30(a) (ii) or where the proposed modification does not fall within Rule 30(a) above, the Appropriate Chief Officer in consultation with the Commercial Specialist and the County Solicitor must gain the prior approval of the Director of Corporate Resources. This authorisation must be issued before the supply, services or works are carried out.</p> <p>(d) Prior to any modification being agreed which would result in an increase in the Total Value of the Contract the Procuring Officer must ensure that sufficient additional budget provision has been approved by the budget holder.</p> <p><b>Contract Extensions</b></p> <p>(e) Where a Contract Extension has been provided for both in the Initial Procurement Documents and in the Contract in clear and precise terms then the Appropriate Chief Officer shall be authorised to extend the Contract in consultation with the Commercial Specialist.</p> <p>(f) For the purpose of this Rule 30 “Initial Procurement Documents” shall mean any notice, OJEU notice, Request for Quotation, Invitation to Tender or Specification.</p> <p>(g) Where the Initial Procurement Documents and/or the Contract does not provide for an extension the Appropriate Chief Officer in consultation with the Commercial Specialist shall consider the extension as a modification to the Contract and shall only be authorised to extend the Contract in accordance with Rules 30(a) and 30(b) above.</p> <p>(h) In all other circumstances and where Rule 30(e) and 30(g) above do not apply, the Appropriate Chief Officer in consultation with the Commercial Specialist and the County Solicitor must gain the prior approval of the Director of Corporate Resources. This authorisation must be issued before the extension is carried out.</p> <p>(i) Prior to any extension being agreed which would result in an increase in the Total Value of the Contract the</p>
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**APPENDIX B: Proposed Amendments to Part 4 G - Contract Procedure Rules**

<p>consultation with the Category Manager;</p> <p>(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 Appropriate Chief Officer, in consultation with the Procuring Officer and appropriate Category Manager, shall be authorised to extend the contract on a one-off basis;</p> <p>(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 Appropriate Chief Officer must gain the prior approval of the Director of Corporate Resources to extend the contract;</p> <p>(v) 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.</p>	<p>Procuring Officer must ensure that sufficient additional budget provision has been approved by the budget holder.</p>
<p><b>RULE 32</b></p> <p><b>Novation of Existing Contracts</b></p> <p>The novation of a contract to a new Person requires the prior written approval of the Director of Corporate Resources in consultation with the County Solicitor.</p>	<p><b>RULE 31 Change on rule number only.</b></p>
<p><b>RULE 33</b></p> <p><b>Early Termination of Contracts</b></p> <p>Unless a provision for early termination is clearly stated in the contract, Procuring Officers 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 Corporate Resources shall also be obtained.</p>	<p><b>RULE 32</b></p> <p><b>Early Termination of Contracts</b></p> <p>Unless a provision for early termination is clearly stated in the contract, Procuring Officers shall seek advice from the County Solicitor where it is intended to terminate a contract early. Where the Total Value of the contract is <b>equal to £172,514</b> or more the prior written approval of the Director of Corporate Resources shall also be obtained.</p>
<p><b>MISCELLANEOUS PROVISIONS</b></p> <p><b>RULE 34</b></p> <p><b>Application of these Rules to ESPO</b></p> <p>(a) Where acting solely on behalf of the Council ESPO must comply with these Rules where applicable.</p> <p>(b) In cases where ESPO is acting on behalf of the Council:</p> <p>(i) ESPO is authorised to act as agent of the Council in place of the Appropriate Chief Officer or Procuring Officer for the purposes of Rules 14, 15, 16, 17, 18, 19, 20, 21, 22, 24, 25, 27 and 28 and these Rules shall be construed accordingly.</p> <p>(ii) ESPO is authorised to act as agent of the Chief Executive for the purposes of Rules 18, 19 and 20.</p> <p>(iii) For the avoidance of doubt, decisions under Rule 23 shall remain the responsibility of Procuring Officers who may receive advice from ESPO.</p>	<p><b>MISCELLANEOUS PROVISIONS</b></p> <p><b>RULE 33 Change on rule number only.</b></p>

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<p><b>RULE 35</b></p> <p><b>Document Retention</b></p> <p>(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.</p> <p>(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.</p>	<p><b>RULE 34 Change on rule number only.</b></p>
<p><b>RULE 36</b></p> <p><b>Supervision of Contracts by Third Parties</b></p> <p>(a) The Procuring Officer shall ensure that it is a condition of any contract between the Council and any Person (not being an Officer of the Council) who is involved in a Procurement Exercise or the management of a contract on behalf of the Council that in relation to that contract he must comply with the requirements of these Rules and other reasonable requirements of the Council.</p> <p>(b) Such Person must:</p> <p>(i) at any time during the carrying out of the contract produce to the Appropriate Chief Officer or his representative or Council Auditor on request all records maintained by him in relation to the contract; and</p> <p>(ii) on completion of the contract transmit all records to the Appropriate Chief Officer.</p>	<p><b>RULE 35 Change on rule number only.</b></p>
<p><b>RULE 37</b></p> <p><b>Nominated Sub-Contractors and Suppliers</b></p> <p>(a) Where a sub-contractor or supplier is to be nominated by the Council to a main contractor, the provisions of these Rules shall have effect.</p> <p>(b) The terms of an Invitation to Tender under Rule 18 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.</p>	<p><b>RULE 36 Change on rule number only.</b></p>

## APPENDIX B: Proposed Amendments to Part 4 G - Contract Procedure Rules

### SCHEDULE 1

#### Interpretation

- 1 “Appropriate Chief Officer” means the Chief Officer responsible for the function to which the contract relates except that, where another Chief Officer is responsible for the letting of the contract, it shall mean that Chief Officer in consultation with the Chief Officer on whose behalf the contract is to be let.
- 2 “Best Value” means the duty of the Council to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness.
- 3 “Category Manager” means a Commercial Specialist or other Officer authorised by the Director of Corporate Resources to manage the procurement of a category or categories of goods, services and/or works. Where there is no Category Manager for the goods, services and/or works being procured the Head of Procurement shall adopt this role.
- 4 “Chief Financial Officer” is a statutory appointment pursuant to Section 151 of the Local Government Act 1972. The functions of the Chief Financial Officer are set out in Article 12 of Part 2 of the Council’s Constitution.
- 5 "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.
- 6 "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.
- 7 "Contract Extension" means an extension to the duration of the contract, but not including any alteration to the scope of the contract.
- 8 “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.
- 9 "Contract Variation" means an alteration to the scope of the contract, but not the extension of the duration of the contract.
- 10 “Corporate Contract” means any Contract or Framework Agreement or other arrangement put in place by the Council itself, ESPO, or any other Public Sector Organisation (including other Local Authorities) or Consortium in which the Council is entitled to participate and which, where necessary, has been awarded in an EU compliant manner.
- 11 “Council” means Leicestershire County Council.
- 12 “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.

### SCHEDULE 1

#### Interpretation

1. “Appropriate Chief Officer” means the Chief Officer responsible for the function to which the contract relates except that, where another Chief Officer is responsible for the letting of the contract, it shall mean that Chief Officer in consultation with the Chief Officer on whose behalf the contract is to be let.
2. “Best Value” means the duty of the Council to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness.
3. “Chief Financial Officer” is a statutory appointment pursuant to Section 151 of the Local Government Act 1972. The functions of the Chief Financial Officer are set out in Article 12 of Part 2 of the Council’s Constitution.
4. “Commercial Specialist” means an Officer authorised by the Director of Corporate Resources to manage the procurement of a category or categories of goods, services and/or works. Where there is no Commercial Specialist for the goods, services and/or works being procured the Head of Commissioning and Procurement shall adopt this role.
5. "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.
6. "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.
7. "Contract Extension" means an extension to the duration of the contract, but not including any alteration to the scope of the contract.
8. “Contracts Finder” means the web-based portal provided for the purposes of Part 4 of the Public Contracts Regulations 2015.
9. “Contract Opportunity Publication” is the means by which a Procurement Exercise is advertised, and includes (where appropriate) the ‘Contract Notice’ and Contracts Finder as defined in the Public Contract Regulations 2015.
10. "Contract Modification" means an alteration to the scope of the contract.
11. “Corporate Contract” means any Contract or Framework Agreement or other arrangement put in place by the Council itself, ESPO, or any other Public Sector Organisation (including other Local Authorities) or Consortium in which the Council is entitled to participate and which, where necessary, has been awarded in compliance with EU legislation.
12. “Council” means Leicestershire County Council.
13. “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 2015.
14. “Electronic Tendering System” means an electronic tendering system approved in accordance with Rule 5 (g) (ii).

**APPENDIX B: Proposed Amendments to Part 4 G - Contract Procedure Rules**

<p>13 “ESPO” means the Eastern Shires Purchasing Organisation being a local authority purchasing and distribution consortium of which the Council is a joint member authority.</p> <p>14 "Estimated Value" means the value as estimated under Rule10.</p> <p>15 “E-Tender” means a Tender that has been submitted using an electronic tendering system that complies with Rule 5 (g).</p> <p>16 "EU Threshold" means the respective threshold for Supplies, Works or Part A services contracts referred to in the Public Contract Regulations 2006.</p> <p>17 “Executive” means the executive or committee determined in accordance with the Council’s constitution.</p> <p>18 “Formal Tender Process” is a process following the requirements of Open Tendering, Restricted Tendering, Standing List, Negotiated Procedure or Competitive Dialogue</p> <p>19 “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.</p> <p>20 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.</p> <p>21 “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.</p> <p>22 “Irregular Tender” means a Tender that does not fully comply with the instructions given in the Invitation to Tender.</p> <p>23 “Officer” means an employee of the Council.</p> <p>24 “OJEU” means Official Journal of the European Union.</p> <p>25 “Part A Services” are defined in The Public Contract Regulations 2006, 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.</p> <p>26 “Part B Services” are 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.</p>	<p>15. “ESPO” means the Eastern Shires Purchasing Organisation being a local authority purchasing and distribution consortium of which the Council is a joint member authority.</p> <p>16. "Estimated Value" means the value as estimated under Rule10.</p> <p>17. “E-Tender” means a Tender that has been submitted using an <b>Electronic Tendering System</b>.</p> <p>18. "EU Threshold" means the respective threshold for <b>Services</b>, Supplies, Works or <b>Light-Touch Services</b> contracts referred to in the <b>Public Contract Regulations 2015</b>.</p> <p>19. “Executive” means the executive or committee determined in accordance with the Council’s constitution.</p> <p><b>20. “Formal Tender Process” is a process following the requirements of Open Tendering, Restricted Tendering, Standing List, Negotiated Procedure, <b>Competitive Procedure with Negotiation</b>, Competitive Dialogue or <b>Innovation Partnership Procedure</b>. And Formal Tender shall be construed accordingly.</b></p> <p>21. “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 and Public Contracts Regulations <b>2006</b> and <b>2015</b> apply.</p> <p>22. "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.</p> <p>23. “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.</p> <p>24. “Irregular Tender” means a Tender that does not fully comply with the instructions given in the Invitation to Tender.</p> <p><b>25. “Life-Cycle Costing” means all or part of the following costs over the life-cycle of a product, service or works, to the extent that they are relevant:</b></p> <p><b>(i) Costs of acquisition,</b></p> <p><b>(ii) Costs of use, such as consumption of energy and other resources,</b></p> <p><b>(iii) Maintenance costs,</b></p> <p><b>(iv) End of life costs, such as collection and recycling costs,</b></p> <p><b>(v) Costs imputed to the environmental externalities linked to the product, service or works during its life cycle, provided their monetary value can be determined and verified. These costs may include the cost of emissions of greenhouse gases and of other pollutant emissions and other climate change mitigation costs.</b></p>
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## APPENDIX B: Proposed Amendments to Part 4 G - Contract Procedure Rules

<p>27 “Person” includes a partnership, body corporate or unincorporated association.</p> <p>28 “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.</p> <p>29 “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.</p> <p>30 “Procuring Officer” means any Officer, acting under the delegated powers of a Chief Officer, who is responsible for the procurement of goods and services.</p> <p>31 “Public Contracts Regulations 2006” means the Public Contracts Regulations 2006 as amended, modified, consolidated, extended, re-enacted or replaced, including the Public Contracts (Amendment) Regulations 2009. These Regulations implement the EU Consolidated Directive on Public Procurement into UK law and reflect the principles of the EU Treaty of Rome.</p> <p>32 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.</p> <p>33 “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.</p> <p>34 “Standard Terms and Conditions” means standard contractual terms used by Leicestershire County Council, 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.</p> <p>35 “Standing List” means a list of Persons which has been established in accordance with Rule 27.</p> <p>36 "Sustainable Commissioning and Procurement Strategy" means the strategy document that explains how the Council's commissioning and procurement activity will be used between 2009 and 2013 to improve the quality of life for the people of Leicestershire and make Leicestershire the best possible place to live and work for everyone.</p> <p>37 “Tender” means the formal offer from a Tenderer, which is capable of acceptance by the Council, 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. The term “Tender” also includes an E-Tender except where the context implies otherwise.</p> <p>38 “Tenderer” or “Tenderers” means the Person or Persons invited to participate in a Procurement Exercise.</p> <p>39 “Total Value” means the value of a contract which has been calculated in accordance with Rule 10(b) (excluding Rule 10(b)(vi)) reading where appropriate Total Value for Estimated Value.</p>	<p>26. “Light-Touch Services” means those services referred to in regulation 74 and Schedule 3 of the Public Contracts Regulations 2015.</p> <p>27. “Officer” means an employee of the Council.</p> <p>28. “OJEU” means Official Journal of the European Union.</p> <p>29. “Person” includes a partnership, body corporate or unincorporated association.</p> <p>30. “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.</p> <p>31. “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.</p> <p>32. “Procuring Officer” means any Officer, acting under the delegated powers of the Appropriate Chief Officer, who is responsible for the procurement of goods and services.</p> <p>33. “Public Contracts Regulations 2015” means the Public Contracts Regulations 2015 as amended, consolidated, extended, re-enacted or replaced. These Regulations implement Directive 2014/24/EU of the European Parliament and of the Council on Public Procurement.</p> <p>34. “Quotation” means an offer to sell works, goods and/or services at a stated price under specified conditions. A Quotation may or may not be written.</p> <p>35. “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.</p> <p>36. “Standard Terms and Conditions” means standard contractual terms used by Leicestershire County Council, 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.</p> <p>37. “Standardised Pre-Qualification Questionnaire” means a questionnaire that complies with the Crown Commercial Service statutory guidance relating to Pre-Qualification Questionnaires.</p> <p>38. “Standing List” means a list of Persons which has been established in accordance with Rule 27.</p> <p>39. “Suitability Assessment Question” means a question which relates to the subject matter of the procurement and is proportionate and which the Council requires for assessing the Tenderers suitability.</p> <p>40. " Commissioning and Procurement Strategy" means the strategy document that explains how the Council's commissioning and procurement activity will be used between 2014 and 2018 to improve the quality of life for the people of Leicestershire and make Leicestershire the best possible place to live and work for everyone.</p> <p>41. “Tender” means the formal offer from a Tenderer, which is capable of acceptance by the Council, 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 Quotation is</p>
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<p>40 "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.</p> <p>Words imparting the masculine include the feminine gender.</p>	<p>also a Tender. The term “Tender” also includes an E-Tender except where the context implies otherwise.</p> <p>42. “Tenderer” or “Tenderers” means the Person or Persons invited to participate in a Procurement Exercise.</p> <p>43. “Total Value” means the value of a Contract which has been calculated in accordance with Rule 10(b) (excluding Rule 10 (b) (vii)) reading where appropriate Total Value for Estimated Value.</p> <p>44. "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.</p> <p>45. Words imparting the masculine include the feminine gender.</p> <p>46. “Rule(s)” means these Contract Procedure Rules as may be amended from time to time.</p>
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## **CORPORATE GOVERNANCE COMMITTEE – 17<sup>th</sup> NOVEMBER 2015**

### **REPORT OF THE DIRECTOR OF CORPORATE RESOURCES**

### **PROPOSED CHANGES TO THE FINANCIAL PROCEDURE RULES**

#### **Purpose of Report**

1. To propose updates to the Standard Financial Instructions (SFI's).

#### **Background**

2. The SFI's are contained within the Financial Procedure Rules, Part 4F, of the County Council's Constitution. The Financial Procedure Rules set out the main financial management requirements of the County Council. They apply to the Executive and Committees and to officers of the County Council.
3. The SFI's supplement the Financial Procedure Rules. They are proposed by the Chief Financial Officer (CFO) and cover the more detailed procedures required for the control of the financial affairs of the Council. They include procedures for control of the capital programme, revenue budgets, contracts, ordering, payments, income collection, stocks and assets, banking and insurance.

#### **Proposed Revisions**

4. In order that the SFI's continue to remain up to date and relevant it is necessary to regularly review and propose updates to the Instructions. A review of the SFI's has been undertaken which has identified a small number of changes. The changes proposed in this report are contained within Appendix A. The main changes are described below:

#### **Instruction 2 - substitution**

5. To provide flexibility to deliver the capital programme and respond to new capital requirements that arise during the year it is proposed that the CFO may approve requests to add or amend schemes within the capital programme, providing that they are totally funded, there is no overall increase in revenue costs, and there is no change in overall policy. All changes will be reported to the Executive and the Scrutiny Commission as part of the next Medium Term Financial Strategy (MTFS) monitoring report. It is also proposed to rename Instruction 2 to 'Changes to the Capital Programme'
6. The capital programme is prepared between October and December prior to the year of commencement. After this time and during the programme year, changes may be required to allow the inclusion of new capital schemes and also changes to existing

schemes. This can arise from the receipt of new capital funding; section 106 housing developer contributions, external contributions (such as school contributions), technical accounting requirements to capitalise works funded by revenue or earmarked funds and new or late government announcements on capital grants.

7. In year changes may also be required where it is cost effective to combine or bring forward works once detailed work starts on schemes.
8. Recently there has been less long term certainty of government capital funding with grants often being announced for one year at a time and grants being notified late and after the start of the financial year. There is also the real possibility that the government may reduce capital grants in year.

#### **Instruction 4 – Revenue Virement**

9. Following the suggested changes to Instruction 2 above, it is proposed that subsection (b) iv., which states that virement is not allowed where it involves funding capital expenditure from revenue, can now be removed. This is included in Instruction 2 above where these can be approved by the CFO.

#### **Recommendations**

10. It is recommended that the Corporate Governance Committee approves the proposed amendments to the Standard Financial Instructions as set out in Appendix A to this report.

#### **Equality and Human Rights Implications**

11. None.

#### **Background Papers**

12. County Council Constitution, Part 4F – Financial Procedure Rules (scroll down to Standard Financial Instructions):  
[http://website/index/your\\_council/local\\_democracy/constitution/4f\\_financial.htm](http://website/index/your_council/local_democracy/constitution/4f_financial.htm)

#### **Circulation under the Local Issues Alert Procedure**

13. None

#### **Officers to Contact**

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#### **Appendix**

Appendix A - Proposed Amendments to the Financial Procedure Rules

**PROPOSED AMENDMENTS TO THE CONSTITUTION  
OF LEICESTERSHIRE COUNTY COUNCIL  
NOVEMBER 2015**

<b><u>ITEM</u></b>	<b><u>PROPOSED AMENDMENT</u></b>	<b><u>EXPLANATION</u></b>
<b><u>PART 4F – FINANCIAL PROCEDURE RULES</u></b>  <b><u>Standard Financial Instructions</u></b>  Instruction 2 - Substitution	<p>Rename Instruction 2 to; 'Instruction 2 – Changes to the Capital Programme' and amend to read as follows:-</p> <p>The Chief Financial Officer may approve requests to add or amend schemes within the capital programme, providing that they are totally funded, there is no overall increase in revenue costs, there is no change in overall policy and subject to reporting the changes to the Executive and Scrutiny as part of the next MTFS monitoring report. In any particular instance, the Chief Financial Officer may decline to give approval and instead refer the proposal to the Executive.</p>	<p>To provide flexibility to enable in year changes and new schemes to be added to the capital programme, e.g. in year grant awards, section 106 contributions, earmarked funds and other external contributions.</p>
Instruction 4 – Revenue Virement	Remove section (b) iv., and renumber (b) v. to (b) iv.	<p>Following the proposed changes to Instruction 2 above, it is proposed that subsection (b) iv., which states that virement is not allowed where it involves funding capital expenditure from revenue, can now be removed. This is included in the proposed changes to Instruction 2 where these can be approved by the CFO.</p>

<b><u>ITEM</u></b>	<b><u>PROPOSED AMENDMENT</u></b>	<b><u>EXPLANATION</u></b>
Instruction 13 – Income Records and Grant Claims	<p>Amend section (a) to read as follows:-</p> <p>The collection of all monies due to the Council, including income from trading activities, should be under the control of the Chief Financial Officer. He or she will require that all monies due are promptly recorded, are collected in accordance with an approved collection strategy and all monies are promptly banked.</p>	Clarification that debts are collected in accordance with an approved Collection Strategy
Instruction 14 – Write Offs	<p>Amend section (b) to read as follows:-</p> <p>(b) Amounts up to £10,000 in any one case may be written-off by the Chief Financial Officer with the agreement of the chief officer of the department concerned. In special categories of write-offs, such as library issues, the Chief Financial Officer may authorise chief officers or nominated officers to write-off debts on his or her behalf.</p>	To allow the Chief Financial Officer to authorise appropriate nominated officers to write-offs debts in special categories.
Instruction 17 – Salaries, Wages and Pensions	<p>Amend section (c) to read as follows:-</p> <p>Tax, pension, national insurance and all other deductions from pay and related matters must be recorded and controlled in such a manner as determined by the Chief Financial Officer.</p>	Delete the word 'superannuation' and replace with 'pension'.
Instruction 22 – Schools and Fair Funding Regulations	<p>Amend to read as follows:-</p> <p>(a) The School Standards and Framework Act 1998, through the Leicestershire Scheme for Financing Schools allows governors of schools to determine their own arrangements for payroll, ordering and payments to suppliers, the collection of income and banking.</p> <p>(b) The Act also confirms the Chief Financial Officer's overall</p>	Minor updates to wording.

<b><u>ITEM</u></b>	<b><u>PROPOSED AMENDMENT</u></b>	<b><u>EXPLANATION</u></b>
	<p>responsibility for ensuring that arrangements for the proper administration of the school's financial affairs are in place.</p> <p>(c) When undertaking this role, the Chief Financial Officer will wish to be assured that the Standard Financial Instructions outlined in the document are in place. He or she will also wish to be assured that the financial requirements on schools contained in the Scheme for Financing Schools are being carried out.</p>	

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## **CORPORATE GOVERNANCE COMMITTEE**

**17 NOVEMBER 2015**

### **REPORT OF THE DIRECTOR OF CORPORATE RESOURCES**

#### **RISK MANAGEMENT UPDATE**

##### **Purpose of the Report**

1. One of the key roles of the Committee is to ensure that the Council has effective risk management arrangements in place. This report assists the Committee in fulfilling that role by providing a regular overview of key risk areas and the measures being taken to address them. This is to enable the Committee to review or challenge progress, as necessary, as well as highlight risks that may need to be given further consideration. This report covers:
  - a) The Corporate Risk Register (CRR) – an update against risks
  - b) Update on related matters:
    - Independent Inquiry into Child Sexual Abuse (Goddard Inquiry)
    - Business continuity and insurance

##### **Corporate Risk Register (CRR)**

2. The Council maintains departmental risk registers and a Corporate Risk Register (CRR). These registers contain the most significant risks which the Council is managing and which are owned by Directors and Assistant Directors.

The CRR is designed to capture strategic risk that applies either corporately or to specific departments, which by its nature has a long time span. Risk owners are engaged and have demonstrated a good level of awareness regarding their risks and responsibilities for managing them. The full CRR is attached as Appendix A

3. The CRR is a working document and therefore assurance can be provided that, through timetabled review, high/red risks will be added to the CRR as necessary. Equally, as further mitigation actions come to fruition and current controls are embedded; the risk scores will be reassessed and this will result in some risks being removed from the CRR and reflected back within the relevant departmental risk register.

4. The key changes since the CRR was last presented to the Committee on 25 September 2015 are detailed below :

i. Removal of risk

Risk 1.2 (C&FS) - Local Authority legal requirements to meet deficit budgets from maintained schools becoming sponsored academy, and pressure from Sponsors to meet repair costs.

Over the last few months there has been a significant reduction in the number of schools moving through sponsorship, most secondary schools now having converted (except Shepshed) leaving potentially the smaller and less costly underperforming primary schools to be addressed. In addition the Council now had improved controls to manage deficit budgets for schools subject to sponsorship in all cases issuing a Notice of Concern for financial management to the school governing body, at an early stage of the conversion process.

As the risk score has been revised from 16 to 12, this risk has been removed from the Corporate Risk Register but it will continue to be monitored through the Children and Family Services Departmental Risk Register.

It is possible that the risk may escalate again early next year as the DfE presses for more sponsorship conversions as a consequence of the 'coasting schools' requirements in the Education and Adoption Bill (once it is passed by Parliament).

ii. Other Changes:

See Risk 2.1: Care Act 2014 Phase 2- Financial risk for funding received for 2015/16 and beyond.

The government recently announced that it will not claw back monies paid out this year to local authorities to prepare for Care Act funding reforms that were originally due to come into force next April but were later postponed by ministers until 2020.

The total allocation for the Care Act for 2015/16 was £5.626m. This was to cover the cost of phase 1 (£3.657m) and early implementation of phase 2 (£1.969m). With phase 2 being delayed, there was a risk that the County Council needed to repay the £1.969m. With the recent Government announcement, councils can keep the full 2015/16 Care Act monies. However, there is a risk concerning the allocation from 2016/17 onwards, and therefore the risk has been reworded accordingly.

See Risk 2.2: Better Care Together – this risk has been updated to add a sub- risk, which has escalated from the Adults and Communities Department.

This is in connection with transferring patients early from the University Hospitals of Leicester to community and social care 'left shift'. This will initially increase the number of service users requiring assessment and increase demand on social care and providers.

5. At its meeting on 25 September 2015, the Committee requested that a presentation be provided on the following :


- Mitigating the risk of fraud





This will be undertaken as part of this agenda.





6. The most up-to-date position of the risks on the CRR is shown in the table below. The risks are numbered within each category. To maintain a full history of all risks, details of any risks removed are shown with their original risk reference number, at the end of the Corporate Risk Register (Appendix A).





The arrows explain the direction of travel for the risk, i.e. where it is expected to be within the next twelve months after further mitigating actions, so that: -


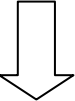

- A horizontal arrow shows a there's not much movement expected in the risk
- A downward pointing arrow shows there's expectation that the risk will be mitigated towards 'medium' and would likely be removed from the register
- An upwards pointing arrow would be less likely but is possible, since it would show that the already high scoring risk is likely to be greater


Dept./ Function	CRR Risk No	Risk Description	Current Risk Score (incl changes)	Update Based on risks discussed at department's management teams during October 2015	Direction of Travel (Residual Risk Score over the next 12 months)
<b>1. Medium Term Financial Strategy (MTFS)</b>					
All	1.1	Risk around the MTFS including the ability to deliver savings through service redesign and Transformation as required in the MTFS, impact of the living wage and other demand and cost pressures	25	<p>The County Council is in a very challenging financial position. The spending review on November 25<sup>th</sup> and the local government settlement expected before Christmas will provide some additional clarity. Significant additional savings will be required over the next four years.</p> <p>The Transformation Delivery Board agreed the implementation of a revised governance approach for the Transformation Programme at the October meeting. The new governance model includes the setting up of a 'Design Authority' (a small group of key people who will</p>	 Expected to remain high/red

				help develop the transformation programme) to provide assurance to the Delivery Board that the Programme is shaped effectively to achieve its objectives, and remains aligned to organisation strategies and priorities.	
CE	1.3	Funding and reputation risks: CIL Regulations (1 April 2015) are now in force which restrict the pooling of section 106 contributions	20	The work on s106 is continuing and there is a corporate Infrastructure and Development Oversight Group (due to meet in November 2015) now set up to take a strategic look at s106 corporately. Part of the Group's remit will be to manage and oversee the risks.	 Expected to move to medium/amber
CR	1.4	The cost arising from uninsured risks increases	16	Municipal Mutual Insurance's financial accounts for 2014/15 have been received. The claims experience is significantly worse than the actuarial assessment, increasing the likelihood for a further levy. The timings and amounts are unknown, although it is likely to be in excess of £1m.	 Expected to remain high/red
C&FS	1.5	Significant pressures on the children's social care placement budget, which fund the care of vulnerable children.	15	Number of processes are in place: a) Weekly tracking of the changes in placement costs associated with children who enter care, leave care or change placement. b) Revised decision making processes for children's cases agreed c) All externally commissioned provision of services for children in care reviewed and cost effectiveness considered. d) Engagement with the Courts and Health commissioners to seek co-commissioned placements and reduce costs.	 Expected to move to medium/amber
<b>2. Health &amp; Social Care Integration</b>					
A&C	2.1	Care Act 2014 – Funding risk for 2016/17 and beyond	20	It is likely that the overall allocation will be lower for 2016/17 and beyond. The position will be clarified in the November spending review. Nevertheless, there is a significant risk as there are permanent posts currently being funded from the	 Expected to remain high/red

				Care Act monies, and any reduction will have implications on achieving outcomes.	
CE / A&C	2.2	<p>Better Care Together (BCT) - there are a number of strategic risks associated with the health and social care economy's 5 year plan and strategic outline</p> <p>Sub risk: Impact on Adults &amp; Communities Department as a result of the BCT left shift initiative</p>	16	<p>Full consultation on the BCT plan will commence in November 2015 following which final proposals will be developed.</p> <p>Initial business case development has highlighted areas of impact across Adult social care. These impacts are to be considered more fully over the coming months to determine the impact on the County Council in respect of funding requirements, workforce capacity and future service demand</p>	 <p>Expected to move to medium/amber</p>
All	2.3	Challenges caused by the Welfare Reform Act.	20 (revised from 25)	Note : No change to previous reported position	 <p>expected to remain high/red</p>
<b>3. ICT, Information Security</b>					
CR	3.1	Maintaining ICT systems and having the ability to restore services quickly and effectively in the event of an outage.	15	Disaster recovery testing was completed in August, and the next stage is to involve users in disaster recovery tests. A workshop to review the approach to cyber security risks is planned for May 2016	 <p>Expected to move to medium/amber</p>
CR	3.2	Continuing risk of failure of information security.	16	<p>As a result of the information security risk due to software vulnerabilities, there are a number of mitigation actions underway linked to PSN work. An IT Security Board has been introduced to monitor work and regular patching of operating systems is taking place.</p> <p>Further work is underway to obtain investment approval for automated software patching tools to further minimise risk and counter constant</p>	 <p>Expected to move to medium/amber</p>

				emerging security threats.	
All	3.3	Failure by LCC to provide effective business intelligence to services will restrict implementation of effective strategies, impacting council wide priorities and delivery of the Transformation Programme.	15	A new Head of Business Intelligence (BI) has been appointed and the Data and BI Strategy approved. The new BI service (within Chief Executive's) will be in place by April 2016	 Expected to remain high/red
CR	3.4	Insufficient capacity to provide Information & Technology solutions.	16	Note : No change to previous reported position	 Expected to remain high/red
C&FS	3.5	Retention of children's case files beyond Data Protection Act (DPA) requirements	16	Note : No change to previous reported position	 Expected to remain high/red
<b>4. Transportation</b>					
E&T	4.1	Impact of an increase in unplanned and speculative local developments to address the shortfall in the five year housing supply which could have an adverse impact on the functioning of the transport network.	15	Strategic planning work and progression of local plans by Districts over the next 18 months will further reduce this risk	 Expected to move to medium/amber

5. Partnership Working					
C&FS	5.1	Improved outcomes and financial benefits of Supporting Leicestershire Families (SLF) are not achieved, leading to inability to financially sustain the SLF service beyond 2015/16.	15	Note : No change to previous reported position	 Expected to remain high/red
E&T	5.2	LLEP-insufficient funding for transport schemes to deliver economic growth and LTP3 /Strategic Plan. Risk regarding match funding requirement for the Council	20	Position will become clearer when Autumn Statement is announced	 Expected to move to medium/amber
6. Commissioning & Procurement					
CR	6.1	The Authority does not obtain the required value and level of performance from its providers and suppliers	15	<p>The new Business Continuity (BC) supplier assurance process has continued to be rolled out to business critical suppliers with particular focus on sole suppliers of a critical service; the BC Assurance Process has also been successfully integrated into the 'eTendering' process for new suppliers.</p> <p>Initial phase of contract management toolkit has been developed and is in process of being launched with handover to business as usual.</p> <p>The implementation of the new commissioning support model is underway with recruitment commenced (September 2015).</p>	 Expected to move to medium/amber

7. Safeguarding					
C&FS	7.1	<p><u>Historic:</u> Evidence of previously unknown serious historic issues of child sexual exploitation (CSE) or abuse is identified.</p> <p><u>Current:</u> The Council does not have the capacity to meet the demand on the CSE service</p>	25	<p>See detail below</p> <p>No change</p>	 Expected to remain high/red

### **Independent Inquiry into Child Sexual Abuse (Goddard Inquiry)**

7. A short presentation was provided at the Corporate Governance Committee meeting on 30 September 2015, setting out, at a high level, the governance arrangements being put in place for both historic and current CSE matters. The following paragraphs set out some positive development since that date.
8. The Goddard Inquiry Strategic Governance Group, chaired by the Director of Children and Families, is now meeting regularly and has agreed three critical documents; clear Terms of Reference, an initial high-level work plan and a Communication and Engagement Strategy.
9. The Terms of Reference for the group accurately reflect the focus of the Inquiry and its challenge to all institutions to “take a proactive stance towards the Inquiry - review your files, records and procedures voluntarily and take the initiative to self-report instances of institutional failure, rather than waiting for us to come and see you.”
  - To proactively manage the relationship with the Goddard Inquiry, putting the Council on the front foot where appropriate and coordinating the Council’s contribution.
  - To act as the single point for commissioning work across the Council to coordinate the collection and submission of documentation and evidence required by the Inquiry.
  - To identify potential risks to the Authority and take/advise on mitigating actions.
  - To manage the relationship with partner bodies.
  - To develop and manage all external and internal communications relating to the Inquiry.
  - To ensure that the activity relating to the Inquiry and non-recent CSE fully aligns and complements the activity of the current and planned CSE service in the department.

10. The initial work-plan focuses on developing a database which will set out the Council's responsibilities in relation to the safeguarding of children. The intention is to research, record, store and present information relevant to the inquiry in a chronological manner dating between 1973 (initially) and 2015.
11. An initial workshop, focusing on the design principles of the database and exploring what information would be required and how best to collate this, was held on the 9 November 2015 and was attended by over 25 colleagues representing all departments of the County Council (bar Environment and Transport). Feedback from this workshop can be provided at the Corporate Governance Committee meeting.
12. The Leader of the County Council has written to Hon. Justice Goddard, setting out the Council's commitment to working pro-actively with the Inquiry and at the same time making reference to the work the Council is doing in partnership with Leicestershire Police in relation to ongoing, relevant Police Investigations.

### **Other Risk Information**

#### **Business Continuity (BC)**

##### **Schools**

13. A 'Loss of School' plan, whereby the Council has an obligation to ensure that children continue to be educated, was completed and tested in August 2015.

##### **Supplier BC Assurance**

14. The new process to ensure the Council's business critical suppliers have a robust BC response has been rolled out. Particular focus has been given to sole suppliers of a critical service, i.e. an incident experienced by them will potentially become an incident for the Council. The BC Assurance Process has also been successfully integrated into the 'eTendering' process for new suppliers.

##### **Work Area Recovery**

15. Further work on planning for Work Area Recovery at County Hall is on hold until the County Hall Masterplan and the implementation of Virtual Desktop Integration (VDI) has been completed. VDI technology allows users to access their desktop from any location, which facilitates smarter working. However, work is continuing with Nottingham City Council to support them in developing effective work area recovery arrangements for the East Midlands Shared Service staff based at Langley House in Nottingham.

##### **Training & Exercises**

16. An active schedule of Emergency Planning and BC exercises is in place involving teams across all departments and different types of exercise. The most recent exercise was in conjunction with the Public Health team.

17. An Elected Members Briefing took place at County Hall on 26th October 2015 which was attended by 14 County Council Elected Members. The aim of the session was to update Members on the County Council's responsibilities under the Civil Contingencies Act, the Local Resilience Forum and the emergency planning services provided by the Resilience Partnership Team across the districts and local authorities in Leicester, Leicestershire & Rutland and Business Continuity for the County Council.

In addition, the Members were briefed on the current initiative to promote and develop 'Resilient Communities' and 'Prepared Citizens' and the role that Elected Members can play in supporting and promoting the initiative.

#### Incident Monitoring

18. During 2015, there have been a range of incidents, involving (for example) industrial action, bomb hoaxes and fire and power failure, although there has been no significant impact to the Council's critical services. In each case, a lessons learned exercise is undertaken post incident to identify any further improvements required.

#### Insurance

##### Municipal Mutual Insurance Ltd.

19. The financial position of the MMI continues to deteriorate. The balance sheet showed net liabilities of £114.6 million as at 30th June 2015 compared with £76.2 million the previous year and £28.9 million in June 2013. These figures take into account the levy of 15% imposed on Scheme Creditors by the Scheme Administrator on 1st January 2014. There is an increasing likelihood that the levy percentage will be increased in the near future. Earmarked funds have been set aside to deal with this eventuality.

##### Independent Insurance Co. Ltd.

20. The company is insolvent and unable to pay its creditors in full. A Scheme of Arrangement under Part 26 of the Companies Act 2006 between Independent Insurance Company Ltd and its creditors was sanctioned by the High Court on 9th July 2015.
  21. PricewaterhouseCoopers LLP has established the Scheme as a means of making dividend payments to creditors in respect of their claims against the company. Initial indications are that Leicestershire County Council is likely to receive 14 to 15 pence in the pound in respect of all outstanding claims. Once payment has been received Leicestershire County Council will have no further call on the company in respect of claims that have been incurred, but not reported. Earmarked funds have been set aside to deal with such claims.
- #### Insurance Programme Renewal

22. The renewal date for the County's insurance programme is 1st October 2015. Renewal was agreed within the existing long term agreements and thus there was no rating increase at this renewal.

Liability Fund Audit

23. Leicestershire County Council's liability insurances are supported by a fund which meets the deductible, currently £250,000, applicable to claims under the policies in force over time. It is planned that the fund will be the subject of an external audit in 2015/2016. The audit is intended to verify that the fund is adequate to meet future liabilities.

**Recommendation**

24. That the Committee:
- a) Approves the current status of the strategic risks, facing the Council and the updated Corporate Risk Register;
  - b) Notes the update on the Council's response to the Independent Inquiry into Child Sexual Abuse (Goddard Inquiry);
  - c) Notes the update on business continuity and insurance;
  - d) Make recommendations on any areas which might benefit from further examination and identify a risk area for presentation at its next meeting.

**Resources Implications**

None.

**Equality and Human Rights Implications**

None.

**Circulation under the Local Issues Alert Procedure**

None

**Background Papers**

Report of the Director of Corporate Resources – 'Risk Management Update' – Corporate Governance Committee, 20 February, 12 June and 25 September 2015

**Officers to Contact**

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**Appendices:**

## Appendix A - Corporate Risk Register

							Current Risk Score			Risk Response; Tolerate Treat Terminate Transfer		Residual Risk			Action Owner / (Date)	Action Complete (Yes or No)	
Dept.	Risk #	Risk	Causes (s)	Consequences (s)	Risk Owner	List of current controls	I	L	Risk Score		Further Actions / Additional Controls	I	L	Risk Score			
1. Medium Term Financial Strategy (MTFS)																	
All	1.1	Risk around the MTFS including the ability to deliver savings through Service Redesign/ Transformation as required in the MTFS, impact of the living wage and other demand and cost pressures	<ul style="list-style-type: none"><li>Reducing government funding</li><li>Increased demand for the most vulnerable continues to increase: Adult Social Care / CYPS</li><li>Significant efficiencies/savings already realised and implemented thereby making it increasingly difficult to deliver unidentified savings</li></ul>	<u>Service Delivery</u> <ul style="list-style-type: none"><li>Negative impact on all services as further service cuts will be required to reduce deficit</li></ul> <u>Reputation</u> <ul style="list-style-type: none"><li>Significant impact on reputation exacerbated by the need for quick and potentially crude savings if a more considered approach not adopted</li></ul> <u>Financial</u> <ul style="list-style-type: none"><li>Loss of income</li><li>Restricted funding from other sources</li></ul>	Chief Executive/ All Directors	<ul style="list-style-type: none"><li>MTFS approved</li><li>Public consultation undertaken</li><li>Monitoring processes in place at both departmental and corporate level</li><li>Settlement reviewed and MTFS updated</li><li>Progress with savings monitored and reported to Scrutiny Commission regularly</li><li>Improvement to Transformation programme including governance</li><li>Reporting of Transformation Programme aligned with Corporate Finance reporting</li></ul>	5	5	25	Treat	<ul style="list-style-type: none"><li>Increased understanding of recent announcement to localise business rates</li><li>Further investigation of living wage costs and offsetting actions</li><li>Further investigations of the children's placements overspend</li><li>Greater emphasis on commissioning, active communities and demand management</li><li>Review MTFS assumptions</li><li>Review savings due to the possibility of front loading funding reductions in 2016/17 and 2017/18</li></ul> <u>Transformation Programme</u> <ul style="list-style-type: none"><li>Revised approach to Programme Design governance agreed at October Transformation Delivery Board and Design Authority set up. Processes and tools to evaluate and progress Business Cases to be refined and embedded.</li></ul>	5	5	25	Chief Executive / All Directors	Ongoing	93
CE	1.3	Funding and reputation risks: CIL Regulations (1 April 2015) are now in force which restrict the pooling of section 106 contributions	<ul style="list-style-type: none"><li>No CIL in place by District Councils Regulations now in force (6th April 2015)</li></ul>	<u>Financial</u> <ul style="list-style-type: none"><li>Failure to secure funds putting LCC at financial risk</li></ul> <u>Reputation</u> <ul style="list-style-type: none"><li>Possible need for challenge / defend challenge in high court</li></ul>	County Solicitor/ Head of Planning, Historic & Natural Environment	<ul style="list-style-type: none"><li>Agreed positions established with District Councils</li></ul>	5	4	20	Treat	<ul style="list-style-type: none"><li>Analyse data of s106 contributions since 2010</li><li>Re Categorisation and agreement reached with LPAs</li><li>Infrastructure and Development Oversight Group in place</li></ul>	4	3	12	Head of Planning, Historic & Natural Environment	(on going)	
CR	1.4	The cost arising from uninsured risks increases	<ul style="list-style-type: none"><li>Latest estimates from MMI indicate an increasing liability</li><li>Proposed settlement from the Independent only 15p per £1 of claims</li><li>Independent insurance company close to agreement, which means LCC will be effectively self-insured for new claims in this period</li></ul>	<u>Reputation</u> <ul style="list-style-type: none"><li>Amounts involved are large and LCC is currently the MMI's largest creditor (£2.2m)</li></ul> <u>Financial</u> <ul style="list-style-type: none"><li>MMI's 14/15 final results show a significantly worsening position due to an increase in abuse and mesothelioma claims</li><li>LCC will suffer some of the financial consequences if a school is under-insured and fails following a major incident</li><li>The policy excess sets the amount of each claim that LCC must meet. These are currently<ul style="list-style-type: none"><li>Property damage £500k</li></ul></li></ul>	Assistant Director – Strategic Finance & Property/ Finance Manager	<ul style="list-style-type: none"><li>Detailed review of MMI claims undertaken before payments made</li><li>Significant uninsured loss fund created has been increased (£2.2m) using 14/15 underspend to mitigate against the consequences MMI and similar situations</li><li>Risk management work continues to minimise claim numbers, education to departments regarding maintenance of controls</li><li>New process for checking</li></ul>	4	4	16	Treat	<ul style="list-style-type: none"><li>Fund audit due this year to establish if reserve holding is sufficient and deductible level appropriate</li><li>Review reserve levels in light of future claims</li><li>Strengthen claims notification procedure to reduce possibility of insurers declining claims</li></ul>	4	4	16	Assistant Director – Strategic Finance & Property / Finance Manager	December 2015	

				<ul style="list-style-type: none"><li>- Public Liability £250k</li><li>- Professional indemnity £25k</li><li>- Fidelity Guarantee £100k</li><li>- Money self-insured</li></ul>		<ul style="list-style-type: none"><li>insurance cover for high risk Property contracts</li><li>• Academies only expected to be insured by LCC or FA scheme in future</li><li>• Deductible increased to £250k to reduce premiums payable</li></ul>										
C&FS	1.5	Significant pressures on the children's social care placement budget, which fund the care of vulnerable children.	<ul style="list-style-type: none"><li>• High cost placements increasing especially in relation to behaviour &amp; CSE issues</li></ul>	<ul style="list-style-type: none"><li>• <b>Financial</b> High cost and overspending of budget</li></ul>	Assistant Director- Children's Social Care	<ul style="list-style-type: none"><li>• T3 Project being closely performance managed by Departmental Transformation Board</li><li>• Placements Commissioning Board established</li><li>• Weekly tracking of admissions and discharges of Children in Care</li><li>• Working with Impower to increase foster carer numbers</li></ul>	3	5	15	Treat	<ul style="list-style-type: none"><li>• T3 placement commissioning strategy is in progress</li><li>• Cohorts of children being targeted for lower cost measures</li><li>• Changed decision making processes to be put in place</li><li>• Monthly high level DMT reviews to be introduced</li></ul>	3	4	12	Assistant Director- Children's Social Care  December 2015	
2. Health & Social Care Integration																
A&C	2.1	Care Act 2014 - Funding risk for 2016/17 and beyond	<ul style="list-style-type: none"><li>• Care Act Phase 2 implementation delayed by Ministers until April 2020.</li><li>• Funding allocation unknown</li></ul>	<ul style="list-style-type: none"><li>• Uncertainty if there will be a reduction of Care Act Allocation in 16/17. Project and staffing resources funded from this funding stream, continued affordability which will impact department/operational teams. Impact on staff and staffing number – potential redundancies.</li></ul>	Assistant Director – Strategy & Commissioning	<ul style="list-style-type: none"><li>• Significant use of fixed term contracts. Recruitment now ceased.</li></ul>	4	5	20	Treat	<ul style="list-style-type: none"><li>• Staffing being reviewed for the savings to be made if funding withdrawn. Mitigate redundancies through usual Council Policies.</li></ul>	3	5	15	Assistant Director – Strategy & Commissioning  December 2015	
CE / A & C	2.2	Better Care Together - There are a number of strategic risks associated with the health and social care economy's 5 year plan and strategic outline (investment) case.	<ul style="list-style-type: none"><li>• Breakdown in maintaining a strong vision and joint partnership working across LLR</li></ul>	<p><u>Service Delivery</u></p> <ul style="list-style-type: none"><li>• BCT programme outcomes are not delivered and the programme fails leading to reputational risks, partnership breakdown and financial instability within the health and care economy</li><li>• BCT care pathway changes fail to maintain safe, high quality clinical care</li><li>• The shift of care from acute to community settings is not modelled or implemented effectively leading to unforeseen pressure in other parts of the health and care economy</li></ul> <p><u>Financial</u></p> <ul style="list-style-type: none"><li>• The investment case within the SOC is not fully supported, leading to gaps in the financial plan/assumptions for delivering the programme</li><li>• The savings from BCT are not achieved, leading to gaps in the financial plan/assumptions</li></ul>	Director- Adults & Communities	<ul style="list-style-type: none"><li>• Representation from the LA on the LLR Partnership Board and BCT Delivery Board and workstreams where appropriate.</li><li>• Programme has been reshaped to define the outcomes to be achieved by each workstream within the BCT. Business Justification templates completed to outline benefits, costs and risks of each workstream within the BCT programme</li><li>• The majority of the Leics BCF deliverables are aligned to the urgent care and frail older people's work streams</li><li>• Further modelling work is in progress led by the BCT programme office on the bed reconfiguration proposals</li><li>• BCT update included in all-member briefings on a regular</li></ul>	4	4	16	Treat	<p>The following additional controls have been provided by BCT:</p> <ul style="list-style-type: none"><li>• As the Programme progresses from the design to implementation phase, further clarity is needed on the detail of governance arrangements between BCT programme and HWBs. Meeting with BCT Independent Chair and BCT programme Director being arranged to progress this.</li><li>• The Programme is strengthening its programme controls by undertaking a task and finish exercise that will closely triangulate BCT programme planning, risk management, performance management, communications and engagement. The BCT programme is currently developing an outcome and milestones document which will set out the detail of delivery plans for the next 12-18 months.</li><li>• Public consultation planned in the Autumn to be led by the BCT programme.</li></ul>	4	3	12	Director- Adults & Communities  &  Assistant Director – Strategy & Commissioning  Ongoing	

A & C	2.2 (i)	Impact on A&C - BCT left shift initiative	<ul style="list-style-type: none"> <li>Transferring patients early from UHL to ICRS 2 community services</li> </ul>	<p>for delivering the programme.</p> <ul style="list-style-type: none"> <li>A notional figure of £5m impact on ASC has been highlighted within the Strategic Outline Case.</li> </ul> <p><u>People</u></p> <ul style="list-style-type: none"> <li>Partners are unable to provide sufficient staffing resource to deliver the programme leading to failure to deliver at the required pace and scale</li> <li>Lack of LLR integrated workforce plans</li> </ul> <p><u>Reputational</u></p> <ul style="list-style-type: none"> <li>The communication and engagement plan for BCT is ineffective leading to lack of public support or opposition to the plans</li> </ul> <p><u>Financial</u></p> <ul style="list-style-type: none"> <li>Initially this will increase the number of service users requiring assessment and services and potentially increase in demand on social care and providers.</li> </ul>	Director- Adults & Communities &  Assistant Director – Strategy & Commissioning	<p>basis.</p> <ul style="list-style-type: none"> <li>BCT reports to HWBB and Cabinet approving the 5 year plan and the Strategic Outline Case.</li> <li>BCT Scheme of Delegation has been shared with the council for comment, feedback given.</li> <li>Social care/prevention strategies for each LA have been drafted to inform the BCT delivery plan .The Chief Executive, (Rutland County Council, SRO, Social Care), are being consolidated by into one overarching document.</li> </ul> <ul style="list-style-type: none"> <li>Senior Officers from LCC fully engage with Better Care Together work streams.</li> </ul>	4	4	16	Treat	<ul style="list-style-type: none"> <li>Working closely with Health to identify the potential increase in demand, impact on social care and actions to mitigate</li> </ul>	4	3	12	Director- Adults & Communities &  Assistant Director – Strategy & Commissioning	95
All	2.3	LCC and partners do not have the capacity to meet expected increase in demand caused by the Welfare Reform Act	<ul style="list-style-type: none"> <li>Decreased income</li> <li>Continual economic climate</li> <li>High unemployment / Reduction in wage increases</li> <li>Changes in the benefit system</li> <li>Introduction of Universal Credit transfers responsibility to vulnerable people</li> <li>Inadequate information for business cases jeopardising robust decision making</li> <li>More demand for advice services</li> <li>No central funding for Local Welfare Provision post April 2015</li> <li>PIP migration for new and existing service users including appointee and</li> </ul>	<p><u>Service Delivery</u></p> <ul style="list-style-type: none"> <li>Service users losing support/income leading to a rise in number of people needing support from LCC and other local agencies</li> </ul> <p><u>People</u></p> <ul style="list-style-type: none"> <li>Families less able to maintain independence</li> <li>Difficulty in identifying and implementing effective preventative measures</li> <li>'Hard to reach' groups slip through the net</li> </ul> <p><u>Reputation</u></p> <ul style="list-style-type: none"> <li>Cases of hardship / lack of support in media</li> <li>Potential inspection</li> <li>Public confused as to which Agency has responsibility</li> </ul> <p><u>Financial</u></p> <ul style="list-style-type: none"> <li>A&amp;C debt increases</li> <li>Demand led budgets under more pressure</li> </ul>	Director of Adults & Communities / Assistant Director – Strategy & Commissioning/ Assistant Chief Executive	<ul style="list-style-type: none"> <li>Social Fund claims are lower due to more focused eligibility criteria</li> <li>A&amp;C finance team monitoring impact of benefit changes on departmental income and debt recovery</li> <li>Debt strategy plan approved and being implemented</li> <li>Information booklet on major WRA changes developed and circulated to all A&amp;C staff and shared with CYPS</li> <li>LCC agreed contribution towards the districts hardship funds to assist people in financial difficulty</li> <li>Additional contingency help for non-collection of council tax</li> <li>Plan in place for CCF to deal with PIP for all LCC appointeeship / Deputyship cases.</li> </ul>	5	5	25	Treat	<ul style="list-style-type: none"> <li>Options to mitigate loss of Local Welfare Fund being explored</li> <li>Maintain awareness of legislative changes and timing of WRA roll-out</li> </ul>	5	4	20	Director of Adults & Communities / Assistant Director – Strategy & Commissioning / Assistant Chief Executive  December 2015	

			deputyship in receipt of DLA who were under 65 on 8 April 2013 commences 13/7/15	<ul style="list-style-type: none"> <li>Risk of litigation / judicial review</li> <li>Increased risk due to the migration from Disability Living Allowance to Personal independence Payments locally effective from 13 July 2015 over the following 2 years. The longer term risk has also now increased in relation to the Governments roll-out timetable that most existing benefit claimants will be moved over to Universal Credit during 2016 and 2017. However, it has now been acknowledged that at least 700,000 claimants will not be on Universal Credit by the end of 2017.</li> </ul>												
3. ICT, Information Security																
CR	3.1	The County Council's services have a growing dependence on ICT systems and infrastructure. Hence maintaining ICT systems and having the ability to restore services quickly and effectively in the event of an outage is vital.	<ul style="list-style-type: none"> <li>Business evolution and dependencies cause additional load and complexity on existing infrastructure, reducing resilience to failure. Current data centre reaching end of life</li> </ul>	<p><u>Service Delivery</u></p> <ul style="list-style-type: none"> <li>Unable to deliver critical services</li> <li>Disruption to day to day operations</li> <li>Loss of key information</li> <li>Loss of self-service customer facing options / Public unable to use all access channel</li> </ul> <p><u>People</u></p> <ul style="list-style-type: none"> <li>Alternate business continuity arrangements likely to result in backlogs of work</li> </ul> <p><u>Reputation</u></p> <ul style="list-style-type: none"> <li>Negative stories in press</li> <li>Key partners impacted may influence contract renewal</li> </ul> <p><u>Financial</u></p> <ul style="list-style-type: none"> <li>Potential penalties</li> <li>Additional costs related to internal and external recovery</li> </ul>	Assistant Director – Information & Technology  / Assistant Director – Customer Services & Operations	<ul style="list-style-type: none"> <li>DR testing done on all critical systems and integration of critical systems (technical tests)</li> <li>DR testing scenarios can be easily created using isolated bubble e.g. by service without impacting live environment</li> <li>Romulus court recovery can now recover a service at RC in minutes</li> <li>Host server down can now automatically reallocate its services to another server in minutes</li> <li>Property provide power resiliency – recent updates to testing generators</li> <li>Critical system list signed off by Corporate Resiliency. Built into service desk and DR recovery processes</li> <li>Service BC plans developed for all critical services.</li> <li>Completion of first year of planned DR tests</li> </ul>	5	3	15	Treat	<ul style="list-style-type: none"> <li>Continue review of current plans to ascertain gaps, to put forward improvement proposals</li> <li>Notification of all planned changes that may impact infrastructure</li> <li>Data Centre replacement project underway</li> <li>Completion of first year of planned DR test</li> <li>DR tests need Corporate Resiliency Group input and input from Strategic DR plan owner (Kevin Turner) via DR working group</li> <li>Server virtualisation programme 95% complete</li> <li>Next stage to involve users in DR tests</li> <li>Workshop to review approach to cyber security risks ( May 2016)</li> </ul>	4	3	12	Design & Commissioning Manager  December 2015  Assistant Director – Information & Technology &  Assistant Director – Customer Services & Operations  April 2016	96
CR	3.2	The responsibility to protect the confidentiality, integrity, availability and accountability of information means there is a continuing risk	<ul style="list-style-type: none"> <li>Increased information sharing</li> <li>Increased demand for flexible working increases vulnerability of personal, sensitive data taken offsite.</li> <li>More hosted technology services</li> <li>Greater emphasis on</li> </ul>	<p><u>Service Delivery</u></p> <ul style="list-style-type: none"> <li>Diminished public trust in ability of Council to provide services</li> <li>Failure to comply with Public Service Network (PSN) Code of Connection standard would result in the Council being disconnected from PSN services, with possible impact</li> </ul>	Director – Corporate Resources & Transformation/ Assistant Director – Information & Technology	<ul style="list-style-type: none"> <li>New, simplified Information Security and Acceptable Use policy signed off</li> <li>PSN compliance achieved</li> <li>Regular penetration testing and enhanced IT health checks in place</li> <li>Improved guidance about data transfer tools</li> </ul>	4	4	16		<ul style="list-style-type: none"> <li>PSN compliance requirements built into BAU</li> <li>Actions from external tests build into BAU</li> <li>Personal responsibility for information security to be built into new staff terms and conditions</li> </ul>	4	3	12	Assistant Director – Information & Ongoing	

		of failure of information security.	<ul style="list-style-type: none"> <li>publication of data and transparency</li> <li>Greater awareness of information rights by service users</li> <li>Increased demand to open up access to personal sensitive data and information to support integration of services and development of business intelligence.</li> </ul>	<ul style="list-style-type: none"> <li>on delivery of some vital services.</li> </ul> <p><u>People</u></p> <ul style="list-style-type: none"> <li>Loss of confidential information compromising service user safety</li> </ul> <p><u>Reputation</u></p> <ul style="list-style-type: none"> <li>Damage to LCC reputation</li> </ul> <p><u>Financial</u></p> <ul style="list-style-type: none"> <li>Financial penalties</li> </ul>		<ul style="list-style-type: none"> <li>Simplified Security and Acceptable Use Policy approved</li> <li>Communication plan re information security</li> <li>Mobile device management implemented</li> <li>New security governance arrangements put in place</li> </ul>				Treat	<ul style="list-style-type: none"> <li>Ongoing implementation of relevant policies</li> <li>Business case for software patching tools to minimise security risks in LCC software.</li> </ul>				Head of ICT Operations Ongoing	
All	3.3	Failure by LCC to provide effective business intelligence to services will restrict implementation of effective strategies, impacting council wide priorities and delivery of the Transformation Programme	<ul style="list-style-type: none"> <li>No clearly defined corporate Business Intelligence (BI) function</li> <li>Insufficient BI on customers and cost of services</li> <li>Reduced research, performance and finance support for projects</li> <li>Inadequate data quality and data sharing</li> <li>Demand influenced by unmanageable external environment</li> <li>Range of cultural, Information Management, technology and skills issues</li> <li>Incorrect predictions for growth (and decline) For e.g. Waste</li> </ul>	<p><u>Service Delivery</u></p> <ul style="list-style-type: none"> <li>Inadequate information for business cases</li> <li>Jeopardise importance of robust and effective evidence based decision making</li> <li>Transformation priorities not being met</li> </ul> <p><u>People</u></p> <ul style="list-style-type: none"> <li>Difficulty in identifying and implementing effective preventative measures</li> <li>Less productivity through duplication of work</li> </ul> <p><u>Reputation</u></p> <ul style="list-style-type: none"> <li>Inaccurate returns to central government</li> <li>Unable to comply with increasing number of data sets required under the Transparency Agenda</li> </ul> <p><u>Financial</u></p> <ul style="list-style-type: none"> <li>Risk of litigation/judicial review</li> </ul>	Assistant Director – Information & Technology / Assistant Chief Executive	<ul style="list-style-type: none"> <li>Data and BI Enabler Programme underway</li> <li>Data and BI Board established</li> <li>New Head of BI appointed</li> <li>TOM for Centre of Excellence for Data and BI agreed</li> <li>New Centre of Excellence established</li> <li>Data and BI Strategy approved</li> </ul>	5	3	15	Treat	<ul style="list-style-type: none"> <li>Development of Data Framework model</li> <li>Development of technology roadmap for reporting and BI</li> <li>New mode for engagement with Transformation projects embedded</li> <li>Data and BI Strategy to be approved</li> <li>Development of a business case for a corporate reporting platform</li> </ul>	5	3	15	<p>Team Manager, Information &amp; Data April 2015</p> <p>Design &amp; Commissioning Manager April 2016</p> <p>Head of Business Intelligence April 2016</p>	97
All	3.4	Insufficient capacity to provide Information & Technology solutions to support major change projects	<ul style="list-style-type: none"> <li>Imbalance of IT resources versus IT requirements</li> <li>Demand outweighs supply</li> <li>Loss of knowledge and lack of continuity as a result of staff turnover and/or inadequate investment in skills and competencies</li> <li>Difficulties in recruitment and retention</li> </ul>	<p><u>Service Delivery</u></p> <ul style="list-style-type: none"> <li>Departmental and corporate objectives not met or delayed</li> <li>Delays to project delivery</li> </ul> <p><u>Financial</u></p> <ul style="list-style-type: none"> <li>Failure to support delivery of efficiency programme and ICT replacement projects</li> </ul>	Director – Corporate Resources & Transformation/ Assistant Director – Information & Technology	<ul style="list-style-type: none"> <li>I&amp;T work programme provides forward visibility of demand</li> <li>Use of external contractors to fill specific skills gaps</li> <li>Analysis of likely future demand</li> <li>Improved forward planning through implementation of JIRA</li> <li>Identification of key skills and workforce plan to retain, develop and recruit</li> </ul>	4	4	16	Treat	<ul style="list-style-type: none"> <li>Implementation of Information and Technology Strategy</li> <li>Development of demand management approaches</li> </ul>	4	4	16	<p>Assistant Director – Information &amp; Technology</p> <p>April 2016</p>	

C&FS	3.5	Breach of Data Protection Act - retention of files longer than required	Decommissioning of Adult Case management System (SSIS) C&F Management Team has accepted advice from Legal Services to retain all data recorded on the former case management system (SSIS), as it is not practical to physically go through thousands of children's records on the system and make a judgement on what should or should not be retained, given the limited resource of staff that are 'qualified' to make such decisions.	<u>Service Delivery</u> <ul style="list-style-type: none"> <li>Service delivery adversely affected by out of date data</li> </ul> <u>People</u> <ul style="list-style-type: none"> <li>Details of Vulnerable people at risk of disclosure</li> </ul> <u>Reputation</u> <ul style="list-style-type: none"> <li>Potential adverse media attention and public lack of confidence</li> </ul> <u>Financial</u> <ul style="list-style-type: none"> <li>Potential financial penalties</li> </ul>	Assistant Director – Commissioning & Development / Head of Strategy – Business Support	<ul style="list-style-type: none"> <li>Legal Services' view is that any fines for not retaining data when it should be retained for example in litigation, would be greater than if data is kept securely for longer than legally required.</li> <li>Data securely held</li> </ul>	4	4	16	Tolerate	<ul style="list-style-type: none"> <li>Review policy annually to see if position has changed</li> </ul>	4	4	16	Assistant Director – Commissioning & Development / Head of Strategy – Business Support	October 2015
4. Transportation																
E&T	4.1	Impact of an increase in unplanned and speculative local developments to address the shortfall in the 5 year housing supply which could have an adverse impact on the functioning of the transport network.	<ul style="list-style-type: none"> <li>National and local housing shortage Government impetus to build new homes</li> <li>Lack of 5 year housing supply</li> <li>District level plans not in place</li> <li>Pressure on districts for early determination of planning applications</li> <li>Increased developer 'know-how'</li> <li>Shortage of expert resources</li> </ul>	<u>Service Delivery</u> <ul style="list-style-type: none"> <li>Significant increase in both the number and complexity of planning applications received</li> <li>Increase in the number of appeals</li> <li>Negative impact on other core LCC strategies (LTP3)</li> </ul> <u>People</u> <ul style="list-style-type: none"> <li>Undue pressure on staff as expert and specific knowledge required</li> <li>Safety issues/congestion/accidents for residents if schemes not properly planned and approved</li> </ul> <u>Reputation</u> <ul style="list-style-type: none"> <li>Difficulties to maintain reputation of being a quality and fair Highways Authority</li> <li>Developments in the wrong location</li> </ul> <u>Financial</u> <ul style="list-style-type: none"> <li>Increase in legal costs</li> <li>Loss of developer contribution</li> <li>Public funds needed to address impact of developers</li> </ul>	Director – Environment & Transport	<ul style="list-style-type: none"> <li>Working with district councils to help identify, prioritise and program work to establish housing plans.</li> <li>Additional expertise resource recruited</li> <li>Analysing different options for the phasing, funding and delivery of transport infrastructure</li> <li>Monitoring number of applications and structuring team to ensure they can be turned around as efficiently as possible, however there is still a minimum amount of time that a transport assessment takes</li> </ul>	3	5	15	Treat	<ul style="list-style-type: none"> <li>Continue to assist districts in formulation of planning documents to predict county wide housing requirements</li> <li>Identify pinch points on transport network early to begin design work on potential schemes so that they can be later funded by developers in appropriate circumstances</li> <li>Review of planning responses across the authority</li> </ul>	3	3	9	Head of Service Transport Policy & Strategy,  Head of Planning, Historic & Natural Environment  Ongoing	99

5. Partnership Working															
C &FS	5.1	Improved outcomes and financial benefits of Supporting Leicestershire Families (SLF) are not achieved, leading to inability to financially sustain the SLF service beyond 2015/16	<ul style="list-style-type: none"><li>New phase two outcomes frameworks requires large data collection</li><li>New framework includes much broader measures to achieve in order to pull down TFU monies</li></ul>	<u>Service Delivery</u> <ul style="list-style-type: none"><li>Reduction in families supported</li><li>Increase in reactive service demand</li></ul> <u>People</u> <ul style="list-style-type: none"><li>Families and individuals do not achieve their potential</li></ul> <u>Reputation</u> <ul style="list-style-type: none"><li>Loss of confidence in place based solutions</li></ul> <u>Financial</u> <ul style="list-style-type: none"><li>Related services unable to reduce budgets if demand not decreased</li></ul>	Director – Children & Family Services / Assistant Director-Children’s Social Care	<ul style="list-style-type: none"><li>Data project underway to increase provision, quality and from a range of services</li><li>Training for workers to achieve optimum outcomes with families at earliest opportunity</li><li>Leicestershire has now completed phase one of PBR and pulled down additional funding into the pooled budget</li><li>SLF Service is now fully up and running and merged into C&amp;F Services</li><li>Whole family working is being rolled out across a range of Services</li></ul>	5	3	15	Treat	<ul style="list-style-type: none"><li>Measuring outcomes to demonstrate reduced demand.</li><li>Cost benefits analysis to be shared with partners to progress further conversation around future funding</li><li>Discussions with partner organisation to secure ongoing funding</li><li>Leicestershire to enter PBR phase two early therefore enabling us to draw down additional money into the pooled budget</li></ul>	5	3	15	Assistant Director-Children’s Social Care / Head of Supporting Leicestershire Families  December 2015
E&T	5.2	Insufficient /unknown funding for transport schemes to deliver economic growth and LTP3/Strategic Plan & availability of match funding.	<ul style="list-style-type: none"><li>Changes to local and national funding streams (i.e. SEP)</li><li>Lack of available match funding</li><li>Lack of / insufficient future plan</li></ul>	<u>Service Delivery, People and Reputation</u> <ul style="list-style-type: none"><li>A transport system that does not support population and economic growth, LTP3/Strategic Plan</li></ul> <u>Financial</u> <ul style="list-style-type: none"><li>Major impact on funding sources</li><li>Unknown funding for development of future schemes</li></ul>	Director – Environment & Transport	<ul style="list-style-type: none"><li>Fed into MTFS / LLEP / SEP processes</li><li>Development of Enabling growth action plan</li><li>Engagement with centre and LLEP to develop more coherent working relationships</li><li>Working with SCG, Leicester and Leicestershire Transport Advisory Group and Leicester City to increase the prominence of transport investment in delivery of economic benefits</li><li>Continuing to understand future DfT funding models in order to optimise opportunities available</li><li>Continuing to develop future plan</li></ul>	5	4	20	Treat	<ul style="list-style-type: none"><li>Continued engagement with centre and LLEP to develop more coherent working relationships</li><li>Continue to work with SCG, Leicester and Leicestershire Transport Advisory Group and Leicester City to increase the prominence of transport investment in delivery of economic benefits</li><li>Continue to understand future DfT funding models in order to optimise opportunities available</li><li>Continue to develop future plan</li></ul>	4	3	12	Director – Environment & Transport  Ongoing
66															

6. Commissioning & Procurement															
All	6.1	The Authority does not obtain the required value and level of performance from its providers /suppliers	<ul style="list-style-type: none"><li>Lack of robust contract management /performance measures for in-house services</li><li>Robustness of supply chain</li><li>Reduced funding and resources</li><li>Staff turnover leading to lack of continuity in contract management</li><li>Insufficient investment in contract management skills and competencies</li></ul>	<u>Service Delivery</u> <ul style="list-style-type: none"><li>Business disruption due to cost and time to re-tender the contract</li><li>Standards/quality not met resulting in reduced customer satisfaction</li><li>Relationships with providers/suppliers deteriorate</li></ul> <u>People</u> <ul style="list-style-type: none"><li>Additional workload where disputes arise</li></ul> <u>Reputation</u> <ul style="list-style-type: none"><li>Customer complaints</li></ul> <u>Financial</u> <ul style="list-style-type: none"><li>VfM/ Efficiencies not achieved</li><li>Increased costs as LCC has to pick up the service again</li><li>Unfunded financial exposure (MMI)</li></ul>	Director – Corporate Resources & Transformation / Assistant Director – Corporate Services & Transformation	<ul style="list-style-type: none"><li>Departments currently undertake management and monitoring of contracts</li><li>New Commissioning &amp; Procurement Strategy in place with reporting framework developed and agreed to measure progress against Key Principles</li></ul>	5	3	15	Treat	<ul style="list-style-type: none"><li>Approach to Supplier continuity assurance (based on plans for business critical services) underway</li><li>Contract Management Toolkit and training interventions being developed as part of the Effective Commissioning Enabler (Transformation Programme)</li><li>New governance arrangements to be developed as part of Effective Commissioning Enabler (Transformation Programme)</li><li>Roll out of e-tendering to help make contract KPI's and management more visible.</li><li>Commissioning support model is being developed with specific focus on establishing a contract management function to help strengthen arrangements.</li></ul>	4	3	12	Head of Commissioning and Procurement Support  Ongoing
7. Safeguarding															
CFS	7.1	<u>Historic</u>  Evidence of previously unknown serious historic issues of child sexual exploitation or abuse is identified  <u>Current</u>  The Council does not have the capacity to meet the demand on the CSE service	<u>Historic</u>  Concerted effort to explore historic exploitation and abuse in response to the Goddard Inquiry and Police Operations  <u>Current</u>  Concerted effort in response to the Goddard Inquiry and Police Operations result in the significant increase in identified cases	<u>Service Delivery</u> <ul style="list-style-type: none"><li>Need to review and redesign current service in the light of lessons learnt</li></ul> <u>Reputation</u> <ul style="list-style-type: none"><li>Potential adverse media and political risk</li></ul> <u>Financial</u> <ul style="list-style-type: none"><li>Increased cost of settling claims and service redesign</li></ul> <u>Service Delivery</u> <ul style="list-style-type: none"><li>Increase in the volume of work beyond the capacity of the planned service</li></ul> <u>People (Public)</u> <ul style="list-style-type: none"><li>The Council fails to support victims and those at risk</li></ul> <u>Reputation</u> <ul style="list-style-type: none"><li>Loss of public confidence in the Council and political instability</li></ul> <u>Financial</u> <ul style="list-style-type: none"><li>Increased cost of settlement and service delivery</li></ul>	<u>Reputation</u> Chief Executive  <u>Reputation &amp; Service Delivery</u> Director - Children & Family Services  <u>Legal</u> County Solicitor  <u>Financial</u> Director - Corporate Resources	<ul style="list-style-type: none"><li>Established Goddard Inquiry Strategic Governance Group to oversee planned investigation and information gathering</li><li>Pro-active engagement with the Goddard Inquiry</li><li>CSE team embedded in the police specialist response team</li><li>New operational guidance and governance arrangements in place</li><li>LSCB CSE Co-Ordinator in place</li></ul>	5	5	25	Treat	<ul style="list-style-type: none"><li>Further planning for known events e.g. National Enquiry</li><li>Understand fully the emerging care costs</li><li>Effective Council wide approach</li></ul>	5	5	25	<u>Reputation</u> Chief Executive  <u>Reputation &amp; Service Delivery</u> Director - Children & Family Services  <u>Legal</u> County Solicitor  <u>Financial</u> Director - Corporate Resources  Ongoing & December 2015

Department

A&C =

Adults & Communities

CE =

Chief Executives

CR =

Corporate Resources

E&T =

Environment and Transport

PH =

Public Health

C&FS =

Children and Families Services

All =

Consolidated risk

Risk Removed from the Corporate Risk Register

Dept.	CRR Risk No	Risk Description	Current Risk Score	Reason	Date of Removal
1. Medium Term Financial Strategy (MTFS)					
C&FS	1.2	Local Authority legal requirements to meet deficit budgets from maintained schools becoming sponsored academy, and pressure from Sponsors to meet repair costs.	16	<p>Over the last few months there has been a significant reduction in the number of schools moving through sponsorship, most secondary schools now having converted (except Shepshed) leaving potentially the smaller and less costly underperforming primary schools to be addressed.</p> <p>In addition the Council now had improved controls to manage deficit budgets for schools subject to sponsorship in all cases issuing a Notice of Concern for financial management to the school governing body, at an early stage of the conversion process.</p> <p>As the risk score has been revised from 16 to 12, this risk has been removed from the Corporate Risk Register but it will continue to be monitored through the C&amp;FS Departmental Risk Register.</p>	October 2015

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**CORPORATE GOVERNANCE COMMITTEE****17 NOVEMBER 2015****REPORT OF THE DIRECTOR OF CORPORATE RESOURCES****INTERNAL AUDIT SERVICE PROGRESS REPORT****Purpose of Report**

1. The purpose of this report is to give a summary of Leicestershire County Council's Internal Audit Service (LCCIAS) work since the last report to the Committee and report where high importance recommendations have been made.

**Background**

2. Under the County Council's Constitution, the Committee is required to monitor the adequacy and effectiveness of the system of internal audit, which is provided by LCCIAS. To do this, the Committee receives periodic reports on progress against the annual Internal Audit Plan. The Committee is also tasked with monitoring the implementation of high importance recommendations.
3. Most planned audits undertaken are of an 'assurance' type, which requires undertaking an objective examination of evidence to reach an independent opinion on whether risk is being mitigated. Other planned audits are of a 'consulting' type, which are primarily advisory and allow for guidance to be provided to management. These are intended to add value, for example, by commenting on the effectiveness of controls designed before implementing a new system. Also, unplanned 'investigation' type audits may be undertaken.

**Summary of progress against the Internal Audit Plan 2015-16**

4. This report covers the position as at 30 October 2015. It has only been six weeks since the last position report and there is a lot of work in progress.
5. The outcome of audits completed since the last progress report to the Committee is shown in **Appendix 1**. Where audits undertaken are 'assurance' type i.e. the auditor is able to objectively examine evidence for the purpose of providing an independent assessment, then an 'opinion' can be given i.e. what level of assurance can be given that material risks are being managed. There are usually four levels: full; substantial; partial; and little. A report with at least one high importance recommendation would normally be classified as 'partial'.

6. Where the auditor's work has been quality reviewed by an Audit Manager and there's confidence that the opinion given will be acceptable to management and is unlikely to change, then it is shown in the appendix (draft issued).
7. LCCIAS also undertakes consulting/advisory type audits. Examples include advice, commentary on management's intended control design and framework and potential implications of changes to systems, processes and policies. Where these have incurred a reasonable amount of resource they are now also included in Appendix 1.
8. **Appendix 2** details high importance (HI) recommendations and provides a short summary of the issues surrounding these. The relevant manager's agreement (or otherwise) to implementing the recommendation and implementation timescales is shown. Recommendations that have not been reported to the Committee before or where LCCIAS has identified that some movement has occurred to a previously reported recommendation are shown in **bold font**. Entries remain on the list until the auditor has confirmed (by specific re-testing) that action has been implemented.
9. To summarise movements within Appendix 2: -
  - a. The implementation dates for the three HI recommendations (E&T SEN transport risk assessments) are not yet due.
  - b. The implementation dates for the two HI recommendations (E&T Resource Allocation System) have been further extended to allow for a period of settling down after a review and reorganisation

### **Resource Implications**

10. None

### **Equal Opportunities Implications**

11. There are no discernible equal opportunities implications resulting from the audits listed.

### **Recommendation**

12. That the contents of the report be noted.

### **Background Papers**

The Constitution of Leicestershire County Council

Report to the Corporate Governance Committee on 12 June 2015 - Internal Audit Plan for 2015-16

### **Circulation under the Local Issues Alert Procedure**

None.

**Officer to Contact**

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**Appendices**

- Appendix 1 - Summary of Internal Audit Service work at 30 October 2015
- Appendix 2 - High Importance Recommendations

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Department	Audit Name	Final Report Issued (or position @ 30/10)	Audit Opinion	HI Rec
Adults & Communities	Libraries Transfer - due diligence	30/10/15	Substantial Assurance	
Adults & Communities	Debt Collection Changes (PwC)	30/10/15	Substantial Assurance	
Adults & Communities	Wigston Library & Learning Centre	Draft issued	Advisory	
Chief Executives	Better Care Fund incl role of Health & Wellbeing Board - phase 2	15/09/15	Substantial Assurance	
Children & Family Services	Albert Village Primary	16/09/15	Substantial Assurance	
Children & Family Services	All Saints CE Primary School Sapcote	Draft issued	Substantial Assurance	
Children & Family Services	Ashby-de-la-Zouch CE Primary School	Draft issued	Substantial Assurance	
Children & Family Services	Barwell Infant School	Draft issued	Substantial Assurance	
Children & Family Services	Greenfield Primary School	Draft issued	Substantial Assurance	
Children & Family Services	Hallbrook Primary	21/09/15	Substantial Assurance	
Children & Family Services	Hathern CE Primary School	30/10/15	Substantial Assurance	
Children & Family Services	Maplewell Hall School	Draft issued	Partial Assurance	No
Children & Family Services	Sherard Primary School	21/09/15	Substantial Assurance	
Children & Family Services	St Bartholomew CofE Primary	18/09/15	Substantial Assurance	
Children & Family Services	St Edwards CE Primary School	Draft issued	Substantial Assurance	
Children & Family Services	Ullesthorpe CE Primary Full Audit	03/09/15	Substantial Assurance	
Children & Family Services	Westfield Infant School	11/09/15	Substantial Assurance	
Children & Family Services	Supporting Leicestershire's Families - Claims audit	28/09/15	Substantial Assurance	
Consolidated Risk	Customer Services	28/05/15	Substantial Assurance	
Consolidated Risk	Incident and Problem Management	Draft issued	Substantial Assurance	
Consolidated Risk	Oracle - Self Serve applications	25/06/15	Substantial Assurance	
Corporate Resources	Information Sharing - Framework Design & Governance	12/08/15	Substantial Assurance	
Corporate Resources	ISRA <sup>1</sup> – Egress Switch	21/10/15	Substantial Assurance	
Corporate Resources	ISRA <sup>1</sup> - Capita One - Caseworker App for iPad	26/10/15	Substantial Assurance	

<sup>1</sup> ISRA - Information Security Risk Assessment

Department	Audit Name	Final Report Issued (or position @ 30/10)	Audit Opinion	HI Rec
<b><u>Consulting/Advisory audits</u></b>				
Consolidated Risk	emPSN			
Consolidated Risk	Property Asset Management System - Governance			
Consolidated Risk	PSN Accreditation			
Consolidated Risk	Virtual Desktop Integration (VDI) Deliverable			
Corporate Resources	Disaster Recovery - ICT			
Corporate Resources	ICT Policies & Procedures			

## High Importance Recommendations

<u>Audit Title (Director)</u>	<u>Summary of Finding and Recommendation</u>	<u>Management Response</u>	<u>Action Date (by end of)</u>	<u>Confirmed Implemented</u>
Reported September 2015				
SEN Transport risk assessments (E&T)	<p>The Department requested an audit of the risk assessment processes applied to transporting children with SEN. The audit found a range of issues around: -</p> <ol style="list-style-type: none"> <li>1. risk assessments including a high proportion of a sample that hadn't been completed, inconsistent processes and reactive follow up reviews</li> <li>2. not always linking travel care plans (key points on how to manage the identified risks) to transport eligibility assessment forms</li> <li>3. inadequate training records for transport escorts.</li> </ol> <p>Recommended: -</p> <ol style="list-style-type: none"> <li>1. completing risk assessments within an agreed time limit</li> <li>2. documenting processes for undertaking risk assessments and the completion of associated information to ensure consistency</li> <li>3. maintaining improved training records with regular reviews</li> </ol>	<p>Agreed</p>          <ol style="list-style-type: none"> <li>1. completion now being monitored</li> <li>2. to be included in the transport review being undertaken by consultants</li> <li>3. agreed</li> </ol>	March 2016	

Reported June 2015				
Resource Allocation System (E&T)	<p>An audit of the new Resource Allocation System (vehicles and plant) for highways work revealed that standing data was incomplete, there were delays in recording allocations and other key information and there was not any management information.</p> <p>Recommended: -</p> <ol style="list-style-type: none"> <li>1. Processes and training should be reviewed and revised</li> <li>2. Information should be produced on a frequent basis and reviewed by management</li> </ol>	<p>Agreed and actions already in place including internal audit stock checks</p> <p><b>11/15 - Good progress has been made to develop robust reporting but compliance can't be tested until re-structure is concluded.</b></p>	<p>Originally July 2015</p> <p>Extend to Oct. 2015</p> <p><b>Extend to Jan 2016</b></p>	



## **CORPORATE GOVERNANCE COMMITTEE**

**17 NOVEMBER 2015**

### **REPORT OF THE COUNTY SOLICITOR**

#### **REGULATION OF INVESTIGATORY POWERS ACT 2000 (RIPA)**

##### **Purpose of Report**

1. The purpose of this report is:
  - a) to advise the Committee on the Authority's use of the Regulation of Investigatory Powers Act 2000 (RIPA) for the period from 1 October 2014 to 30 September 2015;
  - b) to ask the Committee to review the Policy Statement relating to RIPA; and
  - c) To ask the Committee to make recommendations to the Cabinet on the approval of a revised Policy Statement.

##### **Policy Framework and Previous Decisions**

2. Since October 2000 the County Council has had statutory responsibilities under RIPA to ensure there is appropriate oversight for the authorisation of its officers who are undertaking covert surveillance governed by RIPA.
3. The Codes of Practice made under RIPA require elected members of a local authority to review the authority's use of RIPA and set the policy at least once a year. They should also consider internal reports on the use of RIPA to ensure that it is being applied consistently with the local authority's policy and that the policy remains fit for purpose. Elected members should not, however, be involved in making decisions on specific authorisations.
4. On 25 November 2013 this Committee agreed changes to the Policy Statement to reflect legislative changes and the recommendations made following an inspection undertaken by the Office of Surveillance Commissioners. The Cabinet subsequently agreed the Policy Statement on 13 December 2013.
5. On 20 February 2015 this Committee agreed to receive an annual report on the use of RIPA.

## **Background**

6. The Trading Standards Service is the primary user of RIPA within the County Council. The three activities primarily used by the County Council are “Directed Surveillance”, the conduct and use of “Covert Human Intelligence Sources” (CHIS) and authorisations to acquire certain types of “communications data”. These are the RIPA ‘powers’ referred to in this paper.
7. **Directed surveillance** is the pre-planned covert surveillance of individuals, sometimes involving the use of hidden visual and audio equipment. **CHIS** includes the use of County Council officers, who pretend to be acting as consumers to purchase goods and services, e.g. in person, by telephone or via the internet.
8. **Communications data** relates to information obtained from communication service providers, for example, subscriber details relating to an internet account, mobile phone or fixed line numbers, but does not include the contents of the communication itself.
9. Legislative changes in November 2012 implemented an additional layer of scrutiny. Local authority authorisations under RIPA can only take effect if an order approving the authorisation or notice has been granted by a Magistrates’ Court.
10. Amendments to the Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2010 brought about further restrictions on the use of RIPA. A local authority can only grant an authorisation under RIPA for the use of directed surveillance where the local authority is investigating particular types of criminality. These are criminal offences and only those offences which on conviction are punishable by a maximum term of imprisonment of six months or more, or offences relating to the sale of alcohol or tobacco to children.

## **The Process**

11. An application by the Authority for a RIPA authorisation or notice is considered at a hearing in the Magistrates’ Court. The hearing is conducted in private and heard by a Magistrate or District Judge who will read and consider the RIPA authorisation or notice applied for. Home Office guidance recommends the County Council Monitoring Officer should designate certain officers for the purpose of presenting RIPA cases to the Magistrates’ Court. Delegated powers agreed by the Cabinet enable the County Solicitor to “authorise staff to prosecute, defend or appear in proceedings before Magistrates’ Courts on behalf of the County Council”. A pool of suitable officers within Regulatory Services are designated for this purpose. The existing delegated power will allow for further designations to be made by the County Solicitor should it become necessary and appropriate for officers from other service areas to be able to represent the County Council in RIPA hearings.

12. The Corporate Governance Committee continues to be the appropriate body to review the RIPA Policy Statement annually, with a view to reporting to the Cabinet on both the use of RIPA powers and whether the policy remains fit for purpose.
13. Procedures and all published Home Office guidance for local authorities are available to all employees via the County Council's intranet.

### **Use of RIPA**

14. For the period from 1 October 2014 to 30 September 2015 the following authorisations were approved :
  - a) 7 directed surveillance;
  - b) 4 CHIS;
  - c) 17 relating to the acquisition of communications data.
15. All RIPA authorisations granted within this period were associated with covert surveillance activities undertaken by the Trading Standards Service. These criminal investigations related to the supply of counterfeit or unsafe products; unfair trading practices conducted via the internet or on the doorstep; the sale of alcohol or tobacco to children; the illegal importation of canines and the supply of psychoactive substances.
16. All RIPA applications submitted between October 2014 and September 2015 were approved by a District Judge or a Magistrate sitting at Leicester Magistrates' Court. On each occasion an application was put before the Court, the County Council was able to demonstrate that appropriate consideration had been given to the necessity and proportionality of the surveillance to be undertaken and that it was being sought for a legitimate purpose.

### **Illegal Sales of Butane, Knives and Fireworks**

17. The Cabinet agreed at its meeting on 13 December 2013 to revise the Policy Statement to enable the Council to undertake covert investigatory techniques, in respect to the prevention and detection of illegal sales of the following age restricted products: butane, knives and fireworks, even though these products do not meet the criteria specified in the Protection of Freedoms Act 2012 and therefore do not attract the protections of RIPA, in respect to these covert investigatory techniques.
18. The Council has implemented a procedure to ensure that it continues to comply with its obligations under Article 8 of the European Convention on Human Rights, requiring its Trading Standards Service to adhere to the same authorisation procedures for RIPA authorisations and/or notices, except for the requirement to seek the approval of a Magistrates' Court.
19. For the period from 1 October 2014 to 30 September 2015 an authorisation was granted to undertake a series of covert test purchases relating to fireworks, butane and knives. No sales were made.

### **Legislative Changes**

20. With effect from 1 October 2015 the Nicotine Inhaling Products (Age of Sale and Proxy Purchasing) Regulations 2015 creates an offence to sell nicotine inhaling products to persons under the age of eighteen. The Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) (Amendment) Order 2015 provides the necessary gateway to enable a local authority to apply for judicial approval to use covert surveillance when investigating the supply of this type of age restricted product.
21. The Policy Statement therefore requires an amendment at Section 3 to reflect these legislative changes and agree that the Council may, subject to judicial approval, utilise covert surveillance to investigate the supply of nicotine inhaling products to persons under the age of eighteen.

### **Recommendations**

22. That the Committee:

- a) notes the report on the Authority's use of the Regulation of Investigatory Powers Act 2000 for the period from 1 October 2014 to 30 September 2015
- b) recommends the Cabinet to agree to amend the County Council's Policy Statement on the use of RIPA powers to reflect legislative changes since the Policy Statement was last approved
- c) agrees to continue to receive an annual report on the use of RIPA powers and to report to the Cabinet on an annual basis on both the use of RIPA powers and whether the Policy remains fit for purpose.

### **Background Papers**

Report to the Cabinet on 13 December 2013.

The Regulation of Investigatory Powers Act 2000 Policy Statement December 2013

### **Circulation under the Local Issues Alert Procedure**

None.

### **Equality and Human Rights Implications**

None arising from this report.

### **Officers to Contact**

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### **Appendix**

The Regulation of Investigatory Powers Act 2000 (RIPA) draft Policy Statement

## **Covert Surveillance and the Acquisition of “Communications Data” Policy Statement**

1. This policy sets out how Leicestershire County Council (the Council) will comply with the Regulation of Investigatory Powers Act 2000 (RIPA), the Human Rights Act 1998 and the European Convention of Human Rights (ECHR) - Article 8, when carrying out any covert investigatory techniques. If such covert investigatory techniques are conducted by the Council, RIPA regulates them in a manner that is compatible with ECHR, particularly the right to respect for private and family life (Article 8). The use of covert investigatory techniques are an interference with the rights protected by the ECHR (Article 8) and there may be a potential violation of those rights, unless the interference is in accordance with the law and is necessary in a democratic society in the interests of:

- national security;
- public safety;
- economic well-being of the country;
- prevention of disorder or crime;
- protecting of health or morals; or
- the protection of the rights and freedoms of others.

Any such interference must be proportionate requiring a balancing of the seriousness of the intrusion against the seriousness of the offence and consideration of whether there are other means to obtain the required information.

The Council has a number of specific core functions requiring it to investigate the activities of private individuals, groups and organisations within its jurisdiction, for the benefit and protection of the greater public. Such investigations may require the Council to undertake covert investigatory techniques.

2. In accordance with RIPA the Council will only use three covert investigatory techniques for its core functions (details set out below).

“Directed Surveillance” will only be used for the purposes of the Council’s investigations. This is covert non-intrusive surveillance, which is carried out in such a way that the persons subject to the surveillance are unaware that it is or may be taking place. It is undertaken for the purposes of a specific investigation or operation and is conducted in such a manner, that it is likely to result in the obtaining of private information about a person and in circumstances other than by way of an immediate response to events where it would not be reasonably practicable to seek authorisation for the surveillance. The Council will not undertake surveillance in residential properties or private vehicles.

“Covert Human Intelligence Source” will only be used for the purposes of the Council’s investigations. These are individuals, who establish or maintain a

personal or other relationships with another person(s), without revealing his or her true identity, for the covert purpose of obtaining information and disclosing the information to the Council.

“Communications Data” (CD) will only be used for the purposes of the Council’s investigations. CD is the ‘who’, ‘when’ and ‘where’ of a communication, but not the ‘what’ (i.e. the content of what was said or written). In accordance with RIPA the Council will only utilise the less intrusive types of CD: “service use” (e.g. the type of communications, time sent and duration) and “subscriber information” (e.g. billing information). Under **no circumstances** will the Council obtain “traffic data” (e.g. information about where the communications are made or received) under RIPA. The Council will **not** intercept the content of any person’s communications, as it is an offence to do so without lawful authority.

3. The Council will not utilise a “Directed Surveillance” or “Covert Human Intelligence Source” authorisation or a “Communications Data” notice(s) under RIPA, until an order approving the grant or renewal of an authorisation and/or notice(s) has been granted by a Magistrates’ Court.

Before an authorisation is submitted to a Magistrates’ Court it must be internally authorised by an “Authorising Officer” or a “Designated Person” of the Council. Such covert investigatory techniques will only be used where it is considered necessary (e.g. to investigate a suspected crime) and proportionate (e.g. balancing the seriousness of the intrusion into privacy against the seriousness of the offence and whether the information can be obtained by other means). The Council will follow the relevant Codes of Practice on the scope of powers, necessity and proportionality.

In accordance with the Protection of Freedoms Act 2012 the Council will only submit a “Directed Surveillance” authorisation to the Magistrates’ Court for authorisation, for the purpose of preventing crime, where a criminal offence(s) is punishable (whether on summary conviction or indictment) by a maximum term of at least 6 months’ imprisonment, is suspected, or if the offence relates to the underage sale of alcohol tobacco or nicotine inhaling products and where the necessity and proportionality tests are met. The Council will ensure that any authorisations and/or notices, which are granted and/or renewed by the Magistrates’ Court or by the Council’s Authorising Officers, are not utilised beyond the statutory time limits prescribed.

4. The Council will maintain a list of senior officers, who are designated to oversee the covert investigatory techniques specified in paragraph 2, in respect of the Council’s internal procedures for authorisations and/or notices under RIPA, prior to the authorisations and/or notice(s) being approved by a Magistrates’ Court and to oversee the process following such approvals until cancellation. A record of approved authorisations and notices will be kept by the Council and certain information about the approvals will be published on the Council’s website. The Council’s County Solicitor, being the Senior Responsible Officer under RIPA, will ensure that the senior officers with responsibility for overseeing any covert investigatory techniques are at

Director, Head of Service, Service Manager or equivalent level of seniority and are aware of the Council's obligations to comply with RIPA and with this policy. Furthermore, all officers who are required to undertake covert techniques will receive appropriate training or be appropriately supervised.

5. The Council may undertake any of the covert investigatory techniques specified in paragraph 2 above, in respect to the prevention and detection of illegal sales of the following age restricted products: Butane, Knives and Fireworks, even though these products do not meet the criteria specified in the Protection of Freedoms Act 2012 and therefore do not attract the protections of RIPA, in respect to these covert investigatory techniques. The Council believes that it is important that the Council's Trading Standards Service is authorised to use any of the aforementioned covert investigatory techniques, in order to undertake enforcement activities in respect of the aforementioned products, even though the Council will not be afforded the protection of RIPA. The Council will ensure that it continues to comply with its obligations under the ECHR (Article 8), by requiring its Trading Standards Service to adhere to the same authorisation procedures for RIPA authorisations and/or notices, except for the requirement to seek the approval of a Magistrates' Court.
6. The Council will ensure that any other covert investigatory techniques, not requiring the approval of a Magistrates' Court, will be subject to the same internal authorisation processes as referred to above.
7. This policy and the procedures for the proper approval of authorisations and/or notice(s), the recording of covert investigatory techniques, will be reviewed when it is considered appropriate to do so.

**Approved:** Cabinet 3<sup>rd</sup> June 2005

**Revised:** Cabinet 13 December 2013

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