

CABINET ITEM COVERING SHEET PROFORMA

AGENDA ITEM

REPORT TO CABINET

5 MARCH 2009

**REPORT OF CORPORATE
MANAGEMENT TEAM**

COUNCIL DECISION/CABINET DECISION

Corporate Management and Finance – Lead Cabinet Member – Councillor Laing

SUSTAINABLE COMMISSIONING AND PROCUREMENT STRATEGY

1. Summary

The Council's Procurement Strategy concludes March 2009 and the purpose of this report is to seek approval of a new strategy. The report also seeks approval of changes to Contract Procedure Rules and Responsibility for Functions.

2. Recommendations

- (1) To approve the new Sustainable Commissioning and Procurement Strategy 2009 – 2012.
- (2) To approve the revised Contract Procedure Rules (Part 4 of the Constitution – Rules of Procedure).
- (3) To approve changes to Section 44 Scheme of Delegation (Part 3 of the Constitution – Responsibility for Functions).

3. Reasons for the Recommendations/Decision(s)

The Council spent approximately £163m on procuring goods, services and works in 2007/8. The Sustainable Commissioning and Procurement Strategy identify a series of policy principles that guide those actions in order that the Council and partners maximise the value from all commissioning and procurement activity. The Contract Procedure Rules lay down, in more detail, how Council officers should undertake all commissioning and procurement activity.

4. Members' Interests

Members (including co-opted Members with voting rights) should consider whether they have a personal interest in the item as defined in the Council's code of conduct (**paragraph 8**) and, if so, declare the existence and nature of that interest in accordance with paragraph 9 of the code.

Where a Member regards him/herself as having a personal interest in the item, he/she must then consider whether that interest is one which a member of the public, with

knowledge of the relevant facts, would reasonably regard as so significant that it is likely to prejudice the Member's judgement of the public interest (**paragraphs 10 and 11 of the code of conduct**).

A Member with a prejudicial interest in any matter must withdraw from the room where the meeting considering the business is being held -

- in a case where the Member is attending a meeting (including a meeting of a select committee) but only for the purpose of making representations, answering questions or giving evidence, provided the public are also allowed to attend the meeting for the same purpose whether under statutory right or otherwise, immediately after making representations, answering questions or giving evidence as the case may be;
- in any other case, whenever it becomes apparent that the business is being considered at the meeting;

and must not exercise executive functions in relation to the matter and not seek improperly to influence the decision about the matter (**paragraph 12 of the Code**).

Further to the above, it should be noted that any Member attending a meeting of Cabinet, Select Committee etc; whether or not they are a Member of the Cabinet or Select Committee concerned, must declare any personal interest which they have in the business being considered at the meeting (unless the interest arises solely from the Member's membership of, or position of control or management on any other body to which the Member was appointed or nominated by the Council, or on any other body exercising functions of a public nature, when the interest only needs to be declared if and when the Member speaks on the matter), and if their interest is prejudicial, they must also leave the meeting room, subject to and in accordance with the provisions referred to above.

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RECOMMENDATIONS

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DETAIL

1. Sustainable Commissioning and Procurement Strategy 2009 -2012

1.1 The purpose of the Sustainable Commissioning and Procurement Strategy is to define a strategic level approach to the way in which we commission and procure goods, services and works and to lay down a series of policy principles that guide all related activity. The strategy includes details about context and how commissioning and procurement is currently organised within the Council, what the Council buys and how commissioning and procurement can be used to deliver other strategic objectives of the Council. The policy principles cover a number of generic areas as well as 3 specific spend categories:

- Probity and Good Governance
- Commissioning and Procurement Arrangements
- Category Management Approach
- Skills, Training Needs and Guidance
- Sustainability
- Construction
- ICT
- Care Commissioning

1.2 A copy of the strategy is attached at **Appendix 1**. The main changes to the strategy include:

- An update how commissioning and procurement are currently arranged;

- An updated high level spend analysis;
- Strengthened sustainability policy principles around economic regeneration, social development, environmental management and equality and diversity;
- The introduction of a category management approach; and
- A new action plan

2.0 Contract Procedure Rules

- 2.1 The review and renewal of the Sustainable Commissioning and Procurement Strategy has also provided the opportunity to review Contract Procedure Rules (CPR). These rules lay down the detailed procedural guidance of how commissioning and procurement should be undertaken. The CPR are part of the Constitution and include links to the Responsibility for Function - Scheme of Delegation.
- 2.2 The main purpose of the review was to update the 'language' of CPR to make them easier for Members and officers to understand and to ensure they meet all legislative requirements (primarily the Public Contracts Regulations 2006). Other changes include:
- Improving clarity of when exceptions to following CPR can be made and the process for doing so;
 - Improving the clarity of responsibilities;
 - Increasing the ability for collaborative commissioning and procurement;
 - Increasing the threshold for tenders for supplies and services from £50,000 to £75,000 (this is in line with action being taken across the region);
 - Requiring officers to request at least one quote from local suppliers, service providers or contractors;
 - Clarifying the fact that in-house services can be awarded work, up to tender threshold, without the need for competition (subject to the overriding duty of best value);
 - Allowing the explicit use of the Competitive Dialogue and Negotiated Procedures (the Competitive Dialogue Procedure will be required for BSF);
 - Implementing the requirements of the 'Standstill' process now required of the Public Contracts Regulations 2006 (a requirement to inform tenderers of our intention to award a contract and to allow them to challenge the decision through the courts); and
 - Clarifying the process and rules for contract variations and extensions.
- 2.3 The Responsibilities for Functions has also been simplified and clarified to make it easier for officers to understand what powers they have in relation to commissioning and procurement.
- 2.4 A copy of Contract Procedure Rules and the relevant part of the Responsibilities for Functions is included at **Appendix 2**.

FINANCIAL IMPLICATIONS

There are no direct financial implications other than potential to reduce the cost associated with procurement and commissioning of goods, services and works.

LEGAL IMPLICATIONS

Procurement and commissioning is subject to the UK and EU Procurement Rules including the Public Contracts Regulations 2006 and a number of related pieces of legislation including TUPE, health and safety, equality and contract law etc. The new Sustainable Commissioning and

Procurement Strategy and the revised Contract Procedure Rules have been designed to ensure they comply with relevant legislation.

RISK ASSESSMENT

This delivery of the Sustainable Commissioning and Procurement Strategy is categorised as low to medium risk. Existing management systems and daily routine activities are sufficient to control and reduce risk.

SUSTAINABLE COMMUNITY STRATEGY IMPLICATIONS

Economic Regeneration and Transport

The Council is one of the largest spending organisations in the borough and the more money that is spent locally, the greater the positive impact this will have on the local economy, particularly for small and medium sized businesses. However, care must be taken to avoid contravening the Public Contracts Regulations 2006 which are designed to prevent discrimination in the market place.

Environment and Housing

The Council, along with its partners, is committed to ensuring that services are delivered in a way that protects the quality of the environment and minimises any adverse impact on community well-being. The Council recognizes that commissioning and procurement can be integral in delivering more sustainable outcomes for the borough. To achieve this it is necessary to ensure that environmental and broader sustainability considerations are taken into account throughout the commissioning and procurement process.

Stronger Communities

The Council is one of the largest spending organisations in the borough and has a role to play in addressing social impact and cohesion across the borough. Social benefits in commissioning and procurement range from the creation of employment and training opportunities to the elimination of child labour in the supply chain.

EQUALITIES IMPACT ASSESSMENT

This report has been subject to an Equality Impact Assessment and has been judged to have a positive impact. An action plan for further improvements has been developed / no remedial actions are required.

CONSULTATION INCLUDING WARD/COUNCILLORS

Cabinet Member for Corporate Management and Finance

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Background Papers

Stockton on Tees Borough Council Procurement Strategy 2006 – 2009
Contract Procedure Rules – Part 4 of the Constitution- Rules of Procedure

Ward(s) and Ward Councillors:

Property

STOCKTON-ON-TEES BOROUGH COUNCIL

**SUSTAINABLE COMMISSIONING AND PROCUREMENT STRATEGY
2009 – 2012**

EXECUTIVE SUMMARY

This strategy sets out the Council's strategic approach to commissioning and procurement. It is not intended to be a procurement manual; however, the principles contained within this strategy should be applied to all commissioning and procurement activity. Consideration of this strategy is not optional and it should be read in conjunction with the Contract Procedure Rules and the Procurement Toolkit.

The Local Government Act 1999 places a duty of Best Value on all authorities to secure continuous improvement in the way that functions are carried out, having regard to a combination of efficiency, economy and effectiveness. Effective commissioning and procurement is crucial in securing high quality, best value public services and the Council has identified the development of a clear commissioning and procurement strategy as a key step towards achieving Best Value, delivering the demanding efficiency targets set out in the 2007 spending review and demonstrating effective use of resources as part of the new Comprehensive Area Assessment.

This strategy also emphasises the increasing importance of Sustainable Commissioning and Procurement, using procurement techniques to support wider social, economic and environmental objectives, in ways that offer real long terms benefits to the local area.

Best Value and efficiency targets will not be achieved if the authority fails to approach competition positively, taking full account of the opportunities for innovation and genuine partnerships which are available from working with others in the public, private and voluntary sectors. Importantly, this strategy seeks to balance two priorities:

- *Delivering value for money and*
- *sustainable commissioning and procurement, engaging with local and regional suppliers, service providers and contractors to promote the local economy and taking account of the social and environmental impact of spending decisions.*

A mixed economy and sustainable approach to commissioning and procurement also relies on developing a collaborative approach to commissioning and procurement with other authorities and public sector bodies to achieve economies of scale where appropriate.

Having this strategy does not, by itself, lead to effective commissioning and procurement. It is the commitment of senior management and council wide use of the strategy through Stockton's devolved approach that will determine success.

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Introduction

What is Procurement?

'Procurement' is the process of acquiring supplies, services and construction works, covering both acquisitions from third parties and from in-house providers. The process spans the whole cycle from identification of needs, through to the end of a services contract or the end of the useful life of an asset. During large procurement exercises it involves options appraisals and the critical 'make or buy' decision, which may result in the provision of services in-house in appropriate circumstances. Procurement covers everything from paperclips to PFI.

In the context of a procurement process, obtaining 'best value for money' means choosing the bid that offers 'the optimum combination of whole life costs and benefits to meet customer's requirements'. This is not always the lowest initial price option and requires the need to assess the ongoing revenue/ resource costs as well as initial capital investment. The Council's requirement can include social, environmental and other strategic objectives.

The term 'procurement' has a far broader meaning than that of purchasing, buying or commissioning. It is about securing services and products that best meet the needs of users and the local community in its widest sense.

Procurement is also about making choices. The choice that members and officers make about a particular contract or form of partnering is a very clear signal of what type of authority the Council wants to be and how it wants to be seen in the future.

The Council will procure the best value for money supplies, services and construction works by:

- adopting the life cycle approach to the assets or contract,
- applying effective and up-to-date procurement procedures, and
- ensuring procurement helps deliver the Council's key corporate objectives.

What is Commissioning?

Commissioning is a phrase often used to describe the process of identifying needs, identifying appropriate mechanisms to meet those needs and monitoring the mechanisms to ensure outcomes are achieved. Commissioning requires a thorough understanding of what local people want and need, as well as knowledge of the local market, the investment from other local public services in meeting those needs and the range of providers and potential providers of services.

In considering the definition of procurement above, in many respects commissioning is procurement by another word.

Background

In July 2008 the Council's Corporate Procurement Working Group began a review of the Procurement Strategy 2006–2009. The review identified a number of strengths and weaknesses in the way it procures and commissions goods, services and works. Consequently, this strategy has been developed to maximise those strengths, address the weaknesses and to take procurement and commissioning forward to a new level.

The purpose of this strategy is to communicate clearly to all stakeholders, operational managers, corporate directors, procurement specialists and suppliers in the private and voluntary sectors the Council's vision for the way forward in its procurement of services, supplies and construction works so that they may play a meaningful role in the implementation of that vision.

The strategy itself is laid out in two chapters as follows:

- **current arrangements** outlines how procurement is currently being managed within the authority,
- **corporate procurement policy** sets out a procurement vision and principles to guide the procurement strategy and the subsequent processes put in place to support it, and

Current Arrangements

The Council's Constitution

All commissioning and procurement is regulated by the Council's Constitution, which includes:

- the allocation of responsibility for functions between the Council and the Executive and the scheme of delegation to officers;
- the Contract Procedure Rules (which specifically require compliance with EU procurement rules as defined in the Public Contracts Regulations 2006);
- the Accounting Instructions;

Responsibility for commissioning and procurement is largely delegated to services, although the principle of committing any expenditure is subject to prior approval by Council via the Medium Term Financial Plan and the Capital Strategy. The Council's Monitoring Officer (i.e. Director of Law and Democracy) and Chief Finance Officer (i.e. Corporate Director of Resources) also have specific duties regarding the provision of advice and on the lawfulness of financial transactions.

Whilst the above 'rules' are essential in ensuring proper and ethical behaviour in spending public money they are, principally, about purchasing and do not constitute a policy framework for maximising the potential benefits of the wider strategic approach to commissioning and procurement.

Devolved Commissioning and Procurement

The organisational arrangements for commissioning and procurement within the Council reflects the contents of the Constitution in that services have delegated powers to procure within:

- the law (specifically the Public Contracts Regulations 2006),
- the Constitution which includes the Contract Procedure Rules and Accounting Instructions,
- the Council's MTFP, Capital Plan and policy framework.

Services operate schemes of delegation, which empower staff within their service areas to undertake a variety of functions including commissioning and procurement. These delegation arrangements vary from service to service but are normally consistent with the level of delegation to budget holders. The delegated arrangements have allowed the commissioning and procurement relevant to those specialist areas inherent in each service area and activities to be tackled by those officers knowledgeable in those services, in accordance with the Constitution. However, as a consequence of this approach devolved commissioning and procurement has tended to fall into silos where for example, some services have contracted with service providers without realising that other services already have contracts in place with the same provider. Consequently, a level of duplication has happened. In addition, there is a high level of variation of skills in devolved commissioning and procurement. Some officers are very experienced and can demonstrate VfM in all their commissioning and procurement activity, while others cannot. There is also a lack of appreciation of the wider corporate agenda such as using commissioning and procurement activity to address areas such as minimising CO2, maximising local supply and building equality issues into contracts. Officers involved in devolved commissioning and procurement often do not see these issues as relevant or important to them.

Corporate Procurement Unit

A Corporate Procurement Unit has existed for a number of years. It is responsible for developing a more strategic approach to commissioning and procurement including the production of this strategy. The unit is responsible for:

- Maintenance and Development of the Commissioning and Procurement Strategy
- Commissioning and Procurement Co-ordination and planning
- Advice/guidance
- Formulate, co-ordinate and disseminate Best Practice
- Manage Contract Procedure Rules
- Co-ordinate Training/specialist skills
- Oversee devolved buying
- Develop e-Procurement
- Develop links with Service Improvement

The unit also arranges corporate and some service specific contracts, either directly, through the North East Purchasing Organisation (NEPO) or through the Tees Valley Joint Procurement Group (TVJPG). Close liaison is maintained with the Director of Law and Democracy and the Director of Resources to ensure that mandatory requirements are fully met.

Strong links between the Corporate Procurement Unit and devolved commissioning and procurement have been developed through the provision of advice and guidance, training and attempts to improve visibility of expenditure.

Corporate Procurement Working Group

The Corporate Procurement Working Group (CPWG) is one of the Council's key working groups responsible for delivery of the Procurement Strategy and includes representatives from a number of services. The group's role is to co-ordinate commissioning and procurement activity and to ensure the Council achieves value for money in all commissioning and procurement activity. For example, the group recently reviewed and updated the way in which temporary agency workers are procured and managed.

NEPO

The Council is an active member of NEPO and uses the purchasing consortium in order to maximise bulk purchasing power and reduce administrative costs. Contracts arranged through NEPO usually focus on supply contracts such as stationery, furniture, vehicles, energy etc. In many cases, NEPO contracts have led to price reduction in contracts by using new and innovative procurement techniques such as reverse e-auctions.

Other Regional and Sub-regional Groups

A number of other sub-regional or regional groups exist where procurement is discussed and contracts are arranged collaboratively. For example, the Tees Valley Joint Procurement Group have arranged a number of contracts for the Tees Valley Local Authorities.

Partnerships

The Council does not have all the resources and expertise necessary to deliver all of its objectives and will therefore adopt a pragmatic approach to the utilisation of partnerships with a range of organisations. The Council recognises the importance of partnerships and collaboration.

The precise nature of such partnerships will vary from the sharing of expertise and information to legally binding contractual arrangements.

It should be noted though that the term 'partnership' does not negate the need for compliance with the Contract Procedure Rules, the Elected Members and Officers Code of Conduct, or the EU Procurement Directives (Public Contracts Regulations 2006).

The objective of any partnering arrangement will be to deliver improved services, and major projects, through the creation of partnerships between ourselves and other organisations in the public, private and voluntary sectors. For example, the Council works very closely with North Tees PCT to commission a range of social care services.

Schools

All schools have delegated budgets and have autonomy in procurement, except in so far as they must comply with the Council's Contract Procedure Rules and Accounting Instructions. Whilst the requirements of the Constitution apply in full, schools have discretion regarding where they procure works, goods and services.

How much does the Council spend on commissioning and procurement?

A high level spend analysis using data from 2007/08 has indicated the Council's total expenditure on non-payroll, commercial spending was £163m. This equates to approximately 96,000 transactions with around 7000 suppliers.

What is it spent on?

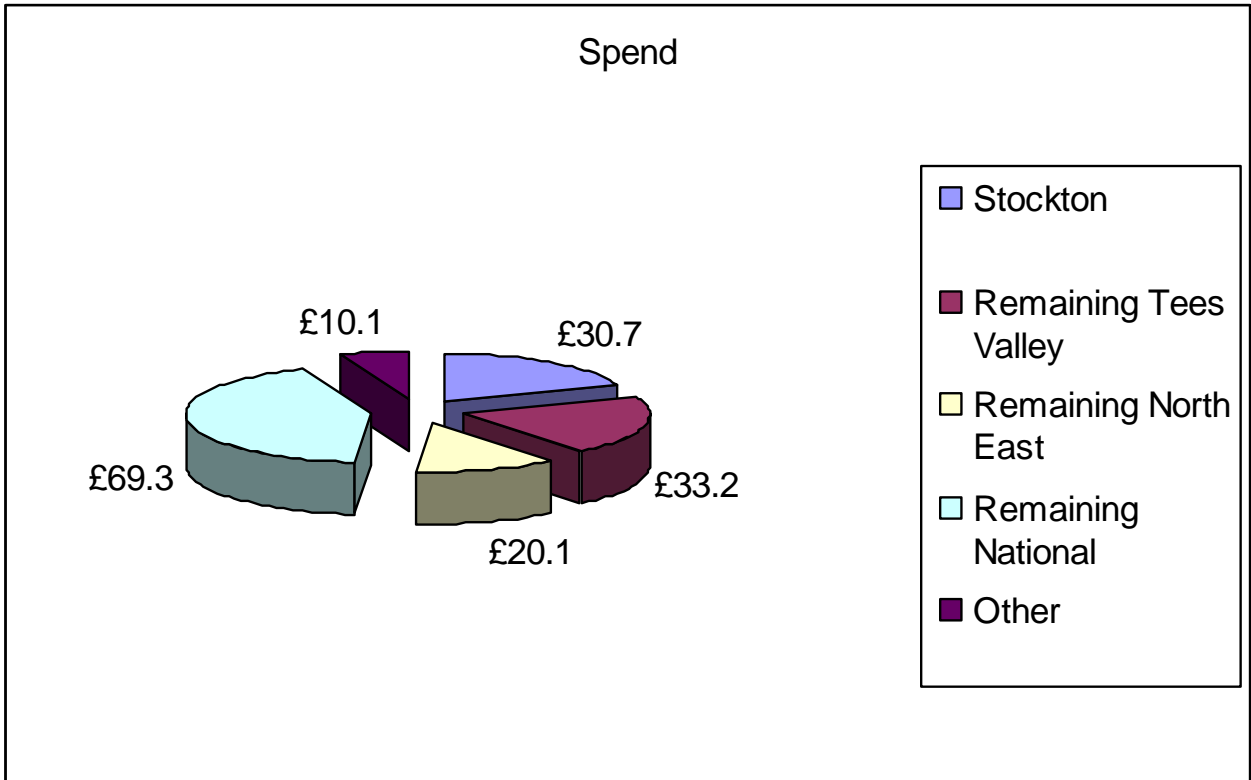
Further analysis of spend with suppliers, service providers and contractors of whom we spent more than £50k in 2007/8 amounts to £122.6m or 75% of total spend and equates to 8.5% of the supply base. The spend categories can be seen below.

Category of expenditure	£
<i>Social Care</i>	£40.7m
<i>Construction and construction related activity</i>	£39.3m
<i>Professional Services (inc. Tristar Mgt Fee)</i>	£8.1m
<i>Transport</i>	£6.7m
<i>ICT</i>	£5.8m
<i>Utilities</i>	£4.8m
<i>Human Resources</i>	£4.3m
<i>Waste Management</i>	£3.9m
<i>Soft FM (office supplies, catering, cleaning etc)</i>	£2.8m
<i>Equipment & Machinery</i>	£2.1m
<i>Education & Leisure</i>	£1.6m
<i>Communications</i>	£1.4m
<i>Finance & Legal</i>	£0.6m
<i>Environment</i>	£0.5m
Total	£122.6m

Where do we spend our money?

The spend analysis for 2007/8 indicates we spend £30.7m of our total spend in Stockton, a further £33.2m in the rest of the Tees Valley (excluding Stockton) and a further £20.1m in the rest

of the North East region (excluding the Tees Valley). This amounts to a total of £84m spent within the total North East region.



Clearly there is a large economic development issue here. If we could divert more of our own spend into the local economy, the effect would be significant and would also have a multiplier effect if that money itself were re-spent in the economy. It should be noted that EU and UK procurement legislation can be perceived as a barrier to contracting locally, as it is designed to prevent discrimination in the EU marketplace, but there are a number of techniques that can address the 'spend locally' issue and still comply with the relevant legislation. Techniques such as actively marketing contract opportunities to local companies, assisting SMEs to tender for work, stimulating and developing local businesses if they currently don't have the skills or market presence to tender, establishing social enterprises, community interest companies etc and packaging contracts in such a way that puts local companies in a better position than companies outside the sub-region can all be pursued. Interestingly, feedback from the local business sector via Economic Development suggest local companies really don't know how to access contract opportunities and they feel very frustrated that the Council, as the largest local 'business' does not do more to help them.

Commissioning and Procurement Policy

The Corporate Context

Commissioning and Procurement must be seen in the context of the Council's overall objectives. In the past, commissioning and procurement has been tended to be focused purely on economy in an effort to reduce costs. While this remains an essential ingredient of good commissioning and procurement, it is also important that commissioning and procurement decisions are taken in light of the broader objectives which the Council is seeking to achieve. For example how do commissioning and procurement decisions impact upon the well-being of the local community? Are decisions made that support local employment? Is the impact on the local environment considered? Are community benefits assessed? Balancing these two dimensions and remaining within the complex EU rules and regulations is at the heart of effective commissioning and procurement.

Sustainable Commissioning and Procurement

'Sustainable Commissioning and Procurement is a process whereby organisations meet their needs for goods, services, works and utilities in a way that achieves value for money on a whole life basis in terms of generating benefits not only to the organisation, but also to society and the economy, whilst minimising damage, or indeed improves the environment.'

Simply, sustainable commissioning and procurement is good commissioning and procurement.

Economic Regeneration

The Council is one of the largest spending organisations in the borough and the more money that is spent locally, the greater the positive impact this will have on the local economy, particularly for small and medium sized businesses.

Procurement legislation limits the Council's ability to favour local businesses, but there are numerous ways in which it can legitimately support local businesses, including:

- working pro-actively with the local businesses to explain how to do business with the Council, and obtaining their feedback in order to improve documentation and processes
- providing information about future commissioning and procurement activity, and advertising tenders on the Council's website.
- running tender awareness event in order to engage with suppliers/ service providers prior to the tender process.
- packaging contracts in a manner, where possible, that does not preclude the following from tendering:
 - local and regional companies
 - small and medium sized enterprises
 - newly formed businesses
 - the voluntary and community sector
- developing local and regional lists of approved contractors and suppliers
- using purchasing cards to procure low value goods (often through local outlets).

The challenge for commissioning and procurement is to balance the following conflicting priorities:

- obtaining value for money and the required quality
- sourcing locally where possible within the legislative framework
- commissioning and procuring in a sustainable way with regard to environmental, social and economic factors, and
- reducing the number of low-value creditors (especially those where annual spend is less than £1,000).

Social Development

The Council is one of the largest spending organisations in the borough and has a role to play in addressing social impact and cohesion across the borough. Social benefits range from the creation of employment and training opportunities to the elimination of child labour in the supply chain.

Sustainable procurement also supports the wider Council objectives in the Local Area Agreement, the Multi Area Agreement, the work of the Local Strategic Partnership and the Sustainable Community Strategy.

The Council also recognises that a thriving and independent third sector is crucial in achieving better outcomes for the residents of the Borough.

This is because third sector organisations:

- have strong, established links with local communities, and consequently a great deal of knowledge about local issues
- have the ability to bring together individuals from different backgrounds in community activity, building social capital
- have strong links with specific client groups, including in particular hard to reach communities, who may find it easier to respond to a locally based network rather than the statutory sector
- are driven by charitable aims and often have less rigid structures, thereby allowing them to be committed and flexible in delivering services and achieving outcomes, and well placed to innovate and create new solutions and respond in a timely way to emerging issues
- can draw on the skills, knowledge and capacity of volunteers and the resources of other organisations and funding streams not accessible to statutory bodies

Furthermore, the Council is continuing to work with the supply chain to continually seek improvements and to address ethical issues, for example, adopting the use of Fair Trade products and supporting local suppliers.

Environmental Management

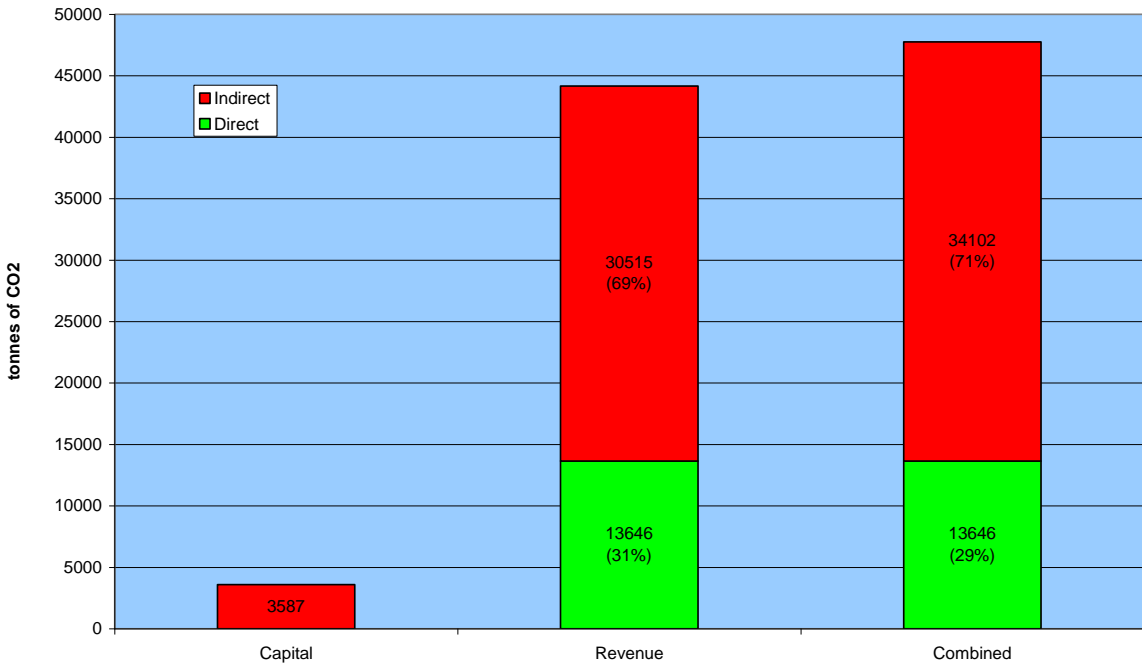
The Council, along with its partners, is committed to ensuring that services are delivered in a way that protects the quality of the environment and minimises any adverse impact on community well-being. The Council recognises that commissioning and procurement can be integral in delivering more sustainable outcomes for the borough. To achieve this it is necessary to ensure

that environmental and broader sustainability considerations are taken into account throughout the commissioning and procurement process.

The approach to sustainable commissioning and procurement reflects the corporate approach to sustainability and is guided by the priorities in the sustainable community strategy.

In 2007 the Council's Cabinet agreed a Carbon Management Programme to reduce carbon emissions by 25% by 2013. The **total** carbon footprint for 2007/8 as a result of direct emissions (e.g. from fossil fuels used in building heating and vehicle transport) and indirect emissions (e.g. electricity and embodied energy) revenue and capital expenditure is estimated as **47.7 kilotonnes of CO2**. Direct emissions relating to energy used to heat Council and school buildings and transport fuel accounts for 29% of emissions, the majority, 71% are indirect emissions as a result of electricity use and procurement of goods and services. When both expenditure streams are **combined** the influence of additional resource use for capital projects (eg construction activity) is clearly seen. **Capital** increases the **total** carbon footprint by approximately 8%. Consequently, this increases the indirect proportion of the total carbon footprint from 69% for revenue to 71% for capital. There are no direct emissions associated with capital. This is shown below.

Phase 1. Total Carbon Footprint Results



Equally important, the Council will need to ensure the proper management and disposal of assets to ensure both value for money and to minimise any adverse impact on the environment.

Equality and cohesion

Sustainable procurement also includes the duty to ensure that equality and cohesion is addressed in all commissioning and procurement activity, irrespective of whether provided from within the Council or indirectly through another organisation.

The Council is already addressing this through:

- Building equality and diversity requirements into contract terms and conditions.

- Building equality and diversity requirements into all other standard commissioning and procurement documents.
- Providing workshops for potential bidders that include demonstrating the business case for equality and diversity.
- Providing workshops to assist Council officers in addressing equality and cohesion in commissioning and procurement activity.
- Monitoring contracts for compliance against equality standards.

In order to support the requirements of the above statements a Commissioning and Procurement Vision has been created and a set of Commissioning and Procurement Principles established. The principles aim to underpin and support all commissioning and procurement activity while at the same time making clear links to the Council's corporate vision, core values and strategic objectives.

Vision

To obtain best value through planned and skilled commissioning and procurement, in respect of all supplies, services and construction works sought by the Council.

Commissioning and Procurement Principles

Commissioning and Procurement principles are the key high level policies that Stockton will adhere to when undertaking commissioning and procurement activity.

Probity and Good Governance

Commissioning and Procurement in the Public Sector is subject to a number of requirements and constraints. Local Authorities have a fiduciary duty to their taxpayers and there is a legal framework in place under the Public Contracts Regulations 2006. Within this context and in order to secure value for money, it is essential that effective and consistent controls, standards and procedures are established and applied across the Authority.

Commissioning and Procurement Principles

- 1. All commissioning and procurement activity shall be undertaken in accordance with legal requirements, including the Public Contracts Regulations 2006, the Council's Contract Procedure Rules, accounting instructions, best practice and standards set by relevant professional organisations.*
- 2. Officers undertaking commissioning and procurement, shall give due consideration to input from other interested parties, to ensure compliance e.g. legal, internal audit, corporate procurement, ICT, etc.*
- 3. All commissioning and procurement activity shall be undertaken using the regional harmonised procurement documentation. Wherever possible, model or standard terms and conditions of contract shall be used that have been evaluated by legal officers as being satisfactory for use by the Council.*
- 4. Contract Procedure Rules, accounting instructions and procedures shall be reviewed on a regular basis to ensure they remain appropriate, in particular consideration will be given to including guidance that supplements current financial limits with "risk" levels to support efficient service delivery, where appropriate.*
- 5. Compliance with the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE) and workforce matters shall be built into commissioning and procurement processes.*
- 6. Corporate Procurement shall maintain a Contracts Register on behalf of all Council services and continually challenge the approach to commissioning and procurement.*
- 7. All contracts shall be managed by an officer designated at the outset with the responsibility and sufficient authority, for ensuring that the contract is adequately tendered, managed and monitored and that service delivery adheres to specification and all relevant current legislation.*

Commissioning and Procurement Arrangements

It has been recognised that procurement of goods, works and services across the Authority is not always managed in a co-ordinated and structured way that ultimately provides Best Value.

Commissioning and Procurement Principles

- 1. Commissioning and procurement shall be treated as a strategic issue with leadership both from senior management and Members.*
- 2. The Corporate Procurement Unit shall act as a focal point for commissioning and procurement expertise within the Council and where necessary provide access and signposting to other sources of expertise, assistance, best practice and guidance.*
- 3. The Corporate Procurement Unit shall be responsible for co-ordinating procurement of common goods and services used by all services.*
- 4. ICT Services shall be responsible for co-ordinating procurement of all ICT hardware and software used by all services.*
- 5. Children and Young People Strategy shall be responsible for co-ordinating commissioning of all children and young peoples services.*
- 6. Adult Strategy shall be responsible for co-ordinating commissioning of all adult services.*
- 7. Technical Services shall be responsible for co-ordinating procurement of all construction related activity.*
- 8. Collaboration with other organisations for the joint commissioning and procurement of goods, services and works should be considered where there is potential for improved cost effectiveness, increase in capacity and ultimately better quality services*

Skills, Training Needs and Guidance

The key to effective commissioning and procurement is people (both Officers and Members) who are suitably trained and qualified to provide the necessary input to the commissioning and procurement process. The nature and extent of the skills required and the availability of guidance equates to the frequency and complexity of the commissioning and procurement activity concerned.

Commissioning and Procurement Principles

1. *Where officers are undertaking commissioning and procurement, they shall have the capability themselves, through qualifications, experience and/or knowledge, or have access to suitably trained and informed staff.*
2. *Good quality, accessible and relevant training, guidance and toolkits shall be available to all officers undertaking commissioning and procurement activities. The training, guidance and toolkits shall be managed by the Corporate Procurement Unit to ensure they remain up to date, relevant and reflect best practice.*
3. *Both internal and external advice shall be made “accessible”.*
4. *Members shall receive appropriate training to ensure they are familiar with the Sustainable Commissioning and Procurement Strategy and understand the Procurement Cycle.*
5. *Care commissioners shall work towards achieving the 11 competencies described in the NHS World Class Commissioning programme.*
6. *Commissioning and procurement training will be included in the Core Management Skills Programme.*

Sustainability

The Local Government Act 2000 placed a duty on English and Welsh local authorities to prepare a community strategy for promoting or improving the economic, social and environmental well-being of their area and contributing to the achievement of sustainable development in the UK. The act gave authorities the power to do anything they consider is likely to achieve the promotion of the area's well-being, including the use of procurement to help deliver corporate objectives including the economic, social and environmental objectives set out in the community plan.

Procurement Principles

- 1. Sustainability shall be integrated within the mainstream of the procurement cycle; identify need, develop the business case, define the procurement approach, supplier selection, tender evaluation, award and implement contract, manage contract and closure/lessons learned.*
- 2. Sustainable procurement opportunities shall be prioritised according to ease of implementation and level of impact. Prioritisation shall be recorded on the contract register.*
- 3. The Government's Quick Wins shall be used to identify easy to implement sustainable options for commonly purchased products such as ICT equipment, paper etc.*
- 4. Wherever possible, consideration shall be given to carrying out procurements in such a way as to maximise the benefit to the local economy. This can include packaging of contracts, advertising of contract opportunities, supply chain development, targeted recruitment and training and community benefits.*
- 5. Procurement shall be arranged in such a way that it encourages a diverse and competitive market, including procurement from SMEs, minority ethnic businesses, social enterprises and voluntary and community sector organisations.*
- 6. Procurement from verified sustainable sources and fair trade sources where available should be first choice unless a business case for selecting other products can be justified.*
- 7. Suppliers to the Council (and in particular SMEs and the voluntary and community sector) shall be encouraged and where appropriate, helped to do business.*
- 8. The Council should use procurement to promote equality by encouraging contractors to draw up policies that will help them to avoid unlawful discrimination and promote equal opportunities.*
- 9. Equality issues should be integrated into the appropriate stage of the Procurement Cycle*

Category Management Approach

A category management approach aggregates demand for goods/ services and works with similar characteristics into categories and then manages the end to end value chain. Features of a structured category management approach include; developing a thorough understanding of third party spend and future demand, segmenting spend into market sectors, developing market sector sourcing strategies and supplier relationship management. Examples of categories and some high level principles for those categories can be seen on pages 21,22 & 23.

Commissioning and Procurement Principles

- 1. A comprehensive spend analysis shall be produced and regularly updated in order to improve spend visibility and to enable category planning.*
- 2. Expenditure should be categorised into clear, unambiguous categories in line with any regional approach.*
- 3. Sourcing strategies shall be developed for each category based on current and future demand, market knowledge and potential for supplier relationship management.*
- 4. Sourcing strategies shall focus on creating long term value.*
- 5. Sourcing strategies shall be approved by CMT prior to implementation.*
- 6. A responsible officer (category manager) with detailed market and demand knowledge shall be assigned to each category.*
- 7. Supplier Relationship Management Plans shall be developed for each strategic supplier.*
- 8. The category management process shall be monitored to evaluate the return of investment and the savings produced.*

Construction

The 1998 report 'Rethinking Construction', set the construction industry and its clients alike, many challenges. These challenges and the potential rewards available, prompted many local authorities to take a more radical approach to their construction related procurement activity. Historically, construction procurement was based on an adversarial relationship between client and contractor characterised by claim and counter claim. The principles of Rethinking Construction refocus that relationship to one where user satisfaction is the prime objective.

Consequently, the Council is fully committed to using Rethinking Construction principles.

Construction Procurement Principles

- 1. Project teams shall establish and document the needs of clients, stakeholders and end users at the earliest possible stage and continually engage with them.*
- 2. Project teams will explore markets, alternative ways of working and discuss needs openly to try and encourage innovation.*
- 3. The Council will use the most appropriate types of contract and payment arrangements in order to stimulate innovation and performance.*
- 4. The Council will encourage continuous improvement by establishing long-term relationships with other organisations and contractors and by measuring performance.*
- 5. The Council shall establish integrated project teams with the appropriate expertise at the earliest stage of a project*
- 6. The Council will select contractors and suppliers on the basis of most economically advantageous tender (price/ quality) assessment and not by lowest price for all projects that exceed the £100,000 tender threshold. The only exception to this policy shall be where price is the only differentiator. The ratio between price/ quality shall be determined dependant upon project specific needs.*
- 7. All new build and major refurbishment shall aim for at least BREEAM level 'very good'. This shall be validated through a peer review process involving Technical Services and the Council's consultant partners.*
- 8. All repair and maintenance work shall be undertaken in such a way as to minimise the carbon footprint of the operational building.*
- 9. The Council shall use the BRE Guide to Green Building and aim for level A or B as a minimum.*
- 10. The Council will adhere to the Sustainable Timber Policy.*

ICT

Information & Communication Technology has the potential to radically transform the way the public sector operates and can bring about huge improvements in services and generate significant efficiency savings. However, the failure of a number of large scale ICT projects both nationally and locally have shown that there is a considerable risk inherent in these projects. In many cases, it is the procurement process that has gone wrong. Problems occur when requirements are not fully understood, defined and communicated, system evaluation is not robust and where project management is not fully in place. Often this is a result of not involving ICT Services in the initial feasibility and resulting procurement process and not following approved procedures. General guidance on ICT procurement is available on the Stockton Intranet under "ICT Procedures & Guides".

ICT Procurement Principles

- 1. The requirement for ICT investment and new projects shall be identified in advance as part of the annual service planning process.*
- 2. Officers involved in the definition and procurement of any ICT system, hardware and services shall involve ICT Services at the earliest opportunity.*
- 3. An ICT lead officer shall be assigned to work with the project manager to*
- 4. ensure that the requirements of the project are met within the framework of compliance with the ICT Strategy and associated ICT specific procurement/evaluation guidelines and procedures.*
- 4. A whole system approach to ICT procurement shall be undertaken to ensure interoperability with other systems.*

Care Commissioning

In recent years the Council has deliberately moved away from delivering 'care' services itself to become a commissioner of services from both the private, public and voluntary sector. Some of these services have been delivered in partnership with other organisations, particularly the local Primary Care Trusts and Strategic Health Authority. Although the market place for some of these services has traditionally been limited, with a lack of supply particularly in the specialised services, there is evidence that supply is increasing.

Care Commissioning Principles

1. *User focussed – Commissioning processes and services will be designed and delivered in a way that meets the needs of adults, children and their family and encourages greater independence. They will be responsive, easily accessible and of high quality. Services will be delivered in a way that supports adults, children and families to take responsibility for their own achievements and well-being*
2. *Celebrating diversity – Commissioners will recognise the diversity of adults and children in Stockton on Tees and ensure strategies and services are designed to meet needs of adults and children across our communities.*
3. *Inclusive – Mainstream services will be commissioned in a way that meets the needs of all adults and children, including vulnerable adults and children. Where necessary, these services will be enhanced so adults and children who require specialist support are able to access this within a more inclusive context.*
4. *Evidence based – Services and interventions that are commissioned or provided will be based on evidence about effectiveness.*
5. *Strategically directed – Commissioners will strategically assess the best ways of meeting the needs of adults and children across our communities and will plan and co-ordinate a coherent response and target resources effectively.*
6. *Value for money – will ensure that the resources within its influence or which it directs are used in the most effective way to provide the best outcomes for vulnerable children.*
7. *Choice – As far as possible, the Joint Commissioning Unit will work to ensure children and their families are offered a choice about who delivers their services and how and when the services are provided.*

Sustainable Commissioning and Procurement Action Plan

Strategic Commissioning and Procurement
<p>What this means: Stockton Borough Council spends £163m buying supplies, services and construction works. The 'buying power' of Stockton Borough Council and the combined 'buying power' when we work collaboratively with other organisations has the potential to deliver better services and significant efficiency savings. This theme aims to improve:</p> <ul style="list-style-type: none"> ❖ Leadership and commissioning and procurement co-ordination ❖ knowledge and intelligence about what and where we spend money ❖ collaboration within Stockton Borough Council and with other organisations ❖ market stimulation and supplier development and relationships

Objective 1: Leadership and Co-ordination		
Action	Resp.	When by
<p>Review Corporate Procurement Working Group (CPWG) terms of reference and strengthen governance role to include:</p> <ul style="list-style-type: none"> ▪ Challenging demand and current practices (including current contracts and spend data) ▪ Approving Sourcing Strategies and business cases ▪ Delivery of the Sustainable Procurement and Commissioning Strategy 	CMT	May 2009
<p>Review membership of CPWG to reflect revised role.</p>	CMT	May 2009
<p>Establish Commissioning and Procurement Practitioners Group and define terms of reference, including:</p> <ul style="list-style-type: none"> ▪ Sharing best practice ▪ Dissemination of new policy, processes etc ▪ Identification of training needs ▪ Information gathering, data collection and analysis ▪ Compliance monitoring ▪ Sharing market knowledge 	Chair of CPWG	June 2009
<p>Develop 'centres of expertise' in devolved commissioning and procurement to reflect Category Management approach.</p>	CPWG	Ongoing

Objective 2: Develop Knowledge Management and Spend Visibility		
Action	Resp.	When by
<p>Continue develop the contracts register to improve visibility of spend, to identify funding streams, cross authority funding and collaboration.</p>		Ongoing
<p>Produce quarterly reports to CPWG to identify contracts for renewal and to challenge, review and</p>	Corp Procurement Unit	Quarterly

identify appropriate options for delivery.		
Regularly update spend analysis and produce quarterly analysis reports to CPWG.		Quarterly
Map the supplier base to identify the diversity of the supply base e.g. third sector, SMEs etc.		July 2009

Objective 3: Improve Collaboration		
Action	Resp.	When by
Identify collaboration with other organisations on the Contracts Register.		June 2009
Work with the Regional Improvement and Efficiency Partnership (RIEP) on collaborative programmes in all areas.	Corp Procurement Unit and devolved procurement	Ongoing
Continue to work with the sub-regional groups including the Tees Valley Joint Procurement Group to identify collaborative contract opportunities.		Ongoing

Objective 4: Stimulate Markets and Develop Suppliers		
Action	Resp.	When by
Undertake regular market development activities including: <ul style="list-style-type: none"> ▪ Procurement workshop for 3rd sector and SMEs ▪ Pre-tender market awareness/ development workshops ▪ Market mapping and analysis, including 3rd sector and local supply base ▪ Long term market planning and opportunity awareness raising 	Corp Procurement Unit and devolved procurement	Ongoing

Improving the Commissioning and Procurement Cycle

What this means: All procurement projects follow a pre-defined process known as the procurement cycle. Effective application of the cycle will ensure the procurement project is successful. This theme aims to improve:

- ❖ availability of advice and guidance
- ❖ standardisation of common documents and processes
- ❖ ensure procurement is adequately resourced at pre-tender stage
- ❖ advertise tenders that stimulates the local supply base while meeting EU regs
- ❖ training opportunities for officers involved in procurement

Objective 5: Provide advice and guidance

Action	Resp.	When by
Complete the 'Procurement Toolkit' resource.	Corporate Procurement Unit	June 2009
Continue to provide advice and guidance to devolved procurement.		

Objective 6: Standardisation

Action	Resp.	When by
Ensure the regional harmonised commissioning and procurement documentation is used across the Council.	Corporate Procurement Unit and devolved procurement	Ongoing

Objective 7: Pre-tender Process

Action	Resp.	When by
Implement a tender reference system that requires officers in devolved procurement to liaise with Corporate Procurement Unit to receive a tender ref prior to the start of the tender process.	CPWG	August 2009
Define the minimum levels of training required for officers undertaking tenders.	CPWG	August 2009
Introduce a system to check the lead officer's level of training via the Commissioning and Procurement Training Database.	Corporate Procurement Unit	August 2009

Objective 8: Advertising

Action	Resp.	When by
Produce communication to devolved commissioning and procurement identifying new advertising policy.	Corporate Procurement Unit	April 2009
Produce bi-annual advert for local press to inform local suppliers of the location of all contract opportunities.		April 2009
Ensure all tender opportunities are advertised on the Council's website, including NEPO and other collaborative contract opportunities.	Corporate Procurement Unit and	Ongoing

Identify and flag contract opportunities that would be suitable for either third sector organisations or SMEs.	devolved procurement	April 2009
Ensure all tender opportunities are forwarded to Catalyst and to the Business Forum (via Economic Development Team).	Corporate Procurement Unit and devolved procurement	Immediately

Objective 9: Develop and Source Training Courses		
Action	Resp.	When by
<p>Continue to deliver training courses for:</p> <ul style="list-style-type: none"> • Basic Procurement/ commissioning • Managing the tender process • EU Procurement • Understanding the difference between grants, contracts and SLAs 	Corporate Procurement Unit and Legal	Ongoing
<p>Develop new training courses for:</p> <ul style="list-style-type: none"> • Understanding contract terms and conditions • Sustainable procurement • Specification writing • Contract Management • Developing the market • Negotiation skills 	Corporate Procurement Unit and Legal	Complete and deliver by Dec 2009
Continue to identify external courses and publicise on the Intranet.		

Sustainability and Equality

What this means: Stockton Borough Council expenditure on supplies, services and construction works clearly has significant economic, social and environmental impact. This theme aims to improve:

- ❖ the mainstreaming of sustainability issues in commissioning and procurement
- ❖ the consideration of sustainability issues when purchasing and a better understanding of how commissioning and procurement impacts on the economic, social and environmental well being of the area
- ❖ reducing the carbon footprint of supplies
- ❖ approach to whole life costing

Objective 10: Mainstream Sustainability		
Action	Resp.	When by
Ensure sustainability issues are developed in sourcing strategies.	CPWG	Ongoing
Identify priorities for sustainability improvement activity in the contracts register.	CPWG	June 2009
Produce and run 'Sustainability' training module.	Corporate Procurement Unit and Legal	Complete and deliver by Dec 2009

Objective 11: Equality and Diversity		
Action	Resp.	When by
Ensure equality issues are developed in sourcing strategies.	CPWG	Ongoing

Objective 12: Quick Wins (reducing our carbon footprint)		
Action	Resp.	When by
Review and produce a plan of 'Quick Wins' from the Government Quick Wins list and from the Measuring the Carbon Footprint Study.	CPWG	June 2009
Implement minimum specifications for 'Quick Wins'.	CPWG	From June 2009

Objective 13: Pre-Qualification Questionnaire		
Action	Resp.	When by
Work with NESEP and Catalyst to implement a new system for financial appraisals for third sector organisations and SMEs.	Corporate Procurement Unit	Aug 2009

Category Management Approach

What this means: A category management approach aggregates demand for goods/ services and works with similar characteristics into categories and then manages the end to end value chain. Features of a structured category management approach include; developing a thorough understanding of third party spend and future demand, segmenting spend into market sectors, developing market sector sourcing strategies and supplier relationship management. This theme aims to improve:

- ❖ the approach to category spend planning

Objective 14: Category Management		
Action	Resp.	When by
Undertake comprehensive spend analysis to produce spend visibility and plot a 'supply positioning' model. Identify contracted spend.	CPWG	July 2009
Use above spend analysis to produce clear spend categories, including historical spend and future planned spend.	CPWG/ RIEP	July 2009
Produce 'opportunity analysis' using historical spend, forward planning and market awareness for all categories and produce category prioritisation.	Category Manager	Ongoing
Establish baseline positions and develop Sourcing Strategy for each category.	Category Manager	Ongoing
Implement Category Sourcing Strategies.	Category Manager	Ongoing
Implement Supplier Relationship Management process.	Category Manager	Ongoing

CONTRACT PROCEDURE RULES

The Council's rules for procuring works, supplies or services

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1. Introduction

1.1 Procurement is defined as: *‘the process of acquiring works, supplies or services from third parties. The process spans the whole cycle from identification of needs, through to the end of a service contract or the end of the useful life of an asset. It involves options appraisal and the critical “make or buy” decision, which may result in the provision of services in-house in appropriate circumstances.’*

1.2 These Contract Procedure Rules cover the processes to be followed for all purchasing, licensing, leasing, contracting, commercial partnering or commissioning of works, supplies or services from third parties.

1.3 Good procurement depends on ensuring that requirements are reliably determined, appropriate sourcing strategies are developed and contracts are well managed. Failure to procure in this way can result in additional costs and put the achievement of the Council’s Strategic Priorities at risk.

1.4 These Contract Procedure Rules support the Council’s Procurement Strategy and are intended to:

- a) secure the best value for the Council;
- b) provide those involved in spending public money, with clear and transparent procedural requirements to compliment existing professional skills, integrity and commitment and to protect officers from legal challenge;
- c) ensure fairness to those seeking to contract with the Council;
- d) prevent fraud and corruption or the suspicion of it; and
- e) ensure the Council operates within the law.

2. Interpretation and Definitions

2.1 “Chief Officer” refers to those officers set out in Article 12 of the Constitution.

2.2 "Third party" for the purposes of these Contract Procedure Rules means any economic operator, a works third party, a supplier, a services provider, a consultant, a firm, a company, a partnership or an individual.

2.3 “EU Regulation” means the Public Contracts Regulations 2006 (Statutory Instrument 2006 No. 5).

2.4 “EU Threshold” means the threshold prescribed in Regulation 8 of the Public Contracts Regulations 2006.

2.5 “OJEU” means the Official Journal of the European Union.

2.6 “Framework Agreement” means an agreement that allows purchasers to order supplies, services or works under the terms and conditions specified in the framework (ie it provides a mechanism for calling off orders as and when required).

2.7 Where the context so admits and requires, references to the masculine shall include all other genders, and references to the singular shall include the plural and vice versa.

2.8 For the avoidance of doubt, where any of these Contract Procurement Rules conflict with a statutory provision, the statutory provision shall prevail and these Contract Procedure Rules shall be construed accordingly.

2.9 Reference to statutes shall be deemed to include references to any Regulations made there under.

3. Scope of the Contract Procedure Rules

3.1 These Contract Procedure Rules apply to all procurement for the provision of works, supplies or services by or from third parties.

3.2 A Public Works, Supply or Services contract is any agreement to provide works, supplies or services in exchange for payment or any other consideration whatever the nature.

4. Exempt Contracts

4.1 The following contracts are exempt from the requirements of these Contract Procedure Rules:

- a) employment contracts;
- b) contracts relating solely to disposal or acquisition of an interest in land;
- c) contracts for legal advice or representation or medical advice, or other expert advice in the context of actual or potential litigation or otherwise, where no alternative exists which the Director of Law and Democracy considers it necessary to obtain;
- d) urgent special educational needs or urgent social care contracts, where in the opinion of the relevant Chief Officer and the Director of Law and Democracy, it is considered necessary to meet the Council's statutory obligations.

5. Exceptions to the Contract Procedure Rules

5.1 No exception from any of these Contract Procedure Rules shall be made unless listed in paragraph 5.4 below and with the written approval of the Corporate Director of Resources. The exception must be recorded on an Officer Decision form.

5.2 Where an officer wishes to apply any exception to these Contract Procedure Rules not listed in paragraph 5.4, he must first seek the prior written approval of the Director of Law and Democracy and the Corporate Director of Resources. The exception must be recorded on an Officer Decision form.

5.3 Where procurement exceeds the EU thresholds the exemptions set out in paragraph 5.2 or 5.4 may not be permitted. Advice must be sought from the Director of Law and Democracy.

5.4 Subject to the obtaining of all necessary approvals, Rules 12 to 21 need not be applied to the following categories of procurement.

- a) Procurement by auction (excluding electronic reverse auctions);
- b) Procurement when, for technical or artistic reasons, or for reasons connected with the protection of exclusive rights, the contract may be awarded only to a particular third party;
- c) The execution of mandatory works and services by statutory undertakers;
- d) The execution of works or services in which the personal skill or knowledge of the person(s) carrying out the works or services is of primary importance;
- e) Provision of personal social services including contracts for the provision of residential care and community support packages which form an alternative to residential care;
- f) Urgency, when (but only if it is strictly necessary) the time required to fully comply with these Contract Procedure Rules would be prejudicial to the Council's interests, and provided that a written record is kept documenting the reasons for the urgency. In these cases, consideration should still be given to those parts of the process that could still be followed particularly the need for competition.
- g) Procurement of works, supplies or services not exceeding the applicable EU threshold to meet the requirements of individual contracts that have been won by in-house services, as

a result of a competitive tendering process. This exception is restricted to those elements of these Contract Procedure Rules that could not reasonably be applied.

h) Procurement of works, supplies or services not exceeding the applicable EU threshold to meet the requirements of individual contracts that are used for pilot projects. This exception is restricted to those elements of these Contract Procedure Rules that could not reasonably be applied.

i) The work to be executed or the goods to be purchased consist of repairs to or parts for existing machinery or plant

6. Compliance

6.1 All procurement shall comply with:

- a) all applicable statutory provisions;
- b) the applicable European procurement rules (the EC Treaty, the general principles of community law and the European Union's public procurement directives implemented by the Public Contract Regulations 2006);
- c) the Council's Constitution including these Contract Procurement Procedure Rules, the Accounting Instructions and the Scheme of Delegation;

6.2 A failure to comply with any of the provisions of these Contract Procedure Rules by any officer may amount to misconduct, which can result in disciplinary action being taken.

6.3 Members and officers are required to apply the highest standards of probity at all stages of a procurement process. Members and officers are, in particular, reminded of their responsibilities in relation to gifts and hospitality and must comply with the applicable Code of Conduct as set out at Part 5 of the Constitution.

6.4 Chief Officers are responsible for ensuring that employees, agency workers, consultants and agents comply with these Contract Procedure Rules.

6.5 Chief Officers and managers must ensure that any local procedures produced within their services are fully compliant with these Contract Procedure Rules .

7. Responsibilities

7.1 Corporate Director of Resources

7.1.1 The Corporate Director of Resources has responsibility for the development and implementation of the Council's Sustainable Commissioning and Procurement Strategy, Contract Procedure Rules and Accounting Instructions.

7.1.2 The Corporate Director of Resources will:

- a) agree the procurement process for all major procurements (i.e. those equal to over the value of £75,000) subject to these Contract Procedure Rules.
- b) organise and manage corporate contracts (including framework agreements) / standing lists for supplies or services commonly used by all or most services;

7.2 Director of Law and Democracy

7.2.1 The Director of Law and Democracy is responsible for advising on the lawfulness of any decisions taken in respect of the Council's procurement activities.

7.3 Chief Officers

7.3.1 Chief Officers are to keep all services / activities under review, having regard to ongoing viability, national and local benchmarking data and intelligence from 'soft' Market testing. Chief Officers need to consider whether other methods of service delivery should be assessed and if appropriate implemented.

7.3.2 Chief Officers are responsible for:

- a) the lawfulness of service specific procurement including the consideration of framework agreements and the development of specifications in accordance with these Contract Procedure Rules. In doing so they shall have regard to any advice provided by the Corporate Director of Resources and Director of Law and Democracy;
- b) commissioning services (i.e. drawing down services within the conditions of a contract);
- c) informing the Corporate Director of Resources of the estimated value of each planned procurement for their service equal to or in excess of £75,000;
- d) contract management procedures including placing purchase orders in line with the Accounting Instructions;
- e) maintaining within their Service Group Scheme of Delegation a list of those officers who are empowered to undertake procurement;
- f) ensuring that all those officers delegated to undertake procurement within their Service Groups are suitably qualified or experienced;
- g) ensuring that where consultants or agency staff are undertaking procurement on their behalf that they make them aware of the requirements of Contract Procedure Rules and ensure their compliance;
- h) keeping complete records of all procurements;
- i) Ensuring compliance with the adopted process for major procurements (i.e. the procedure for procurements equal to or in excess of £75,000);
- j) Ensuring where corporate contracts exist, or commitment has been given for the Council to participate in a consortium contract, the arrangements are adhered to, except in exceptional circumstances, which shall be documented and approved by the Corporate Director of Resources;
- k) compliance with and use of all corporate contracts, standing lists, and framework agreements let by the Council or pursuant to administrative arrangements agreed by the Council (e.g. NEPO), unless specifically agreed by the Corporate Director of Resources.
- l) having due regard to Council policies on fair-trade matters, local labour employment initiatives and environmental and sustainability issues in undertaking procurement activities.
- m) ensuring the corporate contract register is kept up to date.

7.4 Personal Responsibilities

7.4.1 Any officer undertaking procurement (i.e. contracting for works, supplies or services) should inform himself of the Council's requirements under these Contract Procedure Rules, the Sustainable Commissioning and Procurement Strategy and corresponding Accounting Instructions. If an officer is in any doubt as to their obligations, then they must seek advice from the Corporate Director of Resources or Director of Law and Democracy as appropriate. Officers should not undertake procurements unless they have the necessary knowledge and skills to do so.

7.4.2 All officers must comply with the requirements of the Council's Employees Code of Conduct and in particular declare to their line manager any interest, which could, or be seen to, influence their judgement in any procurement or contract matters.

7.4.3 All officers must report to their manager, supervisor or other responsible senior officer any illegality, impropriety, breach of procedure or serious deficiency in procurement practices. Employees are able to do this without fear of recrimination providing they act in good faith via the Council's Whistle blowing Policy. In such circumstances nominated officers must record and investigate such reports and take appropriate action, including referral to the Corporate Director of Resources in more serious cases.

8 Collaborative or joint procurement arrangements

8.1 Where the Council acts as the lead or host authority in any collaborative or joint procurement arrangement these Contract Procedure Rules will apply taking into account the aggregated value of the collaborative or joint procurement arrangements, unless otherwise agreed by Cabinet.

8.2 Where the Council decides that a third party will undertake procurement on its behalf the Chief Officer shall ensure that the procurement process followed is comparable to that set out in these Contract Procurement Procedure Rules, unless otherwise agreed by Cabinet.

8.3 Chief Officers should seek from the Director of Law and Democracy confirmation as to the legal power to enter into any collaborative or joint procurement arrangement prior to it being agreed.

9. Steps Prior to Advertising

9.1 Before advertising any procurement, the officer responsible must:

- a) establish a business case for the procurement;
- b) consider the most appropriate means of satisfying the requirement;
- c) ensure that no alternative procurement arrangements are in place;
- d) ensure the course of action chosen represents Value for Money to the Council;
- e) where applicable consult with users of the service;
- f) ensure that the budget holder responsible for the contract has sufficient funds in place to maintain the contract;
- g) establish a clear written specification for the procurement requirement;
- h) assess the risks associated with the procurement;
- i) comply with the corporate procurement process where the value of the procurement is equal to or exceeds those thresholds identified in section 11.1

10. Estimating Contract Values / Aggregation

10.1 Where there is a reference to the value of any contract or transaction, it shall mean its total estimated value net of VAT over the entire term of the contract, including all options, permitted extensions and variations. Where a contract does not include a total price the estimated value will be the amount of the consideration payable each month multiplied by 48.

10.2 Chief Officers shall have regard to the optimum packaging of works, supplies or services, particularly works, supplies or services of a similar nature, which are likely to be carried out in connection with a particular project necessary to achieve value for money. A proposed contract must not be divided into separate lower value contracts or multiple orders placed to avoid the full application of these Contract Procedure Rules, which would otherwise apply.

11. Choice of Procedure, Thresholds and Advertising Requirements

11.1

Total Value of Contract	Type of Procurement	Procedure	Advertising Requirement
<i>Up to £5,999</i>	<i>Works, supplies or services</i>	<i>Value for money or Call-Off from an existing Framework Agreement let by the Council or other Third party</i>	<i>None</i>
<i>£6,000 - £74,999</i>	<i>Supplies or Services</i>	<i>Quotation or Call-Off from an existing Framework Agreement let by the Council or other Third party</i>	<i>Consider advertising requirements to maximise competition None when using a framework</i>
<i>£6,000 - £99,999</i>	<i>Works</i>		
<i>£75,000 – EU Threshold for supplies and Part A services, £75,000 + for Part B services</i>	<i>Supplies or services</i>	<i>Invitation to Tender by: The Open Procedure, The Restricted Procedure or Call-Off from an existing Framework Agreement let by the Council or other Third party</i>	<i>Council Website, Business Forum Website, Catalyst, Supply2gov, other appropriate locations to maximise competition None when using a framework</i>
<i>£100,000 – EU Thresholds for works</i>	<i>Works</i>		
<i>Contracts exceeding the EU Threshold for works, supplies and services (Part A)</i>	<i>Works, supplies or services</i>	<i>Invitation to Tender by: The Open Procedure, The Restricted Procedure, The Competitive Dialogue Procedure The Negotiated Procedure or Call-Off from an existing Framework Agreement let by the Council or other Third party</i>	<i>OJEU, Council Website, Business Forum Website, Catalyst, Supply2gov, other appropriate locations to maximise competition None when using a framework</i>

11.2 Contracts Exceeding EU Thresholds

The thresholds set as at 1st January 2008 were:

- a) Works £3,497,313
- b) Supplies £139,893
- c) Services £139,893

12. Value for Money

12.1 Existing Framework Agreements let by the Council or another Third Party that covers the scope of the procurement shall be used were they are available.

12.2 A Chief Officer may procure works, supplies or services up to a value of less than £6,000 providing that he can objectively demonstrate value for money and he has considered the use of competition.

13. Quotations

13.1 Where the supply of works, supplies or services is such that an existing in-house provision could be reasonably extended to include it, then the in-house provider can be directly awarded the work.

13.2 Existing Framework Agreements let by the Council or other Third Party that cover the scope of the procurement shall be used were they are available.

13.3 If neither section 11.3.2 nor 11.4.2 applies, the Chief Officer shall obtain and consider at least three written relevant quotations from suitable third parties, at least one of which shall be obtained from a local business located within the Tees Valley area.

13.4 Where it is not reasonably practicable to obtain three quotations (from third parties) the Chief Officer may agree to reduce the number of quotations required to be obtained provided the reasons for this are documented before the purchase is made / contract let and with the written approval of the Corporate Director of Resources. The decision must be recorded on an Officer Decision form

13.5 The decision to accept a quote must be recorded on a Quotation Register.

13.6 If quotations are received and the value exceeds the tender threshold, the quotes shall be treated in the same manner as acceptance of tenders as per paragraph 22.

14. Tender Procedures

14.1 Open Procedure

14.1.1 The Open procedure means a tender procedure leading to the award of a contract whereby all interested persons may tender for the contract.

14.1.2 Tender documentation shall be sent to all persons who apply prior to the tender closing date.

14.2 Restricted Procedure

14.2.1 The Restricted Procedure means a tender procedure leading to the award of a contract whereby only persons pre-qualified by the Council may submit tenders for the contract (see section 14).

14.2.2 Officers should select not less than five companies or individuals to be invited to tender. If fewer than five companies or individuals return questionnaires or are not eligible to be invited to tender, the procurement may only proceed with the written agreement of the Corporate Director of Resources.

14.3 Standing Lists

14.3.1 This method may only be used for contracts involving a total value of not more than the appropriate EU threshold.

14.3.2 Chief Officers shall maintain standing lists of third parties that meet the Council's pre-qualification requirements. Quotations and tenders for contracts that are not subject to the EU Regulations should be invited from those included on a Standing List where one exists.

14.3.3 An invitation to tender or to provide a quotation shall be sent to at least five third parties in respect of tenders (procurement in excess of £75,000 for supplies and services and £100,000 for works) or three third parties in respect of quotations (procurement up to £74,999 for supplies and services and £99,999 for works) whose names appear in the list as being approved for a contract for that value, amount or category. This shall include the last successful third party for a comparable contract and otherwise rotated between those other third parties on the list with an ability to perform the contract. If less than five or three (as appropriate) third parties appear on the list then they shall all be invited to tender or to provide a quotation. Where less than five or three (as appropriate) third parties are invited to tender or to provide a quotation, then the reasons for this shall be documented by the Chief Officer.

14.3.4 Third parties who fail to submit tenders or quotes in response to invitations will be treated as if they had submitted a tender or quote when rotating the Standing List in relation to invitations to tender.

14.3.5 Standing Lists shall be revised, at least, every three years.

14.3.6 Standing Lists should be advertised in one or more local newspapers and/or one or more appropriate specialist journals (where available) inviting third parties to express an interest. Where a person who has applied is not included on a Standing List the reasons for this should be documented. All existing third parties on Standing Lists should be advised of the date and location of the notice to enable them to re-apply.

14.3.7 Every third party who expresses an interest in response to the advertisement must be sent a pre-qualification questionnaire setting out the information required in order to consider their inclusion on the Standing List.

14.3.8 The Standing List for works shall be taken from Constructionline.

14.4 Framework Agreements let by the Council

14.4.1 Chief Officers shall maintain Framework Agreements with a range of third parties for works, supplies or services. The third parties on these Agreements have already been appointed and as such can be chosen, without advert, to supply quotations or tenders.

14.4.2 Any Framework Agreement shall be tendered in accordance with these Procedure Rules.

14.5 Competitive Dialogue Procedure

14.5.1 Competitive Dialogue Procedure means a procedure in which any third party may make a request to participate, and whereby the Council conducts a dialogue with the third party admitted to that procedure with the aim of developing one or more suitable alternative solutions capable of meeting its requirements and on the basis of which the third parties chosen by the Council are invited to tender.

14.5.2 The Competitive Dialogue Procedure may only be used in the award of contracts, which are in the opinion of the Director of Law and Democracy complex contracts and where there is a need for the Council to discuss all aspects of the proposed contract with candidates. This procedure may only be used in exceptional circumstances and must be agreed by the Director of Law and Democracy and Corporate Director of Resources. Such dialogue is not permitted under open and restricted procedures.

14.6 Negotiated Procedure

14.6.1 Negotiated Procedure means a procedure leading to the award of a contract whereby the contracting authority negotiates the terms of the contract with one or more third parties selected by it.

14.6.2 This procedure may only be used in very exceptional circumstances and must be agreed by the Director of Law and Democracy and Corporate Director of Resources .

15. Pre – Qualification

15.1 The Council's standard Pre-qualification Questionnaire ("PQQ") must be provided to all third parties requesting to participate, which shall be used to determine the third party's eligibility, financial standing and technical capacity.

15.2 A Chief Officer shall only agree to the award of a contract with a third party once he is objectively satisfied as to the third party's:

- a) eligibility;
- b) economic and financial standing;
- c) technical or professional ability.

15.3 The Council shall treat as ineligible and shall not select any third party who has been convicted of any of the offences set out in Regulation 23 of the Public Contracts Regulations (2006).

16. Invitation to Tender

16.1 The Invitation to Tender (or Participate in Dialogue or Negotiate) shall include details of the Council's requirements for the particular contract including:

- a) a description of the works, supplies or services;
- b) the rules and instructions for submitting of tenders including the tender return date and time;
- c) a specification/ brief;
- d) a statement as to whether any variants to the specification are permissible;
- e) the Council's standard terms and conditions applicable to the contract;
- f) a statement as to whether the tender will be evaluated by lowest price or Most Economically Advantageous Tender (MEAT)
- g) for tenders evaluated by MEAT, the tender evaluation criteria including applicable weightings;
- h) pricing schedule and instructions for completion;
- i) a statement as to whether in the Council's view TUPE will apply;
- j) instructions for the completion and content of any method statement;
- k) the period which the Council requires that the tender offer shall remain open;
- l) a statement that the Council does not bind itself to accept the lowest or any tender;
- m) the Council's requirements in respect of any bond, parent company guarantee or liquidated damages;
- n) the Council's requirements in respect of insurance and indemnity;
- o) a statement that no tender will be considered unless it complies with the requirements set out in the invitation to tender;
- p) a statement setting out how the Freedom of Information Act will apply to the tender.

16.2 Where an appropriate International Standard or Code of Practice is current at the date of the tender, every contract shall require that all supplies, and where appropriate all workmanship, shall be in accordance with that Standard, or a Standard recognised by another Member State of the European Union or an International Standard offering equivalent guarantees of safety, fitness for

purpose, and reliability. Where there are no European Standards or Codes of Practice, British Standards or Codes of Practice should be specified.

16.3 All tenders shall be issued on the Council's standard tender documentation.

16.4 A list of tenders shall be issued to Director of Law and Democracy at Invitation to Tender stage indicating the names of tenderers and the date and time for return.

17. Submission of Tenders

17.1 Tenders shall comply and be submitted in accordance with the rules and instructions set out in the invitation to tender.

17.2 Unless submitted electronically, the tender documents must be submitted in a plain sealed envelope which shall bear the word "tender" followed by the subject to which it Relates and addressed to the Director of Law and Democracy, but shall not bear any name or mark indicating the sender. Such envelopes shall remain in the secure custody of the Director of Law and Democracy until the appointed time for their opening.

17.3 No tenders received after the specified date and time for their receipt shall be considered.

17.4 Tenders submitted electronically must be returned via an electronic tendering system approved by the Director of Law and Democracy.

17.5 Tenders submitted electronically shall be kept in a secure system under the supervision of the Director of Law and Democracy who shall ensure that they are not 'opened' until the deadline has passed for receipt of tenders.

18. Opening of Tenders

18.1 Tenders for a particular contract shall be opened at one time and only in the presence of a member of the Council and the Director of Law and Democracy or any officer designated by him. The Director of Law and Democracy shall keep a Register of Tenders opened. The Register of Tenders shall include the names, value and the date and time of opening.

18.2 The Member and officer in whose presence tenders are opened shall initial the Register, and any summary page of the tender.

19. Amending Tenders, Bids or Quotations and Tender Errors

19.1 Where a tenderer identifies an error in their tender after submission but before the closing date for receipt of tenders, they may submit a correction in accordance with the rules applicable to the submission of tenders generally.

19.2 Genuine arithmetical error(s) may be amended with the consent of the tenderer.

19.3 Correction of any other tender error(s) shall be made at the discretion of the Director of Law and Democracy.

20. Evaluation of Tenders or Quotations

20.1 Evaluation criteria shall be determined in advance of the procurement and set out in descending order of importance, indicating evaluation weightings in the Invitation to tender documentation.

21. Negotiations and Supplementary Information

21.1 Negotiations following receipt of tenders or quotations may only take place with the approval of the Director of Law and Democracy.

21.2 The Council may require a third party to provide information supplementing the information provided in their tender or quotation or to clarify that information, provided that the information required relates to their eligibility, economic and financial standing or technical or professional ability and provided this does not discriminate either in favour or against the third party.

21.3 In open and restricted procedures all negotiations with candidates or tenderers on fundamental aspects of contracts or variations, which are likely to distort competition (in particular on prices), are not permitted.

22. Acceptance of Quotations and Tenders

22.1 A Chief Officer may accept a tender or quotation on the basis of the offer, which he considers, is the most economically advantageous to the Council or offers the lowest price. The decision to accept a tender must be recorded on a Decision in Consultation with Cabinet Member form.

22.3 Before accepting any tender, or quotation, the appropriate Chief Officer must be satisfied that there is sufficient provision in the relevant revenue or capital budget.

22.4 Letters of intent may only be used with the agreement of the Director of Law and Democracy.

22.5 A register of all contracts entered into by the Council shall be kept and maintained by the Corporate Director of Resources and the Director of Law and Democracy. Such a register shall for each contract, specify the name of the contractor, the works to be executed or the goods or services to be supplied and the contract value.

23. Standstill Period

23.1 In respect of a contract subject to the EU Regulations, as soon as possible after the decision has been made to award a contract, the Chief Officer shall give notice to any third party which submitted an offer or applied to tender, of the decision to award.

23.2 The notice referred to in rule 22.1 shall include:

- a) the criteria for the award of the contract;
- b) where practicable the score obtained by the third party which is to receive the notice; and the score obtained by the third party to be awarded the contract;
- c) the name of the third party to be awarded the contract.

23.3 The Chief Officer shall allow a period of at least 10 working days to elapse between the date of despatch of the notice referred to in rule 22.1 and the date on which he proposes to enter into the contract during which time an unsuccessful third party may raise legitimate challenges to the intended award.

23.4 The Director of Law and Democracy may suspend completion of the contract for additional examination if justified by requests or comments made by unsuccessful third parties during the standstill period or as a consequence of any other relevant information that is received during that period.

24. Award Notice

24.1 In respect of a contract subject to the EU Regulations an Award Notice shall be published by the Corporate Director of Resources in the OJEU no later than 48 days after the date of award of

the contract. It is the responsibility of all officers to ensure that the Corporate Director of Resources is promptly notified in order that this can occur.

25. Contract Terms and Conditions

25.1 All contracts and orders shall be in writing or in an approved electronic format, and every contract, which equals or exceeds £75,000 in value or amount for supplies and services and £100,000 for works, shall be in writing in a form to be approved by the Director of Law and Democracy and executed in accordance with Article 14 of the Council's Constitution.

25.2 The Director of Law and Democracy shall determine whether the Council's General Conditions of Contract are applicable to a procurement and may decide that they must be used.

25.3 Bribery and Corruption

25.3.1 In every written contract a clause shall be inserted empowering the Council to cancel the contract and to receive from the third party the amount of any loss resulting from the cancellation in the following circumstances:

- a) Where the third party or any person employed by him or on his behalf has offered or given or agreed to give any person any gift or consideration of any kind as an inducement or reward for:
 - i. Doing, or for refraining from doing, anything in relation to either the obtaining of, or the execution of, the contract or any other contract with the Council;
 - ii. Showing, or refraining from showing, favour or disfavour to any person in relation to the contract or any other contract with the Council.
- b) Where the third party or any person employed by him or on his behalf has committed any offence under the Prevention of Corruption Acts 1889 to 1916, or any amendment of them, or has given any fee or reward the receipt of which is an offence under Section 117 of the Local Government Act 1972.

25.3.2 In the case of action as described above by a person employed by the third party or on the third party's behalf, the Council's right to cancel and recover loss shall apply whether or not the action is with the third party's knowledge.

25.4 Prohibition against Assignment

25.4.1 In every written contract a clause shall be inserted prohibiting the Third party from transferring, assigning or sub-letting, directly or indirectly, to any person or persons, any portion of the contract without the permission of the Council. This prohibition shall not apply to sub-letting which may be customary to the trade concerned.

25.4.2 The relevant Chief Officer, Corporate Director of Resources and the Director of Law and Democracy shall be consulted whether permission to assign is given pursuant to rule 25.4.1

25.5 Liquidated Damages and Guarantees

25.5.1 In respect of the performance of every contract the Council shall consider the need for and where appropriate shall require and take sufficient security or assurances as shall be determined by the Corporate Director of Resources in consultation with the appropriate Chief Officer.

25.5.2 Every contract which exceeds £100,000 in value or amount, and is either for works, services or for supplies to be made otherwise than at one time requires Chief Officers to consider whether the contract should provide for a sum or sums of money to be paid by the third party as liquidated and ascertained damages in case the terms of the contract are not duly performed.

25.6 Safeguarding Children/ Vulnerable Adults

25.6.1 Every contract, which the applicable Chief Officer considers relevant, shall set out the Council's responsibility to ensure that children and/or vulnerable adults are safeguarded. These contracts must contain adequate arrangements for safeguarding children and/or vulnerable adults. Arrangements shall include a requirement for appropriate checking procedures for new and existing third party's staff that are in contact with children and/or a vulnerable adults, including enhanced Criminal Records Bureau checks.

25.6.2 All placement contracts for looked after children and vulnerable adults shall include specific safeguarding requirements and a system to monitor their application.

26. Contract Documentation and Keeping Written Records

26.1 Each Chief Officer must keep a written record of:

- a) each stage of the procurement process to include a note of all the tender documents received, correspondence, notes of telephone calls and minutes of third party evaluation meetings;
- b) the award of the contract;
- c) all information provided to third parties; and
- d) any decisions made, together with the reasons for those decisions.

27. Contracts Register

27.1 A Contracts Register will be held by the Corporate Director of Resources. Chief Officers should nominate an officer(s) to update this register for all contracts within their Service Groups.

28. Contract / Performance Monitoring

28.1 During the term of a contract, the applicable Chief Officer should undertake monitoring and evaluation to include the following items:

- a) Performance;
- b) Compliance with specification and contract;
- c) Cost;
- d) User satisfaction; and
- e) Risk management.

29. Nominated Contractors and Sub-Contractors

29.1 The provisions of these Contract Procedure Rules where appropriate shall apply where a sub-contractor or contractor is to be nominated to a main contractor.

29.2 The Chief Officer concerned shall have authority to accept a tender submitted in respect of a nominated subcontractor provided that the tender is the lowest or the most economically advantageous received and does not exceed the amount provided for the sub-contract work concerned in the main contract and is satisfactory in all other respects.

30. Authorised Payments and certificates for variations incurring extras

30.1 Any variation or series of variations incurring extras shall be authorised prior to the work being undertaken, as follows:

- a) where the net cumulative effect of all variations in respect of a contract is estimated to equal or exceed 50% of the original contract value the Chief Officer may only authorise the variation or series of variations after consultation with the Director of Law and Democracy as to the application of the EU Regulations.

30.2 Once duly authorised, approved variations must be ordered in writing.

30.3 Where the Council has entered into a standard form contract in a form prepared on behalf of a professional organisation, which has been approved by the Director of Law and Democracy, this Rule shall not prevent the discharge of obligations in connection with the granting of variations incurring extras provided that records are kept in a form acceptable to the Corporate Director of Resources.

31. Contract Extensions

31.1 A contract may be extended before the expiry date where the extension is in accordance with its original terms and with the approval of the applicable Chief Officer, the Corporate Director of Resources and the Director of Law and Democracy.

31.2 Where the contract terms do not provide expressly for an extension:

- a) contracts subject to the EU Regulations may be extended only in limited circumstances and on the approval of the applicable Chief Officer and the Director of Law and Democracy;
- b) contracts not subject to the EU Regulations may only be extended by formal written variation where the extension to a contract will achieve Best Value and is reasonable in all the relevant circumstances on the approval of the applicable Chief Officer and Director of Law and Democracy.

31.3 Where the contract is extended, the Contract Register must be updated.

31.4 After the expiry of the term of a contract it may not be extended.

32. Termination

32.1 Where a Chief Officer wishes to terminate a contract early he may do so only after consulting with the Corporate Director of Resources and Director of Law and Democracy as to the financial and legal impact of the termination.

33. Breaches of Contract Procedure Rules

33.1 In the event of a significant breach of these rules, the circumstances and details shall be referred to Internal Audit for investigation.

Who is responsible	Membership	Functions	Onward Limits of Delegation	Checks and Balances
Cabinet	9 Members of the Authority	46 (1) To determine in any particular case whether an exception to some or all requirements of Contract Procedure Rules apply in accordance with paragraph 5.4 of the Rules.	Chief Executive and/or Chief Officers	In consultation with the Corporate Director of Resources and subject to all decisions being recorded in accordance with the delegated decision recording and reporting procedures.
		(2) To determine in any particular case whether there are special circumstances to justify an exception to the application of the requirements of the Contracts Procedure Rules not listed in paragraph 5.4 of the Rules.	Chief Executive and/or Chief Officers	In consultation with the Corporate Director of Resources and the Director of Law and Democracy and subject to all decisions being recorded in accordance with the delegated decision recording and reporting procedures.
		(3) To authorize a shortlist of less than 5 companies or individuals to be invited to tender, where there are insufficient who are determined to be appropriate to be invited to tender to meet the general requirement of a minimum of 5 as listed in paragraph 14.2.2	Chief Executive and/or Chief Officers	In consultation with the Corporate Director of Resources and subject to all decisions being recorded in accordance with the delegated decision recording and reporting procedures.
		(4) To determine in any particular case whether the use of the Competitive Dialogue Procedure is justified as listed in paragraph 14.5.2 of Contract Procedure Rules.	Chief Executive and/or Chief Officers	In consultation with the Director of Law and Democracy and subject to all decisions being recorded in accordance with the delegated decision recording and reporting procedures.
		(5) To determine in any particular case whether the use of the Negotiated Procedure is justified as listed in paragraph 14.6.2 of Contract Procedure Rules.	Chief Executive and/or Chief Officers	In consultation with the Director of Law and Democracy and subject to all decisions being recorded in accordance with the delegated decision recording and reporting procedures.
		(6) To consider whether consent	Chief Executive and/or	In consultation with the

		should be given to an officer to enter into formal negotiations with a tenderer after the receipt and opening of tenders, but prior to acceptance of tender.	Chief Officers	Director of Law and Democracy and subject to all decisions being recorded in accordance with the delegated decision recording and reporting procedures.
		(7) (a) To accept tenders (if considered to be the most economically advantageous to the Council or lowest price) within the approved Medium Term Financial Plan.	Chief Executive and/or Chief Officers	In consultation with the appropriate Cabinet Member and Corporate Director of Resources and subject to all decisions being recorded in accordance with the delegated decision recording and reporting procedures. Consultation to take place with members at the appropriate time in accordance with the Concordat for Communication and Consultation with Members.
		(7) (b) To accept tenders (if considered to be the most economically advantageous to the Council or lowest price) within the approved Capital Plan.	Chief Executive and/or Chief Officers	In consultation with the appropriate Cabinet Member and Corporate Director of Resources and subject to all decisions being recorded in accordance with the delegated decision recording and reporting procedures. Consultation to take place with members at the appropriate time in accordance with the Concordat for Communication and Consultation with Members.
		(8) To accept contract variations (if considered to be the most economically advantageous to the Council or lowest price) within the approved Medium Term Financial	Chief Executive and/or Chief Officers	In consultation with the Corporate Director of Resources and the Director of Law and Democracy and subject to all decisions being

		Plan as listed in paragraph 30 of Contract Procedure Rules.		recorded in accordance with the delegated decision recording and reporting procedures.
		(9) To determine in any particular case whether to authorize a Contract Extension as listed in paragraph 31 of Contract Procedure Rules.	Chief Executive and/or Chief Officers	In consultation with the Corporate Director of Resources and the Director of Law and Democracy and subject to all decisions being recorded in accordance with the delegated decision recording and reporting procedures.