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### **Cabinet Member for Policing and Equalities**

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#### **Time and Date**

9.30 am on Monday, 9th March, 2020

#### **Place**

Committee Room 3 - Council House

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#### **Public Business**

1. **Apologies**

2. **Declarations of Interest**

3. **Minutes** (Pages 3 - 6)

(a) To agree the minutes of the Cabinet Member (Policing and Equalities) meeting held on 30<sup>th</sup> January 2020.

(b) Matters arising

4. **Proposed Changes to the Constitution** (Pages 7 - 76)

Report of the Director of Finance and Corporate Services

5. **Proposed Changes to the Constitution Part 2M - Scheme of Functions Delegated to Employees and Appointment of Proper Officers** (Pages 77 - 82)

Report of the Chief Executive

6. **Outstanding Issues**

There are no outstanding issues.

7. **Any Other Items of Public Business**

To consider any other items of business which the Cabinet Member decides to take as a matter of urgency because of the special circumstances involved.

#### **Private Business**

Nil

**Nil**

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Martin Yardley, Deputy Chief Executive (Place), Council House, Coventry

Friday 28<sup>th</sup> February 2020

Note: The person to contact about the agenda and documents for this meeting is Lara Knight, Governance Services, Tel: 024 7697 2642 Email: [lara.knight@coventry.gov.uk](mailto:lara.knight@coventry.gov.uk)

Membership:

Councillor AS Khan (Cabinet Member)

Councillor P Akhtar (Deputy Cabinet Member), A Andrews (Shadow Cabinet Member) and AS Khan (Cabinet Member)

Please note: a hearing loop is available in the committee rooms

If you require a British Sign Language interpreter for this meeting OR if you would like this information in another format or language please contact us.

**Lara Knight**

**Governance Services**

**Tel: 024 7697 2642 Email: [lara.knight@coventry.gov.uk](mailto:lara.knight@coventry.gov.uk)**

**Coventry City Council**  
**Minutes of the Meeting of Cabinet Member for Policing and Equalities held at**  
**3.00 pm on Thursday, 30 January 2020**

Present:

Members:                   Councillor AS Khan (Cabinet Member)  
                                  Councillor P Akhtar (Deputy Cabinet Member)  
                                  Councillor A Andrews (Shadow Cabinet Member)

Employees (by Directorate):

People:                    J Mann

Place:                     O Aremu, V Birchall, L Knight

## **Public Business**

### **19.     Declarations of Interest**

There were no disclosable pecuniary interests.

### **20.     Minutes**

The minutes of the meeting held on 10<sup>th</sup> October 2019 were agreed and signed as a true record.

### **21.     Proposed New Equalities Objectives 2020/22**

The Cabinet Member for Policing and Equalities considered a report of the Deputy Chief Executive (People), which set out proposed new Equalities Objectives for the period 2020 to 2022.

The report indicated that the Council is committed to fulfilling its duties as a public authority under the Public Sector Equality Duty. As part of this general duty, the Council is required to comply with a specific duty to publish a set of equality objectives every four years. The current set of equality objectives were set in 2016 and therefore expire in 2020.

The five equality objectives proposed for 2020-22 were:

Equality Objective 1 – Create a foundation to drive improved access to services through better use of equalities data.

Equality Objective 2 – Develop and deliver in partnership a whole-city approach to ‘Building a Coventry that works for all’.

Equality Objective 3 – Increase the diversity of the Council’s workforce at all levels so that it is more representative of the community it serves and better able to meet their diverse needs.

Equality Objective 4 – Increase the number of 18-24 year olds getting into employment.

Equality Objective 5 – Increase the number of disabled relatives taking part in sporting and cultural activities in the City.

The proposed objectives had been subject to a process of rigorous scrutiny by both Corporate Leadership Team and Strategic Management Board. In addition, public consultation on the proposed equality objectives ran from 30<sup>th</sup> September 2019 to 9<sup>th</sup> October 2019 and then from 13<sup>th</sup> October 2019 to 22<sup>nd</sup> November 2019. The consultation was paused for a total of four days, in order for a conversation with stakeholders to take place on the scope of the consultation. In order to compensate for the pause, an additional week was added to the total length of the consultation. The consultation revealed broad support for each of the objectives and the report submitted provided a summary of the responses. It was noted that the results of the consultation would be fed into the development of actions plans for each objective.

In addition, the report indicated that the Director of Public Health and Wellbeing, as corporate lead for equalities, would receive regular progress reports against each objective and that an annual report would be presented to the Cabinet Member for Policing and Equalities.

The Cabinet Member for Policing and Equalities noted a briefing note from the Scrutiny Co-ordination Committee, who had considered the report at its meeting held on 8<sup>th</sup> January 2020. The briefing note set out a number of recommendations, including:

1. That the Cabinet Member for Policing and Equalities considers the evaluation process of the objectives over a period of time, including this in future reports.
2. That future reports are more specific in relation to referring to accountability by elected members.
3. That the Cabinet Member for Policing and Equalities considers introducing mandatory training for Equalities Impact Assessments for all relevant officers.
4. That the Scrutiny Co-ordination Committee receive regular progress reports on the work in this regard.

**RESOLVED that, the Cabinet Member for Policing and Equalities:**

1. **Accepts the recommendations from the Scrutiny Co-ordination Committee.**
2. **Approve the formal adoption of the proposed new equality objectives for the Council for 2020/22.**

## 22. **Godiva Festival 2020**

The Cabinet Member for Policing and Equalities considered a report of the Deputy Chief Executive (Place), which set out proposals for admission and parking charges for the Godiva Festival in 2020-22.

The report indicated that the Godiva Festival is a hallmark annual event in the City calendar. In 2019, the Council reduced the core budget for the Festival as a part of agreed measures to address financial challenges and it piloted initiatives to establish the potential for a more commercial approach, while underpinning the event with a one-off budget allocation.

The Council tested the market for income to be generated to support the event in future by charging for car parking, improving merchandising and seeking increased sponsorship. Ticketing was also introduced, along with other measures, to address public safety concerns. Ticketing enabled an accurate assessment of attendance and profiling of customers, which has been used to inform projections for earned income in the future.

After the 2019 results were known, the Council reassessed its core contribution to the Festival, and included proposals in its corporate budget consultation for 2020/21 to increase the net contribution to the festival in order to provide a realistic and robust financial model.

It was proposed to increase the agreed resources by £200,000 per annum for the Festival in 2020, 2021 and 2022, and increase the cost of entry to achieve an average net income of £4.70 per ticket. The programme would be reconfigured to improve the family offer on Sunday to make it better value. The mix of music would be broadened to increase appeal, whilst continuing to support local talent. Market sensitive price setting would be introduced for Friday and Saturday. The report set out the proposed ticket prices for single days and 3-day options based on Early Bird Tickets (up to 31<sup>st</sup> April), Advance Tickets (from 1<sup>st</sup> May to 2<sup>nd</sup> July) and On the Day Tickets. Under each purchase option there would be full price tickets (ages 17+), concessions (5-16 year olds and over 60's), infants (4 and under) and carers, and family tickets (2 full price and 2 concession children). There would also be Early Bird, Advance and On the Day car parking tickets available on a daily or 3-day basis for the Festival.

**RESOLVED that, the Cabinet Member for Policing and Equalities approves the proposals for pricing of tickets and car parking for the Godiva Festival for the period 2020-2022, as set out in Section 2 of the report submitted, building on the additional core budget of £200,000 per annum to support the Festival, which is pending approval through the corporate budget process.**

## 23. **Any Other Business**

There were no other items of public business.

(Meeting closed at 3.10 pm)





## Public report Cabinet Member Report

Cabinet Member for Policing and Equalities  
Council

9 March 2020  
17 March 2020

**Name of Cabinet Member:**  
**Cabinet Member for Policing and Equalities - Councillor AS Khan**

**Director Approving Submission of the report:**  
**Chief Executive**

**Ward(s) affected:**  
**None**

**Title: Proposed Changes to the Constitution**

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**Is this a key decision? No**

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### **Executive Summary:**

The Constitutional Advisory Panel at its meeting on 19 November 2019 considered a number of proposed changes to the Constitution. These were:

- (a) Revisions to the Conference and Travel Protocol: Part 4E of the Constitution
- (b) Revisions to the Rules for Contract: Part 3G
- (c) Revisions to the Financial Procedure Rules: Part 3F
- (d) Audit and Procurement Committee Terms of Reference: Part 2I
- (e) Protocol for Conferring the Title of Honorary Alderman
- (f) Code of Conduct for Elected and Co-opted Members: Part 4A
- (g) Licensing and Regulatory Committee Terms of Reference: Parts 2F and 2M

These changes are briefly set out in more detail in Appendices 1 to 7 attached to this report, which also contain the required tracked changes to the Constitution.

The Advisory Panel agreed all the proposed revisions with these exceptions or additions:

- **Travel and Conference Protocol:** The Advisory Panel recommended that, once drafted, officers submit a new policy on conference and travel to Ethics Committee for approval.
- **Rules for Contract:** The proposal to reduce the frequency of reports on the activities of the Procurement Board to the relevant Cabinet Member from every 6 to every 12 months was not approved. The Advisory Panel recommended that this continues to be made every 6 months. (Rule 9.2). In addition, officers will speak to the Chair of Audit and Procurement Committee to seek their agreement to remove the requirement to make an annual report to the Committee on procurement.

- **Finance Procedure Rules:** The Advisory Panel recommended that a proviso be inserted so that where a grant bid will require match funding by the Council, there should be a requirement to seek the approval of the Cabinet Member and that footnote 6 in the table of financial thresholds should read “following consultation with the relevant Cabinet Member(s)”.
- **Protocol for Conferring the Title of Honorary Alderman:** The Advisory Panel recommended that Paragraph 2 d) be amended to increase the minimum service required as a Member from 15 to 20 years.

### **Recommendations:**

The Cabinet Member is requested to recommend to Council the approval of recommendations (1) to (8).

Council is recommended to:

- (1) With regard to the Conference and Travel Protocol, agree that:
  - (a) The Conference and Travel Protocol be removed from the Constitution;
  - (b) Officers be authorised to produce a policy for the approval of conference and travel costs for members and officers;
  - (c) Once drafted, the policy be approved by Ethics Committee;
  - (d) A register of travel and conference attendance costing more than £500 and all travel outside of the UK to be maintained and published; and
  - (e) The register of travel and conference costs to be scrutinised by Ethics Committee twice a year.
- (2) Subject to the continued inclusion of the requirement for a six-monthly report to the relevant Cabinet Member in Rule 9.2, and to officers speaking to the Chair of Audit and Procurement Committee to seek their agreement to remove the requirement to make an annual report to the Committee on procurement, agree to approve the proposed revisions to Part 3G of the Constitution (Rules for Contract) set out in Appendix 2 to this report.
- (3) With regard to the Financial Procedure Rules:
  - (a) Where a grant bid requires match funding by the Council, there should be a mandatory requirement to seek the approval of the relevant Cabinet Member;
  - (b) Footnote 6 to the table of financial thresholds be amended to read “Following consultation with the relevant Cabinet Member(s); and
  - (c) (Subject to (3)(a) and (3)(b) above, the proposed revisions to Part 3F of the Constitution set out in Appendix 3 to this report be approved.
- (4) In relation to amending paragraph 8.5 of the Audit and Procurement Committee’s Terms of Reference:
  - (a) Delegate authority to the Monitoring Officer and City Solicitor to remove all reference to severance packages from the paragraph on the enactment of The Restriction of Public Sector Payments Regulations; and

- (b) Agree that the reference to “salary over £100,000” be amended to “salary level for a new post over £100,000”.
- (5) With regard to the Protocol for Conferring the Title of Honorary Alderman or Alderwoman agree that:
  - (a) The length of service requirement be increased from 15 to 20 years;
  - (b) Subject to (a) above, the Protocol for Conferring the Title of Honorary Alderman or Alderwoman be amended as detailed in Appendix 5 to this report.
- (6) The proposed revisions to Part 4A of the Constitution (Code of Conduct for Elected and Co-opted Members) set out in Appendix 6 to this report be approved
- (7) Approve the proposed revisions to Part 2F and 2M of the Constitution (Functions of Licensing and Regulatory Committee and Scheme of Delegation to Employees) set out in the Appendix 7 to this report.
- (8) Authorise the Monitoring Officer to make any necessary amendments to the Constitution arising from recommendations (1) to (7).

**List of Appendices included:**

Appendix 1: Revisions for Conference and Travel Protocol: Part 4E of the Constitution  
Appendix 2: Revisions to the Rules for Contract: Part 3G of the Constitution  
Appendix 3: Revisions to Financial Procedure Rules Part 3 F of the Constitution  
Appendix 4: Audit and Procurement Committee - Terms of Reference "Salaries"  
Appendix 5: Protocol for Conferring the Title of Honorary Aldermen or Alderwomen  
Appendix 6: Revisions to Part 4A - Code of Conduct for Elected Members  
Appendix 7: Revisions to Part 2F - Functions of Licensing and Regulatory Committee and  
Revisions to Part 2M - Scheme of Functions Delegated to Employees

**Background papers:**

None

**Other useful documents:**

None

**Has it been or will it be considered by Scrutiny?**

No

**Has it been or will it be considered by any other Council Committee, Advisory Panel or other body?**

The proposals were considered by the Constitutional Advisory Panel at its meeting on 19 November, 2019

**Will this report go to Council?**

Yes – 17 March 2020

## Report title: Proposed Changes to the Constitution

### 1. Context (or background)

- 1.1 The Council's Constitution sets out how the Council carries out its business and makes decisions. It is a living document and needs to be updated from time to time to ensure that it reflects changes in practices within the Council.
- 1.2 The Constitutional Advisory Panel at its meeting on 19 November 2019 considered a number of proposed changes to the Constitution. These were:
  - (a) Revisions to the Conference and Travel Protocol: Part 4E of the Constitution
  - (b) Revisions to the Rules for Contract: Part 3G
  - (c) Revisions to the Financial Procedure Rules: Part 3F
  - (d) Audit and Procurement Committee Terms of Reference: Part 2I
  - (e) Protocol for Conferring the Title of Honorary Alderman
  - (f) Code of Conduct for Elected and Co-opted Members: Part 4A
  - (g) Licensing and Regulatory Committee Terms of Reference: Parts 2F and 2M

The Advisory Panel also received a preliminary oral report about changes that would be required to Proper Officer functions following the retirement of the Deputy Chief Executive, Place in 2020. This is the subject of a separate report to the Cabinet Member for Policing and Equalities and Council.

- 1.3 Further details of the main changes proposed are set out in Section 2 of this report and more particularly in the Appendices to the report.

### 2. Options considered and recommended proposals

#### 2.1 Conference and Travel Protocol

The proposed changes to the Conference and Travel Protocol are set out in **Appendix 1**.

The Advisory Panel recommended that:

- (a) The Conference and Travel Protocol be removed from the Constitution;
- (b) Officers be authorised to produce a policy for the approval of conference and travel costs for members and officers;
- (c) Once drafted, the policy be approved by Ethics Committee;
- (d) A register of travel and conference attendance costing more than £500 and all travel outside of the UK to be maintained and published; and
- (e) The register of travel and conference costs to be scrutinised by Ethics Committee twice a year.

As the recommendation is to remove the Protocol from the Constitution and replace it with a policy to be approved by the Ethics Committee, there are, at this stage, no amendments to the Protocol to be approved.

#### 2.2 Rules for Contract

The proposed changes to the Rules for Contract are set out in **Appendix 2**.

The Advisory Panel recommended that the Cabinet Member recommend to Council that:

Subject to the continued inclusion of the requirement for a six-monthly report to the relevant Cabinet Member in Rule 9.2, and to officers speaking to the Chair of Audit and Procurement Committee to seek their agreement to remove the requirement to make an annual report to the Committee on procurement:

- (a) the proposed revisions to Part 3G of the Constitution set out in Appendix 2 to this report be approved; and
- (b) The Monitoring Officer be authorised to make the necessary amendments to the Constitution.

### 2.3 Financial Procedure Rules

The proposed changes to the Finance Procedure Rules are set out in **Appendix 3**.

The Advisory Panel recommended that the Cabinet Member recommend to Council that:

- (a) Where a grant bid requires match funding by the Council, there should be a mandatory requirement to seek the approval of the relevant Cabinet Member;
- (b) Footnote 6 to the table of financial thresholds be amended to read “Following consultation with the relevant Cabinet Member(s);
- (c) Subject to (a) and (b) above, the proposed revisions to Part 3F of the Constitution set out in Appendix 3 to this report be approved; and
- (d) The Monitoring Officer be authorised to make the necessary amendments to the Constitution.

### 2.4 Audit and Procurement Committee Terms of Reference

The proposed changes to the Terms of reference of Audit and Procurement Committee are set out in **Appendix 4**.

The Advisory Panel recommended that the Cabinet Member recommends to Council that:

That in relation to amending paragraph 8.5 of the Audit and Procurement Committee’s Terms of Reference:

- (a) To delegate authority to the Monitoring Officer and City Solicitor to remove all reference to severance packages from the paragraph on the enactment of The Restriction of Public Sector Payments Regulations; and
- (b) That the reference to “salary over £100,000” be amended to “salary level for a new post over £100,000”.

### 2.5 Protocol for Conferring the Title of Honorary Alderman or Alderwoman

The proposed changes to the Protocol for Conferring the Title of Honorary Alderman or Alderwoman are set out in **Appendix 5**.

The Advisory Panel recommended that the Cabinet Member recommend to Council that:

- (a) The length of service requirement be increased from 15 to 20 years;
- (b) Subject to (a) above, the Protocol for Conferring the Title of Honorary Alderman or Alderwoman be amended as detailed in Appendix 5 to this report.

### 2.6 Code of Conduct for Elected and Co-opted Members

The proposed changes to the Code of Conduct for Elected and Co-opted Members are set out in **Appendix 6**.

The Panel recommended that the Cabinet Member recommend to Council that:

- (a) the proposed revisions to Part 4A of the Constitution set out in Appendix 6 to this report be approved; and
- (b) the Monitoring Officer be authorised to make the necessary amendments to the Constitution.

## 2.7 Licensing and Regulatory Committee Terms of Reference

The proposed changes to the Functions of Licensing and Regulatory Committee and Scheme of Delegation to Employees are set out in **Appendix 7**.

The Panel recommended that the Cabinet Member recommend to Council that:

- (a) To approve the proposed revisions to Part 2F and 2M of the Constitution set out in the Appendix 7 to this report; and
- (b) To authorise the Monitoring Officer to make the necessary amendments to the Constitution.

## 2.8 **Recommendations**

The Cabinet Member is requested to recommend to Council the approval of recommendations (1) to (8).

Council is recommended to:

- (1) With regard to the Conference and Travel Protocol, agree that:
  - (a) The Conference and Travel Protocol be removed from the Constitution;
  - (b) Officers be authorised to produce a policy for the approval of conference and travel costs for members and officers;
  - (c) Once drafted, the policy be approved by Ethics Committee;
  - (d) A register of travel and conference attendance costing more than £500 and all travel outside of the UK to be maintained and published; and
  - (e) The register of travel and conference costs to be scrutinised by Ethics Committee twice a year.
- (2) Subject to the continued inclusion of the requirement for a six-monthly report to the relevant Cabinet Member in Rule 9.2, and to officers speaking to the Chair of Audit and Procurement Committee to seek their agreement to remove the requirement to make an annual report to the Committee on procurement, agree to approve the proposed revisions to Part 3G of the Constitution (Rules for Contract) set out in Appendix 2 to this report.
- (3) With regard to the Financial Procedure Rules:
  - (a) Where a grant bid requires match funding by the Council, there should be a mandatory requirement to seek the approval of the relevant Cabinet Member;

- (b) Footnote 6 to the table of financial thresholds be amended to read “Following consultation with the relevant Cabinet Member(s); and
  - (c) (Subject to (3)(a) and (3)(b) above, the proposed revisions to Part 3F of the Constitution set out in Appendix 3 to this report be approved.
- (4) In relation to amending paragraph 8.5 of the Audit and Procurement Committee’s Terms of Reference:
- (a) Delegate authority to the Monitoring Officer and City Solicitor to remove all reference to severance packages from the paragraph on the enactment of The Restriction of Public Sector Payments Regulations: and
  - (b) Agree that the reference to “salary over £100,000” be amended to “salary level for a new post over £100,000”.
- (5) With regard to the Protocol for Conferring the Title of Honorary Alderman or Alderwoman agree that:
- (a) The length of service requirement be increased from 15 to 20 years;
  - (b) Subject to (a) above, the Protocol for Conferring the Title of Honorary Alderman or Alderwoman be amended as detailed in Appendix 5 to this report.
- (6) The proposed revisions to Part 4A of the Constitution (Code of Conduct for Elected and Co-opted Members) set out in Appendix 6 to this report be approved
- (7) Approve the proposed revisions to Part 2F and 2M of the Constitution (Functions of Licensing and Regulatory Committee and Scheme of Delegation to Employees) set out in the Appendix 7 to this report.
- (8) Authorise the Monitoring Officer to make any necessary amendments to the Constitution arising from recommendations (1) to (7).

### **3. Results of consultation undertaken**

- 3.1 The proposed amendments have been considered, and approved, by the Constitutional Advisory Panel.

### **4. Timetable for implementing this decision**

- 4.1 If the proposed changes are approved, they will go forward to full Council for approval and be implemented immediately, except for Recommendation 4(a), which will be implemented when the regulations come into force.

### **5. Comments from Director of Finance and Corporate Services**

#### **5.1 Financial implications**

There are no direct financial implications from this report.

## **5.2 Legal implications**

The Council is required by Section 9P of the Local Government Act 2000 to not only prepare but also keep up to date its Constitution. This report assists the Council in keeping its Constitution up to date.

## **6. Other implications**

### **6.1 How will this contribute to the Council Plan ([www.coventry.gov.uk/councilplan/](http://www.coventry.gov.uk/councilplan/))?**

Not applicable

### **6.2 How is risk being managed?**

Updating the Constitution will help to reduce the risk of challenge to the Council which might arise if the Constitution were to become out of date and not reflect current practices and procedures.

### **6.3 What is the impact on the organisation?**

None

### **6.4 Equality and Consultation Analysis (ECA)**

There are no public sector equality duties which relevant.

### **6.5 Implications for (or impact on) climate change and the environment**

None

### **6.6 Implications for partner organisations?**

None

**Report author(s):****Name and job title:**

Carol Bradford, Corporate Governance Lawyer

**Directorate:**

Place

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<b>Contributors:</b>				
Suzanne Bennett	Governance Services Officer	Place	04/02/20	04/02/20
Adrian West	Members and Elections Team Manager	Place	04/02/20	28/02/20
<b>Names of approvers for submission: (officers and members)</b>				
Graham Clark	Lead Accountant	Place	21/02/20	28/02/20
Julie Newman	Head of Legal Services and Monitoring Officer	Place	04/02/20	11/02/20
Barry Hastie	Director of Finance and Corporate Services	Place	21/02/20	21/02/20
Councillor M Mutton	Chair of Constitution Advisory Panel	-	28/02/20	28/02/20
Councillor AS Khan	Cabinet Member	-	28/02/20	28/02/20

This report is published on the council's website: [www.coventry.gov.uk/councilmeetings](http://www.coventry.gov.uk/councilmeetings)

## **Appendix 1: Conference and Travel Protocol**

1. The Conference and Travel Protocol at Part 4E of the Constitution sets out the procedure for Councillors wishing to attend conferences, seminars or fact-finding visits or inspections. It also deals with foreign travel by both Councillors and employees.
2. The Protocol has not been reviewed for some years and officers feel that, while it needs some updating, it is also no longer appropriate for it to be in the Constitution.
3. Officers therefore suggest that the Protocol is removed from the Constitution but is replaced by a policy on travel and conference attendance for both members and officers. The Policy would provide that travel and conference attendance for officers and members would require the approval of the appropriate budget holder. In addition, any such expenditure which is likely to be £500 or more (including subsistence costs) would be required to be entered onto a public register, together with all travel outside the UK, which would be published by the Council. The register would also be scrutinised by Ethics Committee twice a year, which is in line with its current practice on scrutiny of gifts and hospitality received by members and officers.
4. Officers consider that the introduction of a public register and scrutiny by Ethics Committee provides a measure of openness and transparency which is not present in the current Protocol. For example, having a register online will make it easier for members of the public to see the extent of travel and attendance at conferences than at present.

## Appendix 2: Rules for Contract

1. The Rules for Contract set out in Part 3E of the Constitution form the standing orders for officers and councillors for making contracts on behalf of the Council. The purpose of the Rules is to set out clear instructions for the procurement of works, goods and services for the Council and “to ensure a system of openness, integrity and accountability”.
2. The Rules have not been reviewed for some years and officers feel that they need some updating to reflect changing procurement practice and to make them fit for purpose. The proposed revised Contract Procedure Rules are attached as an Appendix to this briefing note with proposed amendments shown as track changes. Some minor changes are proposed:
  - (a) The document is to be renamed as “Contract Procedure Rules” to bring it in line with other Procedure Rules in Part 3 of the Constitution.
  - (b) The Index is updated.
  - (c) Definitions are moved to the end of the document and revised to reflect changes in council structure and job titles.
  - (d) The Summary of Rules for Contract-Quick Reference Guide at Rule 4 is replaced with an updated Summary of CPRs-Governance Process at Rule 2.
  - (e) References to the Public Contracts Regulations are updated to refer to the most recent version throughout the Rules.
  - (f) New sections have been included to make reference to the Council’s statutory obligations under the Public Services (Social Value) Act (Rule 26) and to the impact of other legislation, including the Data Protection Act (Rule 31).
3. More substantive revisions to the Rules are summarised below:
  - (a) Currently any contract over £150,000 in value must be sealed by the Head of Legal Services or authorised nominee. It is proposed to increase this to £1m.
  - (b) The threshold for competitive tenders to be sought is to be raised from £50,000 to £100,000.
  - (c) Any contract valued at between £10,000 and £50,000 must be subject to a minimum of three competitive quotations. It is proposed to permit oral quotations for contracts up to £24,999 (to be confirmed by email) and to make use of the quotation pack optional; contracts over £25,000 must be subject to competitive quotations and use the quotation pack. (see Rule 19)
  - (d) Rule 8.2 is deleted.
  - (e) The composition of the Procurement Board is amended to remove the requirement for the Chief Executive to be a member but including the Head of Procurement. (Rule 9.1)
  - (f) The requirement to provide a six-monthly report to the Cabinet Member on the activities of the Procurement Board becomes annual and the requirement to provide an annual report to Audit and Procurement Committee is removed. (Rule 9.2)

- (g) The power of the Chief Finance Officer to amend Rules for Contracts is removed. (Rule 9.2)
- (h) Directors are given the power to grant exceptions to the Rules for low value contracts up to £50,000. For higher value contracts, the exception must be granted by the Director responsible for the Procurement Service. Exceptions must be notified to the Procurement Service and an annual report will be made to the Procurement Board rather than to the Cabinet Member. (Rule 10)
- (i) The requirement to seek an exception for the purchase of works of art, museum artefacts etc is deleted. (Rule 10.6)
- (j) Automatic exception from the Rules is limited to £50,000 for contracts let under corporate contracts or framework agreements (Rule 10.7).
- (k) New automatic exceptions are introduced at Rule 10.7(e) to (g).
- (l) The threshold for entering contracts on the register is raised to £25,000 from £10,000 and the requirement to notify the Head of Procurement of such contracts is set out. (Rule 12.2)
- (m) References to the Common Commissioning framework are removed (Rule 13.1) and the rest of Rule 13 (previously 14) is deleted.
- (n) Rule 18 (opening formal tenders) has been revised to reflect the fact that the Council now conducts its tendering electronically.
- (o) Rule 23.7 is deleted (extending length of time tender price to be held open).
- (p) Rule 23.1 is amended to make it clear that any contract change note must be signed off by an appropriate officer.

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## **PART 3G: ~~RULES FOR CONTRACT~~PROCEDURE RULES**

### **1. Introduction**

1.1 ~~The Local Government Act 1972 requires the Council to have standing orders with respect to the making of contracts.~~ These Contract Procedure Rules (CPRs) for Contract are the standing orders required by the Local Government Act 1972 Act. They are part of the Council's Constitution and are, in effect, the instructions of the Council to officers and councillors for making contracts on behalf of the Council. The purpose of these CPRsRules for Contracts is to set clear rules for the procurement of works, goods and services for the Council and to ensure a system of openness, integrity and accountability, in which the probity and transparency of the Council's procurement process will be beyond reproach. Accordingly, these CPRsRules for Contracts must be followed for **all** contracts (but excluding the categories listed in Rule 67.2, grants and land contracts which are dealt with under different rules) for:-

- the supply of goods to the Council;
- the supply of services to the Council; and
- the execution of works for the Council.

1.2 The Council has a Procurement Strategy, setting out how the Council intends to go about procuring works, goods and services. Conformity to these CPRsRules for Contracts, and the Council's Employee Code of Conduct, will ensure that contracts are let in accordance with the *Procurement Strategy*, ~~the Compliant Procurement Process~~ and any associated User Guides and Procedures.

1.3 The Council is subject also to the United Kingdom Public Contracts Regulations 2015 (SI 2015/102)06, the legislation which reflects the EU Public Procurement Directives. This legislation requires contract letting procedures to be open, fair and transparent. These CPRsRules for Contracts provide a basis for true and fair competition in contracts, by providing clear and auditable procedures, which, if followed, will give confidence that the Council has a procurement regime that is fully accountable and compliant with the legislation.

### **2. Definitions**

~~In these Rules for Contracts:~~

~~Assistant Director Procurement means Assistant Director Procurement or his or her authorised representative.~~

~~*Authorising Officer* means: an officer authorised to approve the placement of orders or invoices for payment.~~

~~*Cabinet* means: the Leader of the Council and the other members of the Council's Executive.~~

~~*Contract* means: the agreement between the Council and a contractor for the supply of works, goods or services, or for any activity that generates income for the Council.~~

~~*Contractor* means: a supplier or provider of works, goods or services to the Council.~~

~~*Contract change note* means: the document that describes changes to the original contract which have been agreed by both parties.~~

~~*Contract package* means: the scope for amalgamating like requirements/services currently operating at different parts of the organisation, to suit the supply market to achieve overall better value.~~

~~*Corporate contract* means: a contract or framework agreement for the supply of works, goods or services to the Council e.g. for computer consumables, stationery, legal and financial services.~~

~~*Decision making body* means: the body responsible for decisions in the described situation under the Council's Constitution.~~

~~*Director(s)* means: a member(s) of the Council's Strategic Management Board.~~

~~*Framework Agreement* means: an agreement between the Council and a contractor for the provision of estimated quantities of goods or services. This becomes a contract when an order for a specific quantity is placed either after further competition or through the most competitive source identified in the original tender.~~

~~*Monitoring Officer* means: the officer designated as such under Section 5 of the Local Government and Housing Act 1989 or his or her deputy.~~

~~*Outcome based specifications* means: a specification that describes the required outcomes through service delivery and leaves the method of delivery to the third party provider.~~

~~*Panels* means: the People or Place or Resource Panel.~~

~~*People Panel* means: the officer panel responsible for adult and children's social care, housing, public health and public safety.~~

~~*Performance Specifications* means: a specification that provides details of the methods to be adopted when delivering the requirements.~~

~~*Place Panel* means: the officer panel responsible for built environment, highways street scene, transport, waste, facilities management and operational property.~~

~~*Procurement Board* means: the officer board responsible for all procurement decisions.~~

~~*Procurement Service* means: the centralised procurement and commissioning service for Coventry City Council.~~

~~*Public procurement legislation* means: the Remedies Directive 1992, The Public Contracts Regulations 2006, the EC Directives from which they are derived, UK legislation affecting public sector contracts and any amendment, re-enactment or replacement of any of them.~~

~~*Quotation* means: an offer to undertake a contract of £10,000 or more but less than £50,000 in value.~~

~~*Resource Panel* means: the officer panel responsible for financial, ICT/Telecoms, consumables and professional services.~~

~~*Right to challenge* means: the right to challenge for services under the Localism Act 2011.~~

~~*Services contract* means: a contract or framework agreement for the provision of services to the Council.~~

~~*Chief Finance Officer* means: the officer appointed under section 151 of the Local Government Act 1972.~~

~~*Supplies contract* means: a contract or framework agreement for the sale or hire of goods to the Council and includes, where appropriate, installation of goods.~~

~~*Tender* means: an offer to undertake a contract of £50,000 or more in value.~~

~~*TUPE Regulations* means: the Transfer of Undertakings (Protection of Employment) Regulations 2006 and any amendment, re-enactment or replacement of the same.~~

~~*Works contract* means: a contract for the construction, repair or maintenance of a physical asset not defined as Services in the Public Contract Regulations.~~

## 2. Summary of CPR's – Governance Process

<u>Column 1 Financial Value (per Contract) for Governance</u>	<u>Column 2 Approval to Procure</u>	<u>Column 3 Process</u>	<u>Column 4 Contract Terms</u>	<u>Column 5 Opening of tenders</u>	<u>Column 6 Authority to Award Contract</u>	<u>Column 7 Contract Signing</u>
<u>£1,000,000 and above</u>	<u>Procurement Board and in addition if more than £1m, Cabinet</u>	<u>Competitive tenders in compliance with Public Contract Regulations 2015</u>  <u>(Note 1 below)</u>	<u>Standard or Bespoke Form of Contract. Where contracts are in the form of Deeds, they must be sealed by Legal Services. Contracts over £1m will need to be in the form of a Deed</u>	<u>Electronic tenders via CSW- JETS</u>	<u>If within approved tolerance agreed at Column 2, e.g. &lt;10% above estimated price, or report back to relevant body in Colum 2 for approval</u>	<u>Head of Legal Services or authorised deputy</u>
<u>Over £100,000 up to £999,999</u>	<u>Category Panel</u>		<u>Standard or Bespoke Form of Contract Where contracts are in the form of Deeds, they must be sealed by Legal Services.</u>			<u>Director and/or Head of Procurement</u>
<u>£10,000 to £99,999</u>	<u>Director approval or delegated authority to budget holder</u>  <u>(Copies of Quotations MUST be forwarded to Procurement Services for order to be approved)</u>	<u>Minimum of 3 written or oral quotations (see 3 below for thresholds). Where appropriate, a minimum of 2 should be from local suppliers or social enterprises</u>	<u>Official order form or Standard Form of Contract</u>	<u>N/A - quotes</u>	<u>Director or authorised deputy</u>	<u>Endorsed/Signed by Director or authorised deputy</u>
<u>Below £10,000</u>	<u>Budget holder</u>	<u>Use of corporate contract or demonstrable value for money</u>	<u>Official order form (or Council Procurement Card)</u>	<u>N/A</u>	<u>Authorised by Budget Holder</u>	<u>Authorised by Budget Holder</u>

**Note 1 – Where PCR 2015 thresholds are not exceeded, minimum of 3 competitive tenders must be sought with the tender advertised on Contracts Finder**

### **3. Financial Thresholds for Procedure**

<del>RULES FOR CONTRACTS</del> <b><u>Contract Procedure Rules (CPR's)</u></b>	
<b>Quick Reference Guide Table – Financial Thresholds</b>	
<b><u>Above PCR 2015 thresholds (as detailed under)</u></b>	
<b><u>£4,551,413+ (€5,548,000)</u></b>	Competitive tenders <u>in compliance with the</u> <del>and</del> Public Contracts Regulations 2015 <del>06</del> required for <u>W</u> works, <del>goods and services and</del> <u>Concession</u> contracts. Contracts in the form of Deeds must be prepared in Legal Services and sealed formally for the Council and witnessed by an authorised signatory in Place Directorate.
<b><u>£615,278 (€750,000)</u></b>	Competitive tenders <u>in compliance with the</u> <del>and</del> Public Contracts Regulations 2015 <del>06</del> required for <u>Supplies goods</u> and <u>S</u> services contracts <u>that are subject to Regulation 74 (Light Touch Regime) for Health and Social Care contracts.</u> <del>Contracts in the form of Deeds must be prepared in Legal Services and sealed formally and witnessed by an authorised Signatory in Place Directorate.</del>
<b><u>Below PCR 2015 thresholds</u></b>	
<b><u>£100,000 – up to values listed above relevant to spend type, e.g Works, Supplies or Services</u></b>	Competitive tenders required. <u>Minimum 3 tenders, MUST be advertised on Contracts Finder.</u> <del>Contract on standard form of contract or bespoke form of contract. Contract signed by officers with delegated powers to do so (see Part 2M, paragraph 5.1.18)</del>
<b><u>£10,000 - £99,999</u></b>	<del>Competitive quotations required. Contract on official order form or standard form of contract. Contract signed by officers with delegated powers to do so (see Part 2M, paragraph 5.1.18)</del> <u>Competitive quotations</u> <u>Over £10,000 and up to £24,999 - Oral quotations (which should be confirmed by email) can be sought - quotation pack use is optional.</u> <u>Over £25,000- quotations MUST be received in writing using quotation pack.</u>
<b><u>Below £10,000</u></b>	<del>No need for competitive quotations but M</del> <u>must either</u> use corporate contracts where one exists or show value for money. <del>Use official order form.</del>
<b><u>NB EU Thresholds</u></b>	<del>Use (a) corporate contract where one exists unless there is good reason not to; or (b) refer the requirement to the Procurement Service</del> <b><u>EU Thresholds are revised every 2 years on 1<sup>st</sup> January. Figures quoted above for Works and Concessions (£4,551,413), Light Touch Regime Services (£615,278) and Supplies and Services (£181,302) are applicable from 1<sup>st</sup> January 2018 – 31<sup>st</sup> December 2020.</u></b>

4. **Summary of Rules for Contracts – Quick Reference Guide including Approval Levels**

<b>Procurement Process</b>	<b>Above £1million in value</b>	<b>Over £50,000 – and under £1million</b>	<b>£10,000 and under £50,000</b>	<b>Below £10,000</b>
<b>Requirement to be referred to</b>	Procurement Board	Panels	Procurement Service	N/A
<b>Approval</b>	Through budget setting and compliance with Rules for Contracts, Procurement Board approval in consultation with Cabinet Member and Chair of Audit and Procurement Committee. Where the <i>annual value</i> is higher than £1million approval must be obtained from Cabinet	Panel approval. In consultation with Cabinet Member and Chair of Audit and Procurement Committee.	Director approval or delegated authority to budget holder	Budget holder
<b>Invitation to tender</b>	Supplies and Services – Public Contract Regulations 2006 Works > £3.9m Public Contract Regulations 2006	Competitive tenders. Minimum of 3, which must be advertised.	Minimum of 3 written competitive quotations in addition, where appropriate, a minimum of 2 should be local.	Use of corporate contract or demonstrate value for money
<b>Opening of tenders</b>	Electronic or Legal Services in presence of Procurement Service.	Electronic or Legal Services in presence of Procurement Services.	N/A – quotes	N/A

<del>Form of Contract</del>	<del>Standard or bespoke Form of Contract. Contracts in the form of Deeds must be prepared and sealed in Legal Services</del>	<del>Standard or bespoke Form of Contract as advised by Legal Services/ Procurement Service.</del>	<del>Official order form or standard Form of Contract</del>	<del>Official order form or Council procurement card</del>
<del>Contract to be endorsed/signed by</del>	<del>Under seal by the Council in the presence of Authorised signatory in Resources Directorate.</del>	<del>Under seal by the Council in the presence of Authorised signatory in Place Directorate if contract value is £150,000 or over. For contracts under £150,000, signed by officers with delegated powers to do so (see Part 2M, paragraph 5.1.18)</del>	<del>Signed by officers with delegated powers to do so (see Part 2M, paragraph 5.1.18)</del>	<del>Budget holder</del>
<del>N.B. Contracts to be signed before expenditure incurred</del>				

34.1 The Director responsible for the Procurement Service and the Chief Finance Officer (if they are not the same officer) or his/or her authorised deputy, subject to conditions, may grant authorise a contract as an exception to the ~~Rules for Contracts~~CPRs if the works or services are below PCR-EU thresholds. An exception cannot be granted where a breach of any UK ~~or EU~~ legislation would be incurred.

#### 45. Objectives

45.1 The ~~CPRs~~Rules for Contracts exist to achieve the aims set out below and to assist and protect the interests of the Council and individual Officers.

It is important that they are viewed as ***an aid to good management and not as a hindrance***. Followed properly they provide protection for Officers against criticism and support good procurement practice.

Officers must be able to demonstrate that they followed procedure or had obtained the necessary authority for not doing so, in order to:-

- ✓ ensure value for money is obtained;
- ✓ ensure probity in the award of Council contracts;
- ✓ ensure fairness, equity, openness and transparency in the

treatment of contractors/suppliers;

- ✓ ensure that procedures for placing contracts/orders comply with legislation;
- ✓ ensure records are kept which demonstrate compliance with Rules for Contracts.

## **56. Scope of ~~CPRs~~Rules for Contracts**

**56.1** All purchases and contracts made in the name of and binding the Council must comply with these ~~CPRs~~Rules for Contracts, and also any contract that involves income to the Council. This includes contracts where the expenditure is grant aided by a third party. These rules also apply to a company which is owned or controlled by the Council or is funded by public money. Any arrangement where the Council pays or receives money or equivalent value, other than a contract to employ staff, must comply with these Rules. This includes contracts for:

- (a) buying and selling goods;
- (b) any work being carried out;
- (c) services (including financial and consultancy services);
- (d) hire, rental or lease (of goods)
- (e) concession agreements

**56.2** To receive and deal with expressions of interest (through the Procurement Board or the Panels as appropriate) from relevant bodies in providing or assisting in providing a relevant service on behalf of the Council in accordance with Part 5, Chapter 2 of the Localism Act 2011 and to consult with the relevant Cabinet member on each expression of interest that is received.

## **67. Compliance**

**67.1** Every contract entered into on behalf of the Council must comply with these ~~CPRs~~Rules for Contracts and all relevant UK ~~and EU~~ legislation.

**67.2** The only areas excluded from these rules are:

- (a) Internally recharged services;
- (b) Schemes where the Council has delegated a function to a third party to perform and where a contract makes separate provision for procurement rules
- (c) Test purchasing in the course of an Officer's duty. (e.g. Trading Standards).
- (d) Land transactions ~~which have their own rules~~
- ~~(d) (e)~~ Grants ~~which have their own rules~~

**67.3** All contracts must be in writing. Whenever possible, contracts under £1050,000 in value must be made on an official Council order form or standard form of contract, as appropriate, approved by a designated Authorising Officer, with the Council's standard terms of trading endorsed or referred to. For works contracts, one of the standard forms of contract, such as the NEC, JCT or ICE forms may be appropriate. The Procurement Service, in consultation with Legal Services, will advise on other suitable forms of contract.

**67.4** Responsibility for compliance with ~~CPRs~~**Rules for Contracts** remains at all times with Council officers. Directors and the **Assistant Director Head of Procurement** will be responsible for monitoring compliance against these rules, aided by internal or external audits or inspections which will be carried out as appropriate.

**67.5** See Rule **89** regarding approvals required before a Relevant Procedure (as defined in Rule **89.1.1**) may be commenced.

## **~~78.~~ Justification of Need and the Common Commissioning Framework and Commissioning Cycle**

**78.1** Before any Relevant Procedure (as defined in Rule **89.1.1**) is commenced consideration must be given to:

- (a) whether the expenditure is really necessary;
- (b) whether a critical review has been carried out to identify if the requirement can be met from within existing resources or whether it is being funded through grants or other approved income sources;
- (c) the revenue consequences of any capital investment; and
- (d) in any case, whether the necessary approvals in Rule **89** have been obtained.

~~**8.2** If the purchase is justified then for goods, the exact requirements must be defined, and an appropriate specification drawn up. For Services and Works, the full commissioning cycle must be followed i.e. plan, understanding where we are now and where we want to get to, engage, involving key stakeholders, Secure, sourcing the right services or works to meet need, manage, ensuring good performance.~~

## **89. Approvals required before certain Relevant Procedures are commenced**

**89.1** Rule **89** applies to any Relevant Procedure:

**89.1.1** *Relevant Procedure*: means any procedure conducted by or on behalf of the Council for the genuine purpose of the Council (alone or with others) entering into a contract for the purchase of goods, services

and/or works, subject to the following:

- (a) This shall include (without limitation), the seeking of quotations, the conduct of any tender exercise, the conduct of any mini-competition exercised d under a framework agreement, the making of a purchase under a dynamic purchasing system or off an approved list (or the like), and the conduct of a negotiated procedure by or on behalf of the Council.
- (b) This shall not include any genuine exercise to research market conditions (including without limitation, any soft market testing or benchmarking exercise) which is not in itself genuinely intended to directly result in the Council entering into a contract for the purchase of goods, services and/or works.

89.1.2 This Rule ~~89~~ only applies to conduct involving Council members and its officers and does not apply as between the Council and the public at large. Accordingly (and without limiting the implications of this), non-compliance by the Council or by any of its members or officers with all or any part of this Rule ~~89~~ shall not in itself result in any of the following:

- (a) Any act by or on behalf of the Council resulting from that non-compliance being invalid for any reason (including without limitation, any assertion that the Council has acted beyond its powers).
- (b) Any member of the public (including any person ~~to~~ who takes part in a Relevant Procedure which is conducted in breach of this Rule ~~89~~) having any claim of any kind whatsoever against the Council, including any claim for compensation.

89.2 *Requirements before a Relevant Procedure may be commenced:*

All of the following, to the extent relevant, and without limiting other requirements elsewhere in the Council's Constitution but subject to the exceptions in Rule ~~89.5~~ must be completed before a Relevant Procedure may be commenced:

- (a) The expenditure must be within approved budget and policy framework which has been approved by Members.
- (b) The use of expenditure must have been approved by the Procurement Board (or on the Procurement Board's behalf by the Panels where relevant) in accordance with Rule ~~89.3~~.
- (c) Where the Relevant Procedure is a sensitive matter (see Rule ~~89.4~~), the Procurement Board shall consider and give its approval or delegate the approval to the Panels.

89.3 *Delegation by the Procurement Board of the task of considering whether to approve a prospective Relevant Procedure for the purposes of Rule ~~89.2~~(b).*

The Procurement Board may (but shall not be obliged to) delegate that task to any of its Panels (or ~~any its~~ other relevant subcommittees the Procurement Board has in place from time to time), **but only if both of the following conditions** apply to the prospective Relevant Procedure under consideration:

- (a) The reasonably estimated total value of the contract or contracts for goods, services and/or works expected to be entered by the Council at the conclusion of the Relevant Procedure (whether under a single contract, as aggregated under a framework agreement across its full term, across two (2) or more lots contained in the same Relevant Procedure, or as aggregated under a series of reasonably connected contracts) is **less than** £1,000,000 (one million pounds). Where there is reasonable doubt about whether the value is to exceed that figure, there shall be a presumption for the purposes of this Rule ~~89.3~~ (a) that it does exceed that figure; **and**
- (b) The Relevant Procedure is **not** a sensitive matter (see Rule ~~89.4~~).

~~8.4~~ 8.4 Any of the following may constitute a 'sensitive matter' for the purposes of this Rule ~~89~~ but the Procurement Board or Panels will make the decision.

- (a) There is a significant risk (on a reasonable view) that the Relevant Procedure (and/or any purchase of goods, services and/or works resulting from it) will create serious adverse publicity for the Council.
- (b) Under the proposed contract for the purchase of goods, services and/or works expected to result from the Relevant Procedure, the Council would be required to deal with a particular supplier or provider on an exclusive basis.

~~89.5~~ 89.5 *Exceptions to obtaining any of the approvals required in Rule ~~89~~: only with the written consent of the Director responsible for the Procurement and Commissioning Service and the Chief Finance Officer (if they are not the same person).*

## ~~940.~~ 940. **The Procurement Board and Panels**

~~940.1.~~ 940.1. Composition of the Procurement Board:

- (a) *Appointment and removal of Procurement Board members:* from time to time in accordance with its approved terms of reference and its members must include the ~~Chief Executive,~~ the Chief Finance Officer, a minimum of three Directors and the Head of Procurement Executive Directors.
- (b) *How the Procurement Board is to conduct itself:* as determined by the Procurement Board from time to time, acting reasonably and in good faith, and in any case, lawfully.

~~(c) (e)~~ The Panels shall include: ~~Deputy~~ Directors, Heads of Function Assistant Directors and other officers of the Council appointed or removed in accordance with its approved terms of reference.

910.2 The Procurement Board shall have the following powers:

- (a) To determine whether to approve or refuse any proposed Relevant Procedures which it has not otherwise delegated according to Rule 89.3;
- (b) To monitor compliance with contract rules and monitor spend and contracts; to achieve savings;
- (c) The status of a Panel in place from time to time shall be as a sub-committee of the Procurement Board;
- (d) To establish and dissolve the Panels or similar sub-committee;
- (e) To establish the composition of members of the Panels or similar sub-committee, ~~which must include Deputy Directors and/or Assistant Directors~~, including appointment and removal of members, including any alternates;
- (f) The conduct of the proceedings of the Panels or similar sub-committee from time to time;
- (g) Any act of the Panels or similar sub-committee (including any approval or refusal of a Relevant Procedure) shall be regarded as if it were the direct act of the Procurement Board itself;
- (h) To deal with expressions of interest from a relevant body exercising the right to challenge for a relevant service under Part 5, Chapter 2 of the Localism Act 2011;
- (i) To provide an annual six-monthly report on the activities of the Procurement Board and Panels to Cabinet Member Portfolio Holder ~~and an annual report to the Audit and Procurement Committee~~; and
- (j) The Chief Finance Officer has the power to vary the terms of reference of the Procurement Board and Panels, ~~and the right to vary the Rules for Contracts~~.

910.3 The Panels shall have the following powers:

- (a) (b) (d) (e) (g) (h) and (i) detailed in Rule 910.2.

101. **Exceptions to CPRs Rules for Contracts**

101.1 An exception to the CPRs Rules for Contracts is a permission to let a

contract without complying with one or more of the Rules. An exception to ~~CPRs~~Rules for Contracts may be granted subject to conditions. An exception cannot be granted where a breach of any UK ~~or EU~~ legislation would be incurred.

~~101.2~~ ~~Any~~Only the Director ~~responsible for the Procurement Service or his authorised deputy~~ may grant an exception to these ~~CPRs~~Rules for Contracts up to a value of £50,000. Any exception to CPRs over £50,000 will need the approval of the Director responsible for the Procurement Service or his authorised deputy who may grant an exception to these CPRs. Applications for exceptions must be made in writing to the appropriate Director ~~responsible for the Procurement Service~~ and include the exception that is requested and the justification for the exception. All Directors granting an exception or exceptions will notify the Council's Procurement Service of all exceptions granted at a frequency to be determined by the Director responsible for the Procurement Service.

~~101.3~~ The Director responsible for the Procurement Service will keep a register of all exceptions to Rules for Contracts, which shall be available by appointment for inspection by members of the Council and the public. ~~In April, A~~an annual report on exceptions granted in the previous financial year will be presented to the Procurement Board. Cabinet Member (Strategic Finance and Resources).

~~101.4~~ An application for an exception to ~~CPRs~~Rules for Contracts to allow a contract to be let without genuine competition will not be granted without a cogent reason. A lack of time caused by inadequate forward planning is not a cogent reason and will not permit an exception to ~~CPRs~~Rules for Contracts. If an application is granted, the Director responsible for the contract must demonstrate that the price obtained is not in excess of the market price and that the contract represents best value for money.

~~101.5~~ Where an exception has been granted in line with these rules, ~~the Director will seek~~ a further exception must be sought if the value of the original exception has been exceeded or the time period granted for the exception has elapsed.

~~101.6~~ An exception to the requirements to follow the tender or quotation procedure may be granted in the following circumstances:

- (a) an unforeseeable emergency involving danger to life or health or serious damage to property, in which the work, goods or services are required more urgently than would be possible if the tender or quotation procedure were followed;
- (b) for justifiable technical reasons, the works, goods or services can be obtained from only one supplier;
- (c) acquiring goods or services from a different supplier would result in incompatibility with existing goods or service or disproportionate

technical difficulties;

- (d) the proposed contract is an extension to or variation of the scope of an existing contract, if permitted by the public procurement legislation i.e. below the required EU limit, *unless* the existing contract provides for an extension;
- (e) ~~the purchase of works of art, museum artefacts, manuscripts or archive collection items;~~
- (f) there is a need to develop and influence the market by extending the range and provision of services, provided the contract is for a fixed term of no more than three years;
- (g) it is necessary to enable the continuation of a new service, development of which was initially grant-aided, provided the contract is for a fixed term of no more than three years;
- (h) value for money can be achieved by the purchase of used vehicles, plant or materials;
- (g) when a grant from a public body includes a recommendation as to the supplier or is time limited;
- (i) in furtherance of the Council's social enterprise policy, or other economic development aims, subject to the prevailing financial support limits for this type of activity and without breaching public procurement rules;
- (i) if there are exceptional circumstances in which it would not be in the Council's best interests to follow the tender or quotation procedure or another ~~Rule for Contract~~ Procedure Rule;

104.7 An exception to ~~Rules for Contracts~~ Procedure Rules is granted and separate authorisation is not required in the following circumstances:

(a) placing an order with a single supplier under an existing corporate contract or framework agreement where the value is below £50,000; If above £50,000, approval should be sought via the appropriate Procurement Panel or Procurement Board; placing an order against a contract/framework agreement let by another Public Body where contracts have been let to allow collaboration, e.g. Eastern Shires Purchasing Organisation (ESPO), Central Buying Consortium (CBC, Buying Solutions, etc.), where the value is below £50,000. If above £50,000, approval should be sought via the appropriate Procurement Panel or Procurement Board;

~~(a)(b)~~ \_\_\_\_\_;

~~(b) placing an order against a contract/framework agreement let by another Public Body where contracts have been let to allow collaboration, e.g. Eastern Shires Purchasing Organisation (ESPO), Central Buying Consortium (CBC, Buying Solutions, etc.~~

(c) as part of a partnering contract that contemplates a series of contracts with a single supplier;

(d) legislation requires the Council to let a contract differently from these ~~Rules for Contracts~~ Procedure Rules ;

(e) value for money can be achieved by the purchase of second hand/used vehicles, plant or materials

(f) the purchase of works of art, museum artefacts, manuscripts, archive collection items or the services of artistic and cultural performers;

(g) Residential Placements for an individual with a registered care provider of their choice under the Care Act 2014; and

~~(e)~~(h) for decision making on utilities contracts. Due to the volatile nature of utilities markets and the need for expedient decision making, authority has been delegated through the approval of these rules to the Director responsible for the Procurement Service in consultation with the Chief Finance Officer. If the Chief Finance Officer is also the Director responsible for the Procurement Service, then the decision will be made by the Chief Finance Officer in consultation with the Chief Executive or his nominated representative. All utilities contracts will be let through the Procurement Service and in line with the procedures dictated by the Head of Assistant Director Procurement.

## 112. Valuation of Contracts and Aggregation of Requirements

112.1 The Director responsible for each contract must record an estimated value for the contract before any offers are sought.

112.2 The total value of ~~thea~~ contract is the total amount that the Council expects to pay for the contract, either in a single sum or periodically over time, and should be calculated in accordance with the most appropriate of the following:

(a) Capital and fixed term contracts – the total price which is expected to be paid during the whole life of the contract period, including all extension options and contingency allowance

(b) where the contract period is uncertain, multiply the price estimated to be paid each month by 48

(c) If the purchase is one of a series of regular transactions for the same type of item, the ‘Total Value’ is the expected aggregate value of all of those transactions over a 12-month period

(d) for feasibility studies, it is the value of the scheme or contracts which may be awarded as a result

~~112.3~~ Contracts for the same works, goods or services must not be split into smaller, separate contracts to avoid compliance with these ~~CPRs~~Rules for Contracts or the Public Contracts Regulations 2015 EU public procurement legislation. ~~If it will achieve best value for money, contracts for the same or similar works, goods or services must be aggregated into a single contract of greater value or be let as a series of contracts based on the appropriate process for the total value.~~

### ~~123.~~ **Duties of Directors and the Head of Assistant Director Procurement**

~~123.1~~ The Director is responsible for ensuring that all expenditure involving procurement activity complies with the ~~CPRs~~Rules for Contracts, and is in conjunction with the Assistant Director Procurement. He/she is also responsible for ensuring that contracts within his/her division are managed and operated within the terms of the contracts themselves.

~~123.2~~ The ~~Head of Assistant Director~~ Procurement is responsible for maintaining a register of contracts and for providing an up-to-date copy of the register, at the end of each financial year. Contracts for less than £2510,000 or one off contracts need not be recorded in the register. The contracts register is to be published on the Council's website in accordance with the Local Government Transparency Code. Directors responsible for entering into contracts for £25,000 or more must notify the Director responsible for the Procurement Service of contracts entered into at a frequency determined by the Director responsible for the Procurement Service.

~~123.3~~ As soon as practicable after the Council's budget has been set and in any event before the end of March in each financial year, the Director must notify the ~~Head of Assistant Director~~ Procurement of all contracts (including their values) that his/her division plans to enter into during the following financial year. ~~This will enable the Assistant Director Procurement to publish the Council's Prior Information Notice (PIN) in accordance with the EU regulations. This has the benefit of reducing the EU tendering timescales.~~

~~123.4~~ The Director must use corporate contracts, where they are in place. To do otherwise would be unlikely to give value for money for the Council and may be in breach of the Public Contract Regulations 2015.

~~123.5~~ If there is an in-house service available that operates as a trading unit, the Director must consider, in accordance with Value for Money principles, whether that service should be used or whether a contract should be let to an external provider, although all resource implications (e.g. TUPE implications and/or redundancies for directly employed staff), must be considered as part of the best value assessment.

### ~~134.~~ **Selection of Procurement Route**

134.1 When selecting the most appropriate procurement route to secure value for money, the Director, in consultation with the Head of Assistant Director-Procurement, shall adhere to the following principles:

- (a) All practical options for contract packages and methods of procurement should be analysed and evaluated, with the object of selecting the option that most effectively ensures value for money is achieved. The preferred option must provide full, fair, transparent and open competition and be identified as the most economically advantageous bid.
- (b) The scope of contract packages should take into account cross-cutting themes and outcomes identified by strategic, policy and service reviews. Stakeholders within and outside the Council should be consulted about service standards and specifications and investigation of the market undertaken. Performance under any current contract should be appraised and prospective performance considered in the light of consultations and investigations.
- (c) The contract package should seek to stimulate diversity and innovation, enhance choice for service users and attract new suppliers.
- (d) Partnerships between the public, private and voluntary sectors should be sought, which demonstrate a shared commitment to objectives that benefit users of the Council's services.

~~(e) The requirements of the Common Commissioning framework defined under the Sustainable Community Strategy, with the objective of achieving a contract that best serves the needs of service users and contributes to sustainable development, whilst achieving value for money for the Council.~~

~~14.2 The Council is developing a *Compliant Procurement Process* which will replace the current Procurement Manual that sets out minimum requirements for reporting and decision-making with regard to contracts and the key stages and actions the Council requires major procurements to follow, including market assessment and analysis, user consultation, risk analysis and project planning and management. The Compliant Procurement Process will detail how 13.4 The Director must use corporate contracts, where they are in place. To do otherwise would be unlikely to give value for money for the Council and may be in breach of the Public Contract Regulations.~~

~~13.5 If there is an in-house service available that operates as a trading unit, the Director must consider, in accordance with Value for Money principles, whether that service should be used or whether a contract should be let to an external provider, although all resource implications e.g. TUPE implications and/or redundancies for directly employed staff, must be considered as part of the best value assessment.~~

**145. Authority to enter into a contract**

- 15.1 Officers may only enter into a contract if authority is delegated to them or by specific decision of the Council, the Cabinet or Cabinet Member or Procurement Board or the Panels.
- 15.2 Unless an officer has been given authority to enter into a contract, all contracts involving capital expenditure must be authorised by a specific decision of the Cabinet or a Cabinet member.
- 15.3 Unless an officer has been given authority to enter into a contract, all contracts involving revenue expenditure must be authorised by a specific item in the approved revenue budget for the relevant year. A specific item in the approved revenue budget is deemed to be an authority for the relevant Director to enter into a contract up to the value estimated.
- 15.4 All contracts will be let with the involvement of the Procurement Service in consultation with service users and technical experts.

**156. Specifications**

- 156.1 The Director in conjunction with the ~~Head of Assistant Director~~ Procurement must ensure that an appropriate specification is prepared for every contract, which sets out clearly the Council's requirements with regard to the works, goods or services to be supplied.
- 156.2 All works, goods and services must be specified by reference to European or national standards where appropriate.
- 156.3 Specifications should incorporate measurable and, so far as is possible, objective quality and performance criteria to enable the contract to be monitored and managed and should build in a capacity for flexibility and innovation, to secure sustained improvements and the ability to meet changing local and national circumstances.
- 156.4 Where appropriate, specifications should identify and allocate the risks inherent in the contract.
- 156.5 If a contract may involve the transfer of employees (from the Council to a contractor or from one contractor to another), the tender documents should, if the contractor has assured confidentiality of personal information, include all relevant information relating to those employees.
- 156.6 The Director must obtain all necessary professional and technical advice and assistance in preparing a specification, to ensure a comprehensive document that expresses the Council's requirements and protects its interests. Consultants or other third parties who assist

in the preparation of a specification must not be invited to tender or quote for the contract.

## **167. Contract procedures**

167.1 If a corporate contract is in place for the supply of any works, goods or services, the Director must place orders under that contract. The Procurement Service publishes data to enable Directors to order from corporate contracts.

167.2 The Director in conjunction with the ~~Head of Assistant Director~~ Procurement must establish whether the public procurement legislation applies to a proposed contract. If in doubt, ~~the~~ Legal Services will advise whether the legislation applies. When public procurement legislation does apply, the Director/~~Head of Assistant Director~~ Procurement must use the open or restricted procedure unless ~~the~~ Legal Services agrees the use of competitive dialogue or the negotiated procedure. Whenever possible, a competitive procedure must be adopted.

167.3 The ~~Head of Assistant Director~~ Procurement will place all notices relating to contracts in the Supplement to the Official Journal of the European Union and will provide the statutory annual returns to HM Treasury of contracts let by the Council.

167.4 The Director need not obtain competitive quotations for contracts of less than £10,000 in value but must demonstrate in any event that the Council is receiving value for money (~~see the "Quick Reference Guide" Table at Rule 3~~). ~~Additionally, all relevant documentation will need to be retained for audit or scrutiny purposes in line with Council policy.~~

## **178. Invitation to Formal Tender**

178.1 If the public procurement legislation applies to a contract, the selection of suppliers to be invited to tender for the contract must follow the requirements of that legislation.

178.2 If the public procurement legislation does not apply, and the estimated contract value is ~~greater than £1050,000 or more~~, at least three potential contractors, who have expressed an interest, should be invited to tender. Where appropriate those invited to tender should include at least two local suppliers. The number of contractors invited to tender should ensure full competition is achieved. Potential contractors should be selected in the following way:

- Placing an advertisement on the council's website or in one or more newspapers circulating in the West Midlands or in one or more newspapers or journals circulating among persons who undertake such contracts or sub-contracts.
- Responses to the advert may be supplemented by contractors appearing on a suitable approved list.
- The placing of the advertisement should aim to achieve maximum interest amongst contractors. If ~~fewer less~~ than three contractors

express an interest, ~~t~~The Director must agree to proceed, and the steps taken to try and obtain the minimum number of tenderers documented.

~~178.3~~ Companies expressing an interest in being invited to tender in response to an advertisement, must satisfy the Council as to their legal, financial and technical capacity (including their health & safety and equal opportunities policies) to undertake the contract by completing a pre-qualification questionnaire or tender document where the open procedure of the Public Contract Regulations is used, in a form approved by the ~~Head of Assistant Director~~ Procurement.

~~178.4~~ The ~~Head of Assistant Director~~ Procurement shall be responsible for ensuring that an "Invitation to Tender" procedure – that demonstrates public sector best practice – is available and adhered to, at all times.

### ~~189~~ **Opening Formal Tenders**

~~189.1~~ The information obtained at the opening of tenders is confidential to those involved in the opening process and those directly involved in evaluation of the tenders. Confidentiality must be maintained and any breach reported to the Monitoring Officer.

~~189.2~~ ~~The Council uses an *electronic tendering platform*. The tender opening process must be appropriate to the specific electronic software employed and its facilities for guaranteed receipt of tenders. For *electronic tendering*: The tender opening process must be appropriate to the specific electronic software employed and its facilities for guaranteed receipt of tenders.~~

~~19.3~~ ~~For paper-based tendering: Legal Services are responsible for marking the tender envelopes or parcels with the date and time of receipt; keeping tenders in a secure place until after the last date and time for receipt and for returning tenders that are received late or identify the sender.~~

~~19.4~~ ~~Tenders must be opened one at a time by a member of the Legal Services team in the presence of a member of the Assistant Director Procurement's team. In all cases this must be an officer other than the officer running the tender process.~~

~~19.5~~ ~~The Legal Services must number all tenders in the order they are opened and all persons present must initial them.~~

~~19.6~~ ~~The representative of the Legal Services must record:~~

~~(a) the works, goods or services to be supplied;~~

~~(b) the name of each tenderer;~~

~~(c) the amount of each tender or such other information as may be relevant to the procurement;~~

~~(d) the date and time of opening of each tender;~~

~~(e) the names of all persons present at the time of opening.~~

~~The member of the Assistant Director Procurement's team opening the tenders must certify the record as correct.~~

## 1920.     **The Quotation Procedure**

1920.1     For contracts of under £~~105~~0,000 in value, suppliers to be invited to quote may be selected from an appropriate approved list, ~~or~~ advertised on the Council's website or otherwise sought as appropriate.- Where the contract value is over £10,000 and up to £24,999, oral quotations (which should be confirmed by email) can be sought and the use of the quotation pack is optional. Where the contract value is over £25,000 quotations MUST be received in writing using quotation pack.

1920.2     The Authorising officer must satisfy him/herself as to the legal, financial and technical capacity of suppliers invited to quote to undertake the contract for the Council, through seeking appropriate in-house professional advice, and that they will provide value for money.

1920.3     A sufficient number of suppliers must be invited to quote to ensure genuine competition. ~~The minimum number is three.~~

1920.4     The ~~Head of Assistant Director~~ Procurement shall be responsible for all procedural aspects of seeking quotations, ensuring that probity and proper public accountability standards are in operation. Monitoring shall be carried out periodically by either the internal or external auditor.

## 204.     **Acceptance of Formal Tenders and Quotations**

204.1     Where expenditure has been approved through the budget setting process, the Procurement Board has given approval to proceed and these ~~CPRs~~Rules for Contracts have been followed, for contracts over the EU/PCR thresholds, the Procurement Board or Panels shall receive notification of the contract award.

204.2     For contracts ~~of over~~ £~~105~~0,000 or more, contracts are to be awarded under the "most economically advantageous" criterion (see Rule 204.3) the ~~Head of Assistant Director~~ Procurement shall require a written report from the responsible officer requesting approval for acceptance and detailing the reasons for doing so. This shall be recorded in writing and presented to the relevant Panel. In extreme urgency the ~~Head of Assistant Director~~ Procurement, may agree a or verbal report from the responsible officer with a written report being signed off by the ~~Head of Assistant Director~~ Procurement within a fortnight of this meeting. All ~~written reports~~ papers/electronic files will be stored in line with the document retention policy.

**204.3** Tenders or quotations must be evaluated on the basis of which is most economically advantageous to the Council. When using the Public Contracts Regulations 201506, the criteria for evaluation must be set out in the invitation to tender or equivalent document depending on which procedure is used, in descending order of priority, with the weightings to be given to them. The criteria may also be set out in the OJEU and public notices. Whole life and environmental costs may be included in criteria for evaluation.

## **212. Electronic tendering and quotations**

The ~~Head of Assistant Director~~ Procurement is responsible for the procedure for these processes.

- (a) tenders and quotations may be invited electronically, provided paper copies of any documents that cannot be sent on-line are sent by post and paper copies of all documents are sent to suppliers who do not specify an e-mail address for receipt of tenders or quotations. In selecting suppliers to be invited to tender or quote, the ~~Head of Assistant Director~~ Procurement must not discriminate against suppliers who do not have facilities for receiving invitations by e-mail. Where the e tendering system is the only process being used support must be found for suppliers in this category.
- (b) invitations to tender and quotes may be submitted electronically through the approved e tendering system. Where electronic submissions are made outside of the approved system, submissions must be made after the official opening deadline, and they must be supported by paper copies of all invitation documents and formally opened under the process described in sections 18 or 19 of this document.
- (c) the procedure will also include arrangements for e-auctions.

## **223. Amendments and alterations to tenders and quotations**

**223.1** Amendments to invitation to tender or invitation to quote documents, made after the invitations have been sent out, must be clearly headed "Tender Amendment" or "Quotation Amendment" as appropriate and sent to all suppliers who have been invited to tender or quote. If there is more than one amendment, they should be numbered consecutively. Amendments should be sent out in sufficient time to allow suppliers to adjust their tenders or quotations as appropriate.

**223.2** A supplier's tender or quotation is his offer to the Council, which the Council may accept as it stands. Once a tender or quotation has been submitted, alterations will only be accepted through formal clarifications under the restricted procedure; or negotiations under the Competitive Dialogue process of the Public Contracts Regulations 201506.

~~223.3~~ In all other situations, if a supplier attempts to alter his offer after the last date for receipt of tenders or quotations, he must be given the opportunity to stand by or withdraw his original offer. Correction of an obvious arithmetical error, which would reduce the price to be paid by the Council or increase the price to be paid to the Council, may be accepted.

~~223.4~~ Where performance specifications are used, a tender or quotation that is expressed to be conditional upon the Council's acceptance of alterations to the specification or the terms and conditions of contract, may be treated as non-compliant and rejected. This does not prevent the Council inviting variant bids (that is an invitation to submit an alternative bid that could then be considered as being to the Council's benefit provided that the condition applying to the mandatory reference bid is followed). If variant bids are invited, suppliers must be required to submit a mandatory reference bid based on the specification and terms and conditions included in the invitation to tender or invitation to quote, so that all bids may be compared fairly.

~~223.5~~ Where outcome-based specifications are used it will be for the bidder to decide the method of service delivery. Tenders or quotations will be evaluated fairly against published evaluation criteria.

~~223.6~~ A properly approved and EU-compliant competitive dialogue process or negotiated procedure will normally result in one or more Best and Final Offers as a result of negotiation with selected bidders. No alteration to the Best and Final Offer, in terms of outcomes or contract price is permitted without the specific approval of the Monitoring Officer.

~~23.7~~ ~~Before a tender or quotation has been accepted, the Assistant Director Procurement may ask all tenderers or suppliers to maintain their tendered or quoted prices for a longer period. Tenders and quotations should in any event remain open for acceptance for a period of ninety days from the last date for receipt of tenders or quotations, or such other period as the Assistant Director Procurement considers appropriate, and the form of tender or quotation should make this clear.~~

## ~~234.~~ **Contract extensions**

~~234.1~~ Where extensions to contracts have been included in the original advert, tender documentation and contract, subject to Panel/Procurement Board approval, the extensions may be agreed; where performance is satisfactory and the original contract terms are to continue (including price variations in line with the original contract) through the issuing of a contract change note ~~(templates to be issued by the Assistant Director Procurement)~~. The contract change note must be kept with the original contract in line with the document retention policy and must be signed by the officer who signed the original contract, or in their absence for whatever reason, by another officer authorised to sign the original contract.

## ~~24.~~ **Contract Variations-**

24.12 Over £1050,000 and below the PCREU thresholds, if a contract extension is proposed where the terms and conditions of the original contract will be changed; the relevant Panel shall require a written report from the responsible officer requesting approval for acceptance and detailing the reasons for doing so. This shall be recorded in writing. In extreme urgency the Panel may agree an oral report from the responsible officer, with a written report being signed off by the Panel within a fortnight of this meeting. Once approval is received a contract change note will be issued and kept with the original contract documentation. All written reports will be stored in line with the document retention policy. If a contract is under seal a short supplemental deed may be required and this will be dealt with on request to Legal Services.

## 25. **Form of Contract**

25.1 Legal Services will decide whether a contract over the PCREU thresholds in value is to be executed as a deed under the seal of the Council or under hand as a simple contract. As a general rule, works contracts, and high value contracts (exceeding £1,0050,000) will be executed as deeds under the Council's seal.

25.2 All contracts made as deeds must be made under the Council's Common Seal, witnessed in accordance with the relevant provision of the Scheme of Functions Delegated to Employees by an Officer authorised to do so. Standing Order of the Council's Rules of Procedure (Standing Orders) by the Chief Executive or such other person appointed by the Council.

25.3 A contract under seal is retained for twelve years in Place Directorate to enable any action to be taken under it, if required

25.4 Simple Contracts of between £100,000 and the £150,000-£999,999 in value must be signed for and on behalf of the Council by either the Head of Assistant Director Procurement or the Head of Legal or an authorised deputy.

## 26. Social Value

26.1 The Public Services (Social Value) Act 2012 requires the Council to consider delivering Social Value through contracts for services. However, the Council encourages consideration of social value outcomes in all contracts above the PCR thresholds, where it can be evidenced that it is relevant to the subject matter of the contract.

26.2 For those contracts that fall below the threshold, the approach should be to maximise outcomes where possible.

26.3 In order to ensure that the Council adheres to the Act, the social value sought from a contract must be relevant and proportionate in respect of the proposed contract

276. **Contract administration and management**

276.1 The ~~Head of Assistant Director~~ Procurement shall arrange for publication of a contract award notice, no later than 45 days after contract award, if appropriate, and shall keep a register of the notified information, which shall be available for inspection by appointment by any Member of the Council, internal and external auditors and any member of the public.

276.2 The ~~Head of Assistant Director~~ Procurement shall be responsible for ensuring that a procedure on "Contract Administration and Management" is made available to all officers and partners managing contracts on the Council's behalf. This will include guidance on managing partnering or partnership contracts explaining techniques such as target costing and "open book".

287. **Prevention of fraud and corruption**

287.1 All purchases, contracts and income covered by these rules must be let in line with the Council's Anti-fraud and Corruption Policy and Strategy.

287.2 If an officer of the Council has a pecuniary interest, in a contract or proposed contract, he/she must in accordance with Section 117 of the Local Government Act 1972 register the interest with the Monitoring Officer and declare it at any meeting at which the officer is present and the contract is discussed and thereafter leave the room and take no further part in the discussion.

287.3 If an officer of the Council has a personal or non-pecuniary interest in a contract or proposed contract he/she must declare that interest to their Deputy Chief Executive or Director, as appropriate, as required by the Council's Code of Conduct for Employees.

287.4 If a Member of the Council has a disclosable pecuniary interest or other relevant interest in a contract as defined in the Code of Conduct for Elected and Co-opted Members, the member must take such action as is required by that Code.

287.5 A contract must be terminated immediately, and any losses to the Council arising from the termination recovered from the contractor, if the contractor, or anyone acting on his behalf:

- (a) offers or gives or agrees to give any member or officer of the Council any gift, benefit or consideration of any kind or value as an inducement or reward with regard to the contract; or

- (b) commits any offence under the Bribery Act 2010 or section 117 of the Local Government Act 1972.

A declaration to this effect must be contained in all invitations to tender or quote.

~~287.6~~ The attention of officers is drawn to the Council's Code of Conduct for Elected and Co-opted Members †, Whistleblowing policy, Disciplinary Policy and Procedures and the Code of Conduct for Employees. Non-compliance with these ~~CPRs~~Rules for Contracts constitutes grounds for disciplinary action.

~~287.7~~ All of the requirements in Rule 27.1 to 27.6 above will apply to any third party acting on the Council's behalf in a contractual situation e.g. consultants and community representatives on evaluation panels.

## ~~298.~~ **Freedom of Information Act 2000**

~~298.1~~ When entering into contracts the Council will refuse to include contractual terms that purport to restrict the disclosure of information held by the Council and relating to the contract beyond the restrictions permitted by the Act. Unless an exemption provided for under the Act is applicable in relation to any particular information, the Council will be obliged to disclose that information in response to a request, regardless of the terms of any contract.

~~298.2~~ When entering into contracts with non-public authority contractors, the Council may be under pressure to accept confidentiality clauses so that information relating to the terms of the contract, its value and performance will be exempt from disclosure. As recommended by the Information Commissioner, the Council will reject such clauses wherever possible. Where, exceptionally, it is necessary to include non-disclosure provisions in a contract, the Council will investigate the option of agreeing with the contractor a schedule of the contract that clearly identifies information which should not be disclosed. The Council will take care when drawing up any such schedule and be aware that any restrictions on disclosure provided for could potentially be overridden by obligations under the Act, as described in the paragraph above. Any acceptance of such confidentiality provisions must be for good reasons and capable of being justified to the Information Commissioner. When entering into the above contracts the Council will make it clear that these restrictions apply to sub-contractors also and that the Secretary of State has the powers to designate them as 'public bodies' for the purpose of making them comply with the Act.

~~298.3~~ The Council will not agree to hold information 'in confidence' which is not in fact confidential in nature. Advice from the Information Commissioner indicates that the exemption provided for in section 41 only applies if information has been obtained by a public authority from another person and the disclosure of the information to the public, otherwise than under the Act, would constitute a breach of confidence

actionable by that, or any other person.

~~298.4~~ It is for the Council to disclose information pursuant to the Act, and not the non-public authority contractor. The Council will take steps to protect from disclosure by the contractor information that the authority has provided to the contractor (which would clearly be exempt from disclosure under the Act) by appropriate contractual terms. In order to avoid unnecessary secrecy, any such constraints will be drawn as narrowly as possible and according to the individual circumstances of the case. Apart from such cases, the Council will not impose terms of secrecy on contractors.

298.5 The ~~Head of Assistant Director~~ Procurement will be responsible for advising on the application of the Freedom of Information Act and contracts, in conjunction with the Council's Head of Information Governance, where circumstances arise that are not specifically covered by Council policy. He/she will also be responsible for updating procedure following any case law that materially amends or augments Council policy in this area.

### 3029. **Management of Risk in Contracts**

For contracts of strategic importance, a risk register will be drawn up for the contract letting process. Once the contract is awarded, a risk register to cover the implementation and successful ongoing management of the contract will be drawn up by the Head of Service or authorised deputy. This risk register will be monitored in line with the corporate guidance on risk throughout the life of the contract.

### 31. **Impact of Other Legislation**

In addition to what has already been mentioned in these Rules, there is other legislation that may impact on the supplies, services and works required when following a contract tender or quotation procedure such as Health & Safety, Safeguarding, Modern Slavery, to name but a few. This legislation must be incorporated where relevant and appropriate. In particular, the Director must consider whether the contract needs to include, or be subject to, a Data Sharing Agreement where the nature of the contract services is such that personal data is likely to be shared.

### 32. **Definitions**

In these ~~Contract Procedure Rules ( CPRs)~~ Rules for Contracts:

~~Assistant Director Procurement~~ means Assistant Director Procurement or his or her authorised representative.

Authorising Officer means: an officer authorised to approve the placement of orders or invoices for payment.

Cabinet means: the Leader of the Council and the other members of the Council's Executive.

Chief Finance Officer means: the officer appointed under section 151 of the Local Government Act 1972.

Contract means: the agreement between the Council and a contractor/supplier/provider for the supply of works, goods or services, or for any activity that generates income for the Council.

Contractor means: a supplier or provider of works, goods or services to the Council.

Contract change note means: the document that describes changes to the original contract which have been agreed by both parties.

Contract package means: the scope for amalgamating like requirements/services currently operating at different parts of the organisation, to suit the supply market to achieve overall better value.

Corporate contract means: a contract or framework agreement for the supply of works, goods or services to the Council e.g. for computer consumables, stationery, legal and financial services.

Decision making body means: the body responsible for decisions in the described situation under the Council's Constitution.

Director(s) means: a member(s) of the Council's Corporate Leadership Team or Strategic Management Board.

Framework Agreement means: an agreement between the Council and a contractor for the provision of estimated quantities of goods or services. This becomes a contract when an order for a specific quantity is placed either after further competition or through the most competitive source identified in the original tender.

Head of Procurement and Commissioning means: the Head of Procurement and Commissioning or his or her authorised representative.

Monitoring Officer means: the officer designated as such under Section 5 of the Local Government and Housing Act 1989 or his or her deputy.

Outcome based specifications means: a specification that describes the required outcomes through service delivery and leaves the method of delivery to the third party provider.

Panels means: the People or Place and Corporate or Resource Panel.

People Panel means: the officer panel responsible for adult and children's social care, housing, public health and public safety.

Performance Specifications means: a specification that provides details of the methods to be adopted when delivering the requirements.

Place and Corporate Panel means: the officer panel responsible for built environment, highways street scene, transport, waste, facilities management, and operational property, financial, ICT/Telecoms, consumables and professional services.

Procurement Board means: the officer board responsible for all procurement decisions.

Procurement Service means: the centralised procurement and commissioning service for Coventry City Council.

Public procurement legislation means: the Remedies Directive 1992, The Public Contracts Regulations 2015~~2006~~, the EC Directives from which they are derived, UK legislation affecting public sector contracts and any amendment, re-enactment or replacement of any of them.

Quotation means: an offer to undertake a contract of £10,000 or more but less than £~~10~~50,000 in value.

Resource Panel means: the officer panel responsible for financial, ICT/Telecoms, consumables and professional services.

Right to challenge means: the right to challenge for services under Part 5 of the Localism Act 2011.

Services contract means: a contract or framework agreement for the provision of services to the Council.

Chief Finance Officer means: the officer appointed under section 151 of the Local Government Act 1972.

Supplies contract means: a contract or framework agreement for the sale or hire of goods to the Council and includes, where appropriate, installation of goods.

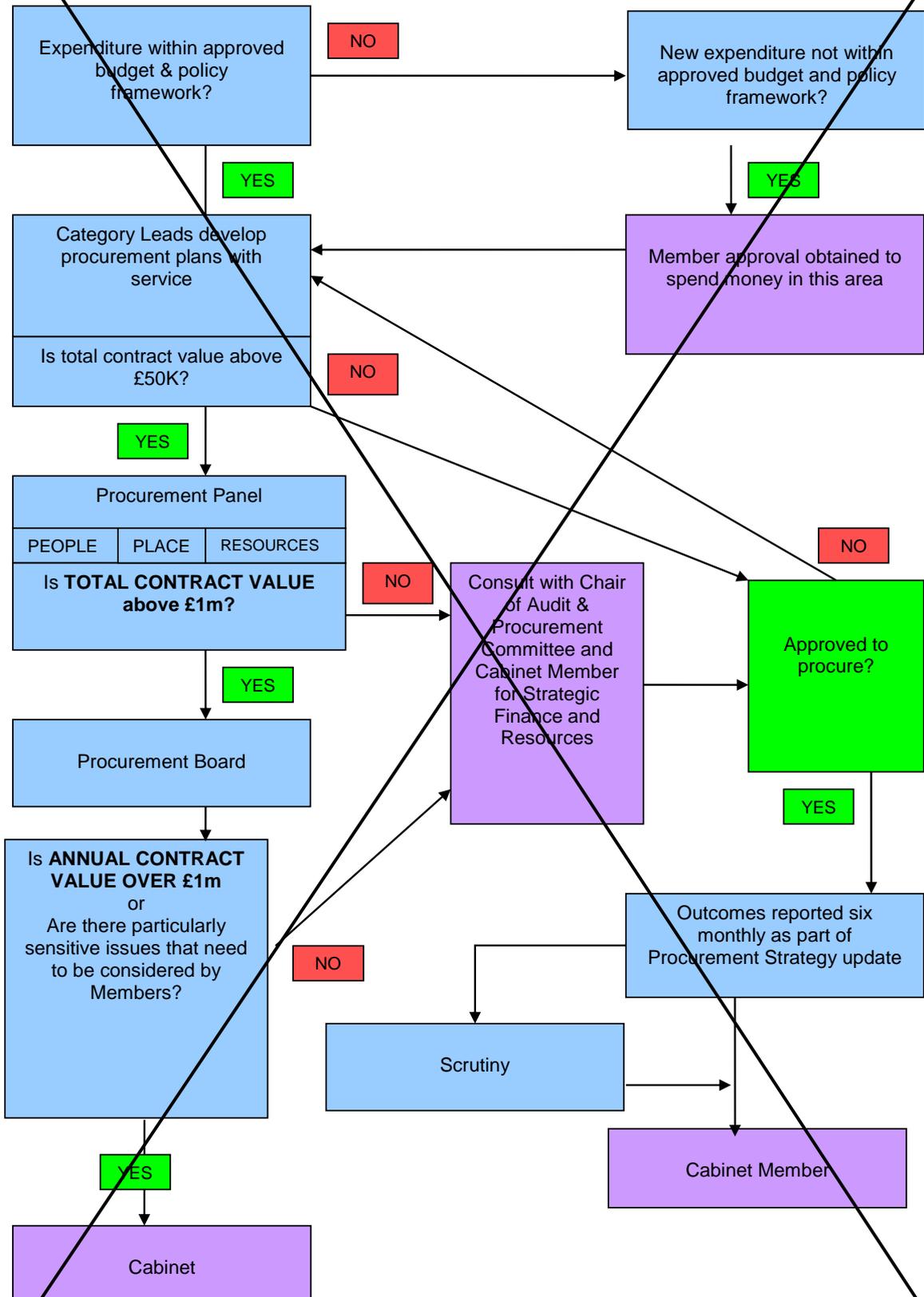
Tender means: an offer to undertake a contract of £~~10~~50,000 or more in value.

TUPE Regulations means: the Transfer of Undertakings (Protection of Employment) Regulations 2006 and any amendment, re-enactment or replacement of the same.

Works contract means: a contract for the construction, repair or maintenance of a physical asset not defined as Services in the Public Contracts Regulations.

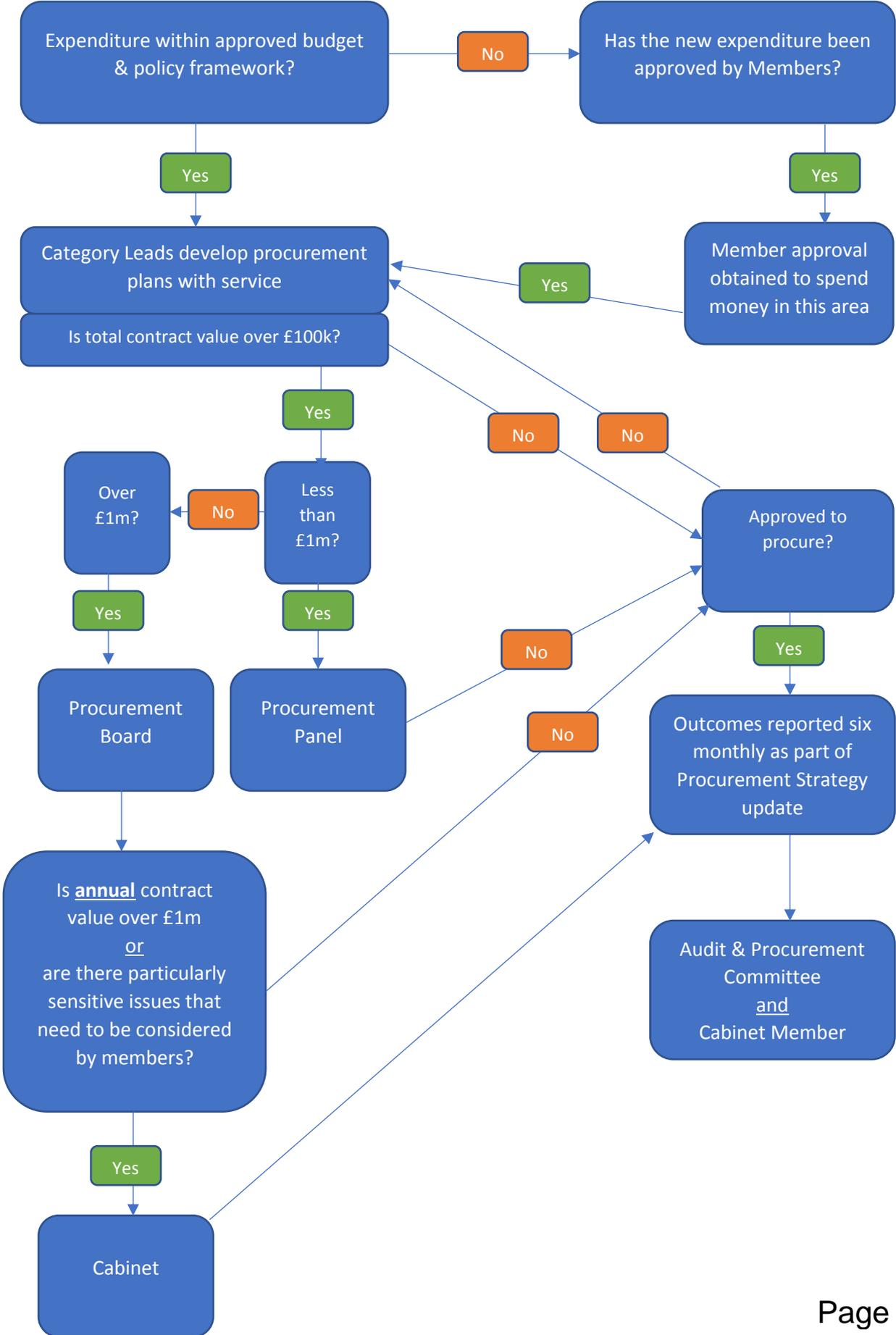


# PROCUREMENT GOVERNANCE



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PROCUREMENT GOVERNANCE



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### Appendix 3: Financial Procedure Rules

1. The Financial Procedure Rules (FPRs) at Part 3F of the Constitution set out the structure through which the Council's financial affairs are managed. They detail the approval limits for financial transactions, the detailed responsibilities of the Director of Finance and Corporate Services and the framework in which financial systems, processes and requirements are applied.
2. The FPRs were reviewed and updated in 2014. The current proposed changes are clarifications or adjustments to the rules.
3. Those parts of the FPRs with proposed changes are set out below. The main points to note within the proposals are:
  - (a) The approval limits that apply to revenue and capital budget transfers are extended to explicitly include the use of reserves for a purpose other than that originally intended (FPR 2.2(b)).
  - (b) Approval of borrowing resourced capital schemes in line with the budget adjustment rules. Ultimately, the borrowing costs of such schemes, in the form of interest and principal repayments, are met from the revenue budget as annual charges. The business case for such schemes will set out how borrowing costs are to be met over time, for example from income, savings or existing budgets (FPR 2.2(b)).
- (a) The current FPRs require no specific approval prior to the Council submitting a bid for grant income (e.g. for government grant) although specific approvals are required before a grant income agreement is signed. To reflect the significance of bidding for grants, in terms of the potential requirements that fall on the Council (e.g. match funding, administrative responsibilities) as well as the potential impact of withdrawal of a bid prior to signing, it is proposed that grant bids will need to be approved by a Director and the Director of Finance & Corporate Services or nominee (FPR2.3 (a)).

## **PART 3F: FINANCIAL PROCEDURE RULES**

### **1. Introduction**

The Financial Procedure Rules provide the structure through which the Council's financial affairs are managed and are deemed part of the Coventry City Council's constitution. They set out the approval limits for financial transactions, the detailed responsibilities of the Director of Finance and Corporate Services and the framework in which financial systems, processes and requirements are applied.

### **2. Financial Responsibilities of the Council, Cabinet, Cabinet Members and Officers**

2.1 The Council, Cabinet, Cabinet Members and Officers will exercise their financial responsibilities in accordance with the Constitution and the Scheme of Delegation. Thresholds for the approval of specific financial transactions are set out below:

#### *2.2 Budget Approval and Amendment*

(a) approval of the revenue budget, capital programme and treasury strategy: Council;

(b) revenue and capital budget adjustments, including the use of reserves for a purpose other than that originally intended and the approval of capital schemes funded from borrowing, but excluding Technical Adjustments:

- Up to £250,000 ~ joint approval by the relevant Service Director(s) and the Director of Finance and Corporate Services or nominees;
- Over £250,000 and up to £1,000,000 ~ relevant Cabinet Member(s)
- Over £1,000,000 and up to £1,500,000 ~ Cabinet
- Over £1,500,000 ~ Council.

~~(c) any proposed schemes which are unfunded require the approval of the full Council.~~

(c) Technical adjustments which have no overall impact on the City Council's "bottom line", and meet the following requirements:

- are internal transfers between different areas of the City Council;
- involve no cash transactions with third parties; and
- do not increase or decrease the budget over which a budget holder has spending discretion

Technical Adjustments can be approved by the Director of Finance and Corporate Services or nominee.

## 2.3

### *Grant Income*

(a) Approval prior to submitting a grant bid: Joint approval by the relevant Deputy Chief Executive and the Director of Finance and Corporate Services or nominees, following consultation with the relevant Cabinet Member;

•—

(b) Approval prior to signature of grant agreement:

- Where a requirement of a successful bid is that it must be match funded by the Council, the approval of the relevant Cabinet Member to accept the grant must be obtained before signature, regardless of the amount of grant.
- Up to £500,000 ~ joint approval by the relevant Deputy Chief Executive<sup>?</sup> and the Director of Finance and Corporate Services or nominees;
- Over £500,000 and up to £2,500,000 ~ to Cabinet, if time permits; if no time to go to Cabinet, to relevant Cabinet Member (or the Leader in their absence) in consultation with the relevant Scrutiny Chair; if no time to go to Cabinet Member, to relevant Director in consultation with relevant Cabinet Member and Scrutiny Chair, to be reported to Cabinet retrospectively.
- Over £2,500,000 ~ Council.

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## CITY COUNCIL FINANCIAL APPROVAL LIMITS

Forum Approval Category	Governance	Deputy Chief Executive	Director of Finance and Corporate Services	Procurement Panel	Procurement Board	Cabinet Member	Cabinet	Council
<b>Budget</b>								
Overall Balanced Budget								Unlimited
<u>Capital schemes to be met from borrowing</u>		<u>Joint up to £0.25m</u>				<u>Above £0.25m to £1m</u>	<u>Above £1m to £1.5m</u>	<u>Above £1.5m</u>
<u>Unfunded Schemes</u>								<u>Unlimited</u>
Revenue Budget Adjustments (Virement)		Joint up to £0.25m				Above £0.25m to £1m	Above £1m to £1.5m	Above £1.5m
<u>Use of reserves, other than as originally intended</u>		<u>Joint up to £0.25m</u>				<u>Above £0.25m to £1m</u>	<u>Above £1m to £1.5m</u>	<u>Above £1.5m</u>
Capital Budget Adjustments (Virement)		Joint up to £0.25m				Above £0.25m to £1m	Above £1m to £1.5m	Above £1.5m
Technical Adjustments			Unlimited					
<b>Grant Income</b>								
<u>Approval prior to submitting grant bid</u>		<u>Joint (unlimited)<sup>64</sup></u>						
Approval Prior to Signature of Grant Agreement		Joint up to £0.5m				Above £0.5m to £2.5m <sup>1</sup>	Above £0.5m to £2.5m <sup>1</sup>	Above £2.5m
<b>Grant Expenditure</b>								
Approval to Grant Awards to an External Body		Up to £0.05m <sup>2</sup>				Above £0.05m to £0.25m <sup>3</sup>	Above £0.25m to £1.5m	Above £1.5m
<b>Debt Write Off</b>								

Approval to Write Off of Sums Owed to the Council		Up to £0.1m			Above £0.1m		
<b>Procurement</b>	-	-	-	-	-	-	-
<del>Approval to Procure</del>	<del>Up to £0.05m</del>	-	<del>Above £0.05m to £1m</del>	<del>Above £1m<sup>4</sup></del>	-	<del>Above £1m<sup>5</sup></del>	-

### Footnotes

- 1 Approval by Cabinet if there is time, if not by Cabinet Member (or Leader in their absence) in consultation with relevant Scrutiny Chair; if no time to go to Cabinet Member, by relevant Deputy Chief Executive in consultation with Cabinet Member and the relevant Scrutiny Chair. To be reported retrospectively;
- 2 In consultation with the relevant Cabinet Member;
- 3 In consultation with the Chair of Audit and Procurement Committee
- 4 ~~Total contract value;~~
- 5 ~~Annual contract value~~
- 64 Following consultation with the relevant Cabinet Member(s)

## Appendix 4: Audit and Procurement Committee Terms of Reference

1. Currently, in the Council's Constitution, the Terms of Reference of the Audit and Procurement Committee contains the following paragraph: -

*8.5 Salaries To determine any salary or severance package for an employee of the Council of £100,000 or over, or such other sum as determined by legislation in respect of any new appointment or severance package provided always that any decisions on changes to the salary or severance packages in relation to the Chief Executive irrespective of the sum involved are excluded from the Committee's terms of reference and will remain with full Council to determine.*

2. The Government has published draft Regulations, "The Restriction of Public Sector Exit Payments Regulations 2019" which, once introduced, will introduce a cap of £95,000 on public sector exit payments. This will include any payments which represent a cost to the employer, including ex gratia sums, redundancy and pension contributions (including any "pension strain" payments to provide pension before normal pension age). It is anticipated that the legislation will be enacted in the near future. It is therefore proposed that, once the legislation is enacted, all reference to severance packages of over £100,000 are removed from paragraph 8.5 (as the Council will be unable to approve any severance package over £95,000) and that authority to make this amendment is delegated to the Monitoring Officer and City Solicitor
3. In relation to salaries over £100,000 is proposed that for clarity, the paragraph is amended so that it is clear that approval from the Audit and Procurement Committee is only required for any proposal to create a new post with a salary over £100,000. For clarity, the paragraph relates to "salaries" over £100,000 and not "salary packages" where, for example pension contributions might take a job over the £100,00 threshold.

1. The proposed change would therefore read:

*8.5 To determine any salary for a new post where the proposed salary is £100,000 or over.*

5. The proposed changes outlined above would also need to be reflected in the Council's Annual Pay Policy Statement.

## Appendix 5: Protocol for Conferring the Title of Honorary Alderman or Alderwoman

1. Currently, in the Council's Constitution, a Protocol for Conferring the Title of Honorary Alderman or Alderwoman is appended to Part 3A – Council Procedure Rules. A copy of the Protocol is appended to this appendix.
2. The Protocol reflects the requirements of Section 249 of the Local Government Act 1972, under which the Council confers the title of Honorary Alderman or Alderwoman. Paragraphs 1-4 of the Protocol relate to procedural and requirement matters in relation to conferring (and withdrawing) the title.
3. Paragraph 5 relates to "Privileges" that Honorary Aldermen or Honorary Alderwomen may be entitled to. It is proposed to remove this paragraph as shown by track changes to the currently published Protocol. This would enable flexibility in relation to privileges, for example one of the current privileges refers to Honorary Alderman receiving the Members' Handbook, which is no longer produced.

## Protocol for Conferring the Title of Honorary Alderman or Alderwoman

### 1. Procedure

- a) The title of Honorary Alderman/woman will only be conferred and entered into the Roll of Aldermen/women in accordance with the Council's agreed Protocol.
- b) Any name put forward must be proposed in writing by a serving Member of the Council and seconded in writing by at least one other serving Member of the Council. Nominations must be submitted to both the Chief Executive and the Lord Mayor.
- c) Nominations will be considered and the title of Honorary Alderman or Alderwoman will be conferred at a specially convened meeting of the Council. The title will be conferred by a resolution passed by not less than two thirds of members present and voting.
- d) Nominations may, in addition to this, be considered at a prior ordinary Council meeting, and the nomination approved in principle by a resolution comprising a majority vote. If nominations are considered at an ordinary meeting, it is proposed that the specially convened meeting may be held immediately after this ordinary meeting or at a future meeting, subject to the appropriate notice of the special meeting having been given

### 2. Qualifications Required for Enrolment

- a) The Council may, in accordance with Section 249 of the Local Government Act 1972, and the provisions of this Protocol, confer the title of "Honorary Alderman" or "Honorary Alderwoman".
- b) An Honorary Alderman/Alderwoman shall enjoy only those rights or privileges conferred by Section 249 of the Act and this Protocol as determined by the Cabinet Member with portfolio responsibility for the Lord Mayoralty.
- c) The ~~Executive Director of Resources~~Director of Finance and Corporate Services shall keep a roll to be called "The Roll of Honorary Aldermen/Alderwomen" of those who have had this title conferred on them.
- d) A person shall be deemed eligible to be enrolled as an Honorary Alderman/Alderwoman provided that the person meets the following requirements:

- is not a serving Member of the Council
- has served as a Member of the Council for at least 20 ~~15~~ years in total (continuously or non-continuously)
- has given eminent service to the Council during that period.

### 3. Method of Enrolment

- No person who has the above qualifications shall be enrolled automatically as an Honorary Alderman/Alderwoman but only in accordance with the procedure set out above.
- Formal conferring of the title of Honorary Aldermen/Alderwomen shall be by a resolution of the Council passed by not less than two thirds of the Members present and voting thereon at a meeting of the Council specially convened for the purpose with notice of the object.

### 4. Withdrawal of Title

- The Council may withdraw the title of Honorary Alderman/Alderwoman and the attached rights and privileges. Such withdrawal of the title shall be by way of formal motion to a meeting of the full Council, (the summons to which contains special notice that such withdrawal is proposed and the reason therefore) and subsequent resolution of the Council passed by not less than two thirds of the Members present and voting thereon at the meeting of the Council.

### ~~5. Privileges~~

~~An Honorary Alderman/Alderwoman shall be entitled to the following rights and privileges:~~

~~To enjoy the courtesy title of Honorary Alderman or Alderwoman and to be so addressed.~~

~~To provide a badge or emblem to Honorary Aldermen/Alderwomen, and to wear such badge or emblem on civic occasions.~~

~~To receive a copy of each Council summons and a copy of the Members' Handbook and to be included within the Members' Handbook.~~

~~To receive a framed certificate to commemorate their appointment.~~

~~To enter their name into "The Roll of Honorary Aldermen/Alderwomen".~~

~~To receive invitations to civic and social events to which Members of the Council are invited as determined by the Lord Mayor.~~

~~To walk in civic procession in a position immediately behind serving Members.~~

~~To enjoy such other privileges as the Council may confer upon them from time to time.~~

## **Appendix 6: Code of Conduct for Elected and Co-opted Members**

1. Under Section 27 of the Localism Act 2011 each local authority must adopt a code of conduct against which councillors' conduct may be assessed. This code, when viewed, should reflect the Seven Principles of Public Life namely Selflessness, Integrity, Objectivity, Accountability, Openness, Honesty and Leadership.
2. The Code of Conduct for Elected and Co-opted Members for Coventry City Council is set out in Part 4A of the Constitution.
3. In January 2019 the Committee on Standards in Public Life (CSPL) produced a report on Local Government Ethical Standards. The report made 26 recommendations to the Government that CSPL considered would enable councillors to be held to account effectively to the Seven Principles and which would enhance the fairness and transparency of the standards process. A number of these recommendations involve legislative changes however CSPL has also identified 15 "best practice" recommendations for local authorities which represents a benchmark for ethical practice which the CSPL expects authorities to implement.
4. The report of the CSPL and its recommendations have been considered by the Ethics Committee and the best practice recommendations form part of the committee's agreed work programme. Two of these recommendations require additions to the current Code of Conduct for Elected and Co-opted Members and are therefore constitutional changes.
5. These two best practice recommendations are:-
  - o Best practice 1: Local authorities should include prohibitions on bullying and harassment in codes of conduct. These should include a definition of bullying and harassment, supplemented with a list of examples of the sort of behaviour covered by such a definition.
  - o Best practice 2: Councils should include provisions in their code of conduct requiring councillors to comply with any formal standards investigation and prohibiting trivial or malicious allegations by councillors.
6. The consequential proposed additions to the Code are set out below with proposed amendments shown as track changes. Only the relevant section of the Code of Conduct is attached.

**PART 4A: CODE OF CONDUCT FOR ELECTED AND CO-OPTED MEMBERS**  
**COVENTRY CITY COUNCIL**

3. As a Member of Coventry City Council, I will act in accordance with the principles in paragraph 2 and, in particular, I will
- (a) Champion the needs of residents - the whole community and all my constituents, including those who did not vote for me - and put the public interest first.
  - (b) Deal with representations or enquiries from residents, members of our communities and visitors fairly, appropriately and impartially.
  - (c) Not allow other pressures, including the financial interests of myself or others connected to me, to deter me from pursuing constituents' casework, the interests of the City of Coventry or the good governance of the Council in a proper manner.
  - (d) Exercise independent judgement and not compromise my position by placing myself under obligations to outside individuals or organisations who might seek to influence the way I perform my duties as a Member/Co-opted Member of this Authority.
  - (e) Listen to the interests of all parties, including relevant advice from statutory and other professional officers, take all relevant information into consideration, remain objective and make decisions on merit.
  - (f) Be accountable for my decisions and cooperate when scrutinised internally and externally, including by local residents.
  - (g) Contribute to making the City Council's decision-making processes as open and transparent as possible to ensure residents understand the reasoning behind those decisions and are informed when holding me and other Members to account but restricting access to information when the wider public interest or the law requires it.
  - (h) Behave in accordance with all my legal obligations, alongside any requirements contained within the Council's policies, protocols and procedures, including on the use of the Council's resources.
  - (i) Value my colleagues and staff and engage with them in an appropriate manner and one that underpins the mutual respect between us that is essential to good local government.
  - (j) Always treat people with respect, including the organisations and public I engage with and those I work alongside.
  - [\(k\) Not bully or harass any person \(including specifically any Council employee\) and I will not intimidate or improperly influence, or attempt to intimidate or improperly influence, any person who is involved in](#)

any complaint about any alleged breach of this code of conduct.

**Note:**

Bullying may be characterised as:

· offensive, intimidating, malicious or insulting behaviour; or  
· an abuse or misuse of power in a way that intends to undermine, humiliate, criticise unfairly or injure someone.

Harassment may be characterised as unwanted conduct which has the purpose or effect of violating an individual's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for an individual.

Bullying and/or harassment may take many forms and may relate to a variety of issues. For example, bullying and harassment may relate to:

· age  
· disability  
· gender reassignment  
· race  
· religion  
· belief  
· sex  
· sexual orientation

However, this list is not exhaustive, and any form of bullying or harassment is prohibited by the Code of Conduct.)

(l) Comply with any Protocol adopted by the Council which seeks to regulate the conduct of its elected members or co-opted members and which the Council has specifically declared should fall within the provisions of this Code of Conduct

(k)(m) Provide leadership through behaving in accordance with these principles when championing the interests of the community with other organisations as well as within this Council.

(j)(n) Not disclose information given to me in confidence by anyone or information acquired by me, which I believe, or ought reasonably to be aware, is of a confidential nature, without express authority and/or unless the law requires it.

(o) Comply and co-operate with any formal standards investigation into my conduct, or that of any other elected or co-opted member.

(p) Not make trivial or malicious allegations that other elected or co-opted members have breached this Code of Conduct.

## **Appendix 7: Revisions to The Functions of Licensing and Regulatory Committee and to the Scheme of Delegation to Employees**

1. The current function of the Licencing and Regulatory Committee includes the responsibility for authorising all legal proceedings relating to:-
  - Fair Trading and Trading Standards
  - Pest Control and Animal Welfare
  - Noise and other nuisances
  - Food Safety
  - Environmental Protection
  - Health and Safety
  - Licensing (specifically Licensing Act and Gambling Act functions)
2. This function creates ultra vires issues as the Licencing & Regulatory Committee is a non-executive and non-area committee and therefore it cannot lawfully hold the power to authorise prosecutions in relation to executive functions.
3. The Committee is also considering information that is not at an evidential standard for prosecution in line with the Code for Crown Prosecutors and later decisions around continuing with a prosecution need to be made. This can cause further difficulties in terms of managing information in line with the access to information procedure rules.
4. A recent benchmarking exercise highlighted that Coventry City Council was unique amongst Local Authorities in presenting cases to a Committee to hear the matter. It is therefore proposed that the authorising of all legal proceedings relating to the functions detailed in paragraph 1 above is removed from the functions of the Licensing and Regulatory Committee.
5. The consequential proposed amendments to the Constitution are set out below with proposed amendments shown as track changes.

## **PART 2F: LICENSING AND REGULATORY COMMITTEE**

Reference should also be made to any Codes of Best Practice and Procedure Rules for licensing and regulatory matters made by the Committee.

### **1. Composition**

The Committee shall comprise of elected members (not drawn from Cabinet) to be appointed by full Council.

### **2. Chair**

The full Council will appoint the Chair and Deputy Chair of the Committee. In the absence of the Chair at a meeting of the Committee, the Deputy Chair will chair the meeting. In the absence of both the Chair and Deputy Chair, the Committee will elect another member of the Committee to chair the meeting.

### **3. Quorum**

The Quorum of the Committee will be 5 members.

### **4. Functions Delegated to the Licensing and Regulatory Committee**

The Committee will have responsibility for the following delegated functions **except** where specific functions have been delegated to an employee of the Council by virtue of Part 2M of this Constitution and subject to those provisions regarding legal proceedings.

- (a) To exercise the functions of the Council as Licensing Authority for the purposes and requirements of the Licensing Act 2003 and the Gambling Act 2005 except where functions are reserved to full Council;
- (b) To exercise the functions of the Council as Licensing Authority for all other relevant licensing and regulatory legislation including (without limitation) that which relates to acupuncture and body piercing, animals and pet shops, hackney carriage and private hire (taxis), house to house and street collections, street trading, sexual entertainment venues, safety of sports grounds, food, meat and dairy production, caravan and camping sites, scrap metal (including the power to set fees for scrap metal licences and related applications), zoos, alcohol, pleasure boats and pleasure vessels, tattoos, electrolysis, markets, Clean Air Act, environmental pollution control (including IPPC permits), approval of premises for the solemnisation of marriages and civil partnerships, alcohol disorder zones and smoke free premises as well as any other regulatory or licensing matters specified in Schedule 1 Local Authorities (Functions & Responsibilities) (England) Regulations 2000/2853 together with any Local Choice functions delegated to the Committee by Council as set out in Part 2A;

- (c) To advise full Council or Cabinet on the authority's response to any consultation documents issued by the Secretary of State on licensing and regulatory matters and revisions to the local statements of licensing policy;
- (d) To establish sub-committees comprising three members as and when required for the purpose of conducting hearings under the Licensing Act 2003 and Gambling Act 2005;
- (e) To delegate these functions, where appropriate, to the Deputy Chief Executive (Place) the appropriate Director or Assistant Director or other appropriate employees; and
- (f) To approve, adopt, review, amend and revise codes of best practice and procedure for licensing and regulatory matters within its terms of reference and to make the same publicly available.

**5. Matters incidental to the exercise of the Committee's delegated functions**

- 5.1 The exercise of the above functions by the Licensing and Regulatory Committee will include the power to impose any condition limitation or other restriction on any approval consent licence permission or registration granted in the exercise of those functions and the power to determine any other terms to which any such approval consent licence permission or registration is subject.
- 5.2 The exercise of the above functions by the Licensing and Regulatory Committee will include the power to determine whether, and in what manner, to enforce any failure to comply with any approval consent licence permission or registration granted or any failure to comply with the condition limitation or term to which a such approval consent licence permission or registration is subject or any other contravention in relation to a matter with regard to which the function has been exercised.
- 5.3 The exercise of the above functions by the Licensing and Regulatory Committee will include the power to amend modify or vary any such approval consent licence permission or registration or any condition limitation or term to which it is subject and the power to revoke any such approval consent licence permission or registration, including powers to charge for licenses, consents, permissions and permits in accordance with appropriate legislation.

**~~6 Legal Proceedings~~**

- ~~6.1 The Licensing and Regulatory Committee shall (except where delegated to an Employee under Part 2M) have the power to institute, defend and conduct legal proceedings in furtherance of or arising from the discharge of functions delegated to it.~~
- ~~6.2 The Licensing and Regulatory Committee has retained the responsibility for authorising all legal proceedings in relation to those functions delegated to it except where this has been delegated to an employee under Part 2M.~~

## PART 2M: Scheme of Delegation to Employees

### Paragraph 6.6

<i>Fair Trading and Trading Standards*</i>		
44	Generally to take action and operate all legislative, enforcement and administrative procedures in relation to fair-trading, trading standards, weights and measures and consumer protection. Specifically, but not exclusively, to: (a) to investigate trading standards offences suspected to have arisen within the City; (b) to conduct underage test purchasing of age-restricted products; (c) prohibit or suspend the sale of dangerous goods, substances or articles; and (d) promote the rights of consumers and fair-trading with businesses.	Director of Streetscene and Regulatory Services and the Head of Planning and Regulation.

<i>Pest Control and Animal Welfare*</i>		
45	Generally to take action and operate all legislative, enforcement and administrative procedures in relation to animal welfare, animal health and animal waste products.	Director of Streetscene and Regulatory Services and the Head of Environmental Services.
46	Cleanse and disinfest filthy or verminous persons and premises and treat and take other action in relation to infestations of pests and pest control.	Director of Streetscene and Regulatory Services and the Head of Environmental Services.
<i>Noise and other nuisances*</i>		
47	Generally to take action and operate all legislative, enforcement and administrative procedures in relation to noise and other nuisances. Specifically, but not exclusively, to: (a) consent to the use of noisy equipment and approaches where building work is proposed; (b) seize articles and equipment; and (c) undertake work in default where a notice is not complied with.	Director of Streetscene and Regulatory Services and the Head of Environmental Services.
<i>Food Safety*</i>		
48	Generally to take action and operate all legislative, enforcement and administrative procedures in pursuit of food safety and food hygiene and in relation to food export certificates and training fees for food hygiene, food safety courses and health and safety courses (discharged in the authority's capacity as an employer). Specifically, but not exclusively, to: (a) prohibit food business operations; (b) promote food safety and undertake training; and (c) seize unfit food.	Director of Streetscene and Regulatory Services and the Head of Environmental Services and the Head of Planning and Regulation as appropriate.
<i>Environmental Protection*</i>		
51	Generally to take action and operate all legislative, enforcement and administrative procedures in relation to environmental health and protection including maintaining a register of notices served under environmental health legislation apart from those which relate solely to the protection of	Director of Streetscene and Regulatory Services and the Head of Environmental Services and the

	persons at work.	Head of Planning and Regulation as appropriate.
52	Generally to take action and operate all legislative, enforcement and administrative procedures in relation to air quality, contaminated land and private water supplies. Specifically, but not exclusively, to: (a) maintain a register of remediation notices in relation to contaminated land; (b) authorise specified burning processes; (c) carry out Part IIA contaminated land investigations and identify remedial requirements; (d) environmental permitting; (e) review and monitor air quality; and (f) environmental management of construction sites.	Director of Streetscene and Regulatory Services and the Head of Environmental Services and the Head of Planning and Regulation as appropriate.
<i>Health and Safety*</i>		
55	Generally to take action and operate all legislative, enforcement and administrative procedures in pursuit of health and safety in workplaces where enforcement is the responsibility of the Council. Specifically, but not exclusively to: (a) appoint inspectors; (b) agree transfers of enforcement responsibility between the Health and Safety Executive and the Council (c) promote health and safety, and undertake training; and (d) seize articles and equipment.	Director of Streetscene and Regulatory Services and the Head of Environmental Services and the Head of Planning and Regulation as appropriate.
<i>Licensing*</i>		
56	The functions of the Council as "responsible authority" under the Licensing Act 2003 in relation to: (a) Health and Safety; (b) Pollution Control/Environmental Health; (c) Weights and Measures; and (d) A licensing authority.	Director of Streetscene and Regulatory Services and the Head of Environmental Services and the Head of Planning and Regulation as appropriate.
57	The functions of the Council as Licensing Authority under the Licensing Act 2003 to: (a) determine applications relating to licences and certificates where there are no representations outstanding; (b) deal with requests to vary or to be removed as	Director of Streetscene and Regulatory Services and the Head of Environmental Services and the

	<p>a designated premises supervisor;</p> <p>(c) make decisions on whether an objection or representation is irrelevant, frivolous, vexatious etc;</p> <p>(d) receive/acknowledge temporary event notices and serve S.107 counter-notices;</p> <p>(e) suspend a premises licence or club premises certificate if the holder of the licence/certificate has failed to pay the Council an annual fee;</p> <p>(f) maintain the public register; and</p> <p>(g) determine minor variation applications.</p>	Head of Planning and Regulation as appropriate.
58	The Council's enforcement functions under Part 7 of the 2003 Act.	Director of Streetscene and Regulatory Services and the Head of Environmental Services and the Head of Planning and Regulation as appropriate.
59	<p>The functions of the Council as "responsible authority" under the Gambling Act 2005 in relation to:</p> <p>(a) the Licensing Authority</p> <p>(b) Environmental Health/Pollution.</p>	Director of Streetscene and Regulatory Services and the Head of Environmental Services and the Head of Planning and Regulation as appropriate.
60	<p>The functions of the Council as "licensing authority" under the Gambling Act 2005 to:</p> <p>(a) process applications for premises licences (including variation and transfer), provisional statements and determine such applications and applications for club gaming machine permits where no representations are outstanding;</p> <p>(b) process and determine applications for all other types of permit, not referred to above including, but not limited to, Street Collection Permits, House to House Collection Permits, Small Lotteries Registration, Gaming Machine Permits;</p> <p>(c) receive/acknowledge temporary use and occasional use notices;</p> <p>(d) cancel licensed premises gaming machine permits;</p> <p>(e) process and determine small society lottery registrations;</p>	<p>(a) and (c) to (h): Director of Streetscene and Regulatory Services and the Head of Environmental Services and the Head of Planning and Regulation as appropriate.</p> <p>(b): Director of Streetscene and Regulatory Services and the Head of Environmental Services and the Head of Planning and Regulation as</p>

	<p>(f) exercise the Council's powers of entry and inspection;</p> <p>(g) maintain the public register; and</p> <p>(h) determine whether representations received from external, responsible authorities and interested parties are frivolous, vexatious or would certainly not influence the determination of an application.</p>	<p>appropriate except where there is a history of non-compliance; or the application is non-routine; or reservations are expressed by a consultee.</p>
61	<p>Generally to take action and operate all legislative, enforcement and administrative procedures in relation to the licensing, registration, inspection and issuing of permits or consents in respect of persons or premises and any other regulatory or licensing matters specified in Schedule 1 Local Authorities (Functions &amp; Responsibilities) (England) Regulations 2000/2853 (as amended from time to time) so far as they relate to Public Safety and Housing.</p>	<p>Director of Streetscene and Regulatory Services and the Head of Environmental Services and the Head of Planning and Regulation as appropriate.</p>
62	<p>To make minor amendments to the Street Trading Consent Terms and Conditions and to approve fee waivers in appropriate cases.</p>	<p>Director of Streetscene and Regulatory Services and the Head of Environmental Services and the Head of Planning and Regulation as appropriate.</p>
63	<p>To take all necessary action in connection with scrap metal dealers and their premises including:</p> <p>(a) processing and approving applications and the supply of information to external agencies;</p> <p>(b) powers of entry, inspection and enforcement of relevant legislation;</p> <p>(c) the inclusion of conditions on licences;</p> <p>(d) power to refuse applications for licences if no hearing is requested;</p> <p>(e) power to refuse applications to vary licences and applications in connection with conditions attached to licences if no hearing is requested; and</p> <p>(f) power to revoke licences if no hearing is requested.</p>	<p>Director of Streetscene and Regulatory Services and the Head of Environmental Services and the Head of Planning and Regulation as appropriate except that in (d), (e) and (f) if a hearing is requested by an applicant, the power to hear the matter rests with the Licensing and Regulatory Committee.</p>

**6.6.108 — Legal Proceedings: Licensing and Regulatory Committee**

~~The authority to act given to the Deputy Chief Executive (Place) and to other nominated employees in connection with services marked with a \* above,~~

~~does not imply the power to commence legal proceedings in any court or tribunal without the consent of the Licensing and Regulatory Committee, Cabinet or relevant Cabinet Member (as the case may be) or the City Solicitor except in the case of:~~

- ~~(a) "acid house parties" or any entertainments of a similar kind;~~
- ~~(b) noise nuisance proceedings relating to domestic premises;~~
- ~~(c) an alleged offender arrested by the police and charged whilst in police custody;~~
- ~~(d) proceedings under the Enterprise Act 2002;~~
- ~~(e) proceedings in connection with controlled or extractive waste~~

~~and any other regulations made thereunder.~~

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## Public report Cabinet Member Report

Cabinet Member for Policing and Equalities  
Council

9 March 2020  
17 March 2020

**Name of Cabinet Member: Policing and Equalities - Councillor AS Khan**

**Director Approving Submission of the report:  
Chief Executive**

**Ward(s) affected:  
None**

**Title: Proposed Changes to the Constitution Part 2M – Scheme of Functions Delegated to Employees and Appointment of Proper Officers**

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**Is this a key decision? No**

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### **Executive Summary:**

As a result of the deletion of the post of Deputy Chief Executive (Place) from April 2020 and a move to a new corporate landscape reflecting the One Coventry approach, the Council's constitution needs to be amended to reflect these changes. As a result of these changes to the Council structure, the scheme of delegation to officers and other officer functions, including the designation of proper officers, currently provided for within the City Council's Constitution need to be updated and amended.

This report seeks approval to the required amendments to the Constitution to reflect the new Council structure and to designate the post of Director of Law and Governance as the Monitoring Officer and City Solicitor and the post of the Director of Finance as the Section 151 officer.

### **Recommendations:**

The Cabinet Member for Policing and Equalities is requested to recommend that the City Council, with effect from 1 April 2020,:

- 1) Designates the post of Director of Law and Governance as the City Solicitor and Monitoring Officer (Section 5, Local Government Act 1972) and as the Proper Officer for the purposes of the Registration Services Act 1953
- 2) Designates the post of the Director of Finance as Chief Finance Officer under Section 151 of the Local Government Act 1972
- 3) Approves the transfer of functions set out in paragraphs 6.6.01 to 6.6.109 from the Deputy Chief Executive (Place) to the Deputy Chief Executive

- 4) Approves the appointment of the Director of Law and Governance as Proper Officer for the purposes of functions relating to meetings, reports, agendas and minutes of formal meetings of the Council (paragraph 6.6.70) and deposit of documents (paragraph 6.6.104).
- 5) Authorises the Director of Law and Governance to amend the Constitution accordingly.

Council is recommended, with effect from 1 April 2020, to:

- 1) Designates the post of Director of Law and Governance as the City Solicitor and Monitoring Officer (Section 5, Local Government Act 1972) and as the Proper Officer for the purposes of the Registration Services Act 1953
- 2) Designates the post of the Director of Finance as Chief Finance Officer under Section 151 of the Local Government Act 1972;
- 3) Approves the transfer of functions set out in paragraphs 6.6.01 to 6.6.109 from the Deputy Chief Executive (Place) to the Deputy Chief Executive
- 4) Approves the appointment of the Director of Law and Governance as Proper Officer for the purposes of functions relating to meetings, reports, agendas and minutes of formal meetings of the Council (paragraph 6.6.70) and deposit of documents (paragraph 6.6.104).
- 5) Authorises the Director of Law and Governance to amend the Constitution accordingly.

**List of Appendices included:**

None

**Background papers:**

None

**Other useful documents:**

None

**Has it been or will it be considered by Scrutiny?**

No

**Has it been or will it be considered by any other Council Committee, Advisory Panel or other body?**

No

**Will this report go to Council?**

Yes – 17 March 2020

Report title:

**Proposed Changes to the Constitution Part 2M – Scheme of Functions Delegated to Employees and appointment of Proper Officers**

**1. Context (or background)**

- 1.1 The Council's Constitution sets out how the Council carries out its business and makes decisions. It is a living document and needs to be updated from time to time to ensure that it reflects changes in practices within the Council.
- 1.2 The Constitutional Advisory Panel at its meeting on November 2019 received a preliminary oral report about changes that would be required to Proper Officer functions following the retirement of the Deputy Chief Executive (Place) in 2020.
- 1.3 The deletion of the post of the Deputy Chief Executive (Place) has created an opportunity to review the Corporate Leadership Team structure of the City Council and to realign activity to support a One Coventry approach.

**2. Options considered and recommended proposals**

- 2.1 The new structure removes the division of the Directorates into Place and People and realigns them into one cohesive structure. The functions currently delegated to the Deputy Chief Executive (Place) will therefore need to be delegated to the sole remaining Deputy Chief Executive (the Deputy Chief Executive (People), in her new role as Deputy Chief Executive. These functions are contained in Part 2M, paragraphs 6.6.1 to 6.6.109 of the Constitution. It is also recommended that the Director of Law and Governance is designated as Proper Officer in connection with functions relating to meetings, reports, agendas and minutes of formal meetings of the Council (paragraph 6.6.70) and deposit of documents (paragraph 6.6.104).
- 2.2 The Deputy Chief Executive will also oversee the delivery of the Council's key priorities through the Corporate Leadership Team with Directors remaining responsible for their Directorate's performance but with a shared ownership for the wider delivery of public services to meet the Council priorities. In addition, there are title changes to two of the Council's statutory appointments which require re-designation. The current post of Monitoring Officer and City Solicitor (Head of Legal Services) is re-titled as the Director of Law and Governance and the current Chief Finance Officer (Section 151 Officer) (the Director of Finance and Corporate Services) is re-titled as the Director of Finance.
- 2.3 To reflect these changes the scheme of delegation to officers and other officer functions currently provided for within the City Council's constitution need to be updated and amended. This includes updating post titles, realigning Director's responsibility for delegated functions and the re-designation of statutory officer posts.
- 2.4 The Authority to make changes to the Scheme of Delegation as set out in Part Two of the Constitution (to ensure that all delegated powers are assigned to relevant employees and to ensure that any new legislation of a technical nature is delegated to the appropriate Council body) is delegated to the City Solicitor. The authority to make any minor amendments to the Constitution is delegated to the City Solicitor in consultation with the Cabinet for Policing and Equalities. The appointment of statutory officers for the purposes of any function is a decision of Council.

**3. Results of consultation undertaken**

3.1 The need to make the proposed amendments were considered by the Constitutional Advisory Panel.

**4. Timetable for implementing this decision**

4.1 If the proposed changes are approved, they will go forward to full Council for approval and be implemented from 1<sup>st</sup> April 2020.

**5. Comments from Director of Finance and Corporate Services**

**5.1 Financial implications**

There are no direct financial implications from this report.

**5.2 Legal implications**

The Council is required by Section 9P of the Local Government Act 2000 to not only prepare but also keep up to date its Constitution. This report assists the Council in keeping its Constitution up to date.

**6. Other implications**

**6.1 How will this contribute to the Council Plan ([www.coventry.gov.uk/councilplan/](http://www.coventry.gov.uk/councilplan/))?**

Not applicable

**6.2 How is risk being managed?**

Updating the Constitution will help to reduce the risk of challenge to the Council which might arise if the Constitution were to become out of date and not reflect current practices and procedures.

**6.3 What is the impact on the organisation?**

None

**6.4 Equality and Consultation Analysis (ECA)**

There are no public sector equality duties which relevant.

**6.5 Implications for (or impact on) climate change and the environment**

None

**6.6 Implications for partner organisations?**

None

**Report author(s):**

**Name and job title:**

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**Directorate:**

Place

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Martin Reeves	Chief Executive	-		
Councillor M Mutton	Chair of Constitution Advisory Panel	-	28/2/20	28/2/20
Councillor AS Khan	Cabinet Member for Policing and Equalities	-	28/2/20	28/2/20

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