

Council Agenda



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Summons to attend the annual meeting of Council

to be held on Wednesday 16 May 2018 at 7.00 pm

The Ridgeway, The Beacon, Portway, Wantage, OX12 9BY

A handwritten signature in black ink, appearing to read "M Reed". The signature is fluid and cursive, with the first letter of the first name being a large, stylized 'M'.

Margaret Reed
Head of Legal and Democratic

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Agenda

Open to the public including the press

Council's vision

The council's vision is to take care of your interests across the Vale with enterprise, energy and efficiency.

1. Election of chairman

To elect a chairman of Council for the municipal year 2018/19.

2. Appointment of vice-chairman

To appoint a vice-chairman of Council for the municipal year 2018/19.

3. Apologies for absence

To record apologies for absence.

4. Minutes

(Pages 4 - 17)

To adopt and sign as a correct record the Council minutes of the meeting held on 14 February 2018 - attached.

5. Declarations of disclosable pecuniary interest

To receive any declarations of disclosable pecuniary interests in respect of items on the agenda for this meeting.

6. Urgent business and chairman's announcements

To receive notification of any matters which the chairman determines should be considered as urgent business and the special circumstances which have made the matters urgent, and to receive any announcements from the chairman.

7. Public participation

To receive details of members of the public who have registered to address Council on items on the agenda.

8. Election of leader of the council

This item has been included on the agenda with the agreement of Councillor Matthew Barber who has indicated his intention to resign from his current position as leader of the council before the date of this meeting.

To elect a leader of the council for a term ending on the date of the annual Council meeting in May 2019.

9. Appointments to the Cabinet

The chairman will ask the leader to announce his/her deputy leader and appointments to the Cabinet and the allocation of portfolios.

10. Appointments to committees, panels and joint committees for 2018/19

(Pages 18 - 24)

To consider the report of the head of legal and democratic on the appointment to those committees required to be politically balanced, together with the Area Committees, Licensing Acts Committee and joint committees and to authorise any consequential changes to the constitution - attached.

11. Changes to the council's constitution

(Pages 25 - 59)

To consider the report of the head of legal and democratic on proposed changes to the council's constitution - attached.

12. Report of the leader of the council

(1) Urgent cabinet decisions

In accordance with the scrutiny procedure rules, a Cabinet decision can be taken as a matter of urgency, if any delay by the call-in process would seriously prejudice the council's or the public's interest. Treating the decision as a matter of urgency must be agreed by the chairman of the Scrutiny Committee and must be reported to the next meeting of the council, together with the reasons for urgency.

To receive any details of urgent Cabinet decisions taken since the last ordinary meeting of the council, (if any).

(2) Delegation of cabinet functions

To receive details of any changes to the leader's scheme of delegation.

(3) Matters affecting the authority arising from meetings of joint committees, partnerships and other meetings

To receive the report of the leader (if any).

Minutes

of a meeting of the

Council



held on Wednesday, 14 February 2018 at 7.00 pm
at the The Ridgeway, The Beacon, Portway, Wantage, OX12 9BY

Open to the public, including the press

Present:

Members: Councillors Monica Lovatt (Vice-Chairman in the chair), Alice Badcock, Mike Badcock, Matthew Barber, Eric Batts, Ed Blagrove, Yvonne Constance, Roger Cox, Margaret Crick, Charlotte Dickson, St John Dickson, Katie Finch, Debby Hallett, Robert Hall, Jenny Hannaby, Anthony Hayward, Dudley Hoddinott, Simon Howell, Vicky Jenkins, Bob Johnston, Mohinder Kainth, Sandy Lovatt, Ben Mabbett, Chris McCarthy, Chris Palmer, Helen Pighills, Julia Reynolds, Judy Roberts, Robert Sharp, Janet Shelley, Emily Smith, Henry Spencer, Elaine Ware and Catherine Webber

Officers: Steven Corrigan, Harry Gable, Simon Hewings, William Jacobs, Margaret Reed, Richard Spraggett (Capita) and Mark Stone

Number of members of the public: 20

Co.54 Apologies for absence

Apologies for absence were submitted on behalf of councillors Stuart Davenport, Gervase Duffield, Mike Murray and Reg Waite.

Co.55 Minutes

RESOLVED: to approve the minutes of the meeting held on 13 December 2017 as a correct record and agree that the Chairman sign them as such.

Co.56 Declarations of disclosable pecuniary interest

None.

Co.57 Urgent business and chairman's announcements

The Chairman provided housekeeping information.

The Chairman advised that in respect of agenda item 15 (questions under Council procedure rule 33), she would take question 5 on the Oxfordshire Growth Deal prior to agenda item 7, and question 4, which relates to the 2018/19 budget, prior to agenda item 10.

Co.58 Public participation

- A. Mr Alex Taylor asked the following question of Councillor Roger Cox, Cabinet member for planning:

Why has the Vale of White Horse District Council planning department consistently told us lies and said everything was built as the plans from about 2003 and that there were no breaches of planning for building work reference P00/V0831 for about fourteen years? When a supposedly proper investigation was done (reference 11/00214/UNAUDV 13/10/2011) there obviously were breaches as proven by the information obtained from the council in 2015 and 2017. This stated that conditions 3 and 4 were not met and a Building Control Notice should have been served in 2005 - why was it not served and when did the Blue Ginger extractor become immune from complying with the building conditions laid down in the planning acceptance please? Why has the planning department refused to entertain any more correspondence on this matter since November 2014?

Answer

The concerns raised have been examined through the council's formal processes, including an independent review, which found the council's investigations satisfactory. We would encourage you to recognise the conclusions of these investigations are valued rather than pursue further unnecessary correspondence, which cannot be entertained.

- B. Mr Mayhew-Archer addressed Council on the Five Councils Partnership.

He referred to an article in the Oxford Mail which stated that the partner authorities hoped to save about £9 million over nine years from the partnership. Following the decision to cancel the contract with VINCI and renegotiate the contract with Capita, a tweet from Councillor John Cotton, Leader of South Oxfordshire District Council, stated that projected savings for the council would be roughly £2.5 million over 10 years. He questioned the reduction in potential savings for the councils and whether the exercise could cost the councils money. He questioned the lack of scrutiny undertaken by councillors of both the Capita and VINCI contracts. He pointed out that the joint scrutiny committee tried asking the right questions but it was told it had no role in the formal governance of the contracts.

Co.59 Petitions

At its meeting on 13 December 2017 Council received a petition regarding the Kingfisher Canoe Club's efforts to secure a new home to operate from land at Rye Farm. In accordance with the council's petition scheme, which provides for a Council debate if a petition is signed by in excess of 500 people, Council considered the petition.

Mr Surnam addressed Council on behalf of the Kingfisher Canoe Club in support of the petition.

RESOLVED: to refer the petition to Cabinet to find a positive solution to secure a home for the Kingfisher Canoe Club.

Co.60 Housing and growth deal for Oxfordshire

A. Question from Councillor Debby Hallett to Councillor Matthew Barber, Leader of the council

“Can the leader please provide a simple list of the explicit benefits to Vale in this Growth Deal, and the explicit costs to Vale (or expectations from Government on Vale)? We are not (yet) a unitary authority, and therefore we are making decisions for the Vale, as opposed to Oxfordshire County in general. I think it’s important that members know exactly what’s promised to Vale, and what’s expected from Vale, before we vote on this deal.”

Answer

Councillor Barber responded that that the Oxfordshire Housing and Growth Deal (the Deal) would provide £215 million of additional Government funding for Oxfordshire including £150 million for infrastructure and £60 million for affordable housing which would benefit the residents of the Vale. In addition, it includes a package of planning freedoms and flexibilities including provision for a three-year housing land supply, rather than the current five year requirement.

B. Debate on housing and growth deal for Oxfordshire

Council considered Cabinet’s recommendations, made at its meeting on 9 February 2018, on a Housing and Growth Deal for Oxfordshire.

Council agreed to suspend Council procedure rule 45 insofar as it limits councillors to speaking once.

The majority of councillors supported the Deal. In return for supporting the development of up to 100,000 new homes (the majority of which were included in existing local plans) the Deal would provide much needed funding for infrastructure and affordable housing across Oxfordshire, benefitting residents of the Vale and provide planning freedoms with the application of a three year, rather than the current five-year, housing land supply. Without the Deal the houses would still be required but without the infrastructure funding and support for affordable housing. Councillors noted the conditions recommended by Cabinet, set out in appendix 4 of the report, which outlined matters for clarification and matters which are not negotiable for Vale of White Horse District Council.

Whilst welcoming the funding, some councillors noted that the infrastructure funding would not address the current shortfall in funding.

A number of councillors expressed concern regarding the Deal. The infrastructure funding is insufficient, only addresses roads and there are no details of where the affordable housing would be provided. Others expressed concern regarding the governance arrangements – public consultation was lacking, the Oxfordshire Growth Board lacked transparency and there had been no opportunity to scrutinise the proposed Deal and the decision making process. Scrutiny needed to improve going forward. Others questioned the ability of the Oxfordshire local authorities to work together and whether sufficient resources would be made available to deliver the project.

RESOLVED: to

1. agree to the Oxfordshire Housing and Growth Deal (the Deal) (attached as Appendix 1 to the report of the head of partnership and insight to Cabinet on 9 February 2018);
2. agree the Delivery Plan (attached as Appendix 2 to the report of the head of partnership and insight to Cabinet on 9 February 2018) as the basis for the Deal; noting that elements will be updated as detailed work programmes develop;
3. delegate authority to the chief executive, in consultation with the leader and the Growth Board, to make minor changes to the Delivery Plan that may be required to secure agreement with Government;
4. delegate authority to the chief executive, in consultation with the Growth Board, to make non-minor changes to the Delivery Plan that may be required to secure agreement with Government, subject to the agreement of the Cabinet;
5. delegate authority to the chief executive, in consultation with the Growth Board, to agree the Year 1 affordable housing delivery programme, phasing and processes specified in the Delivery Plan, subject to the agreement of the Cabinet;
6. appoint Oxfordshire County Council as the accountable body in respect of the Oxfordshire Housing and Growth Deal;
7. delegate authority to the chief executive, in consultation with the Growth Board, to review the terms of reference of the Growth Board and agree any amendments and any appropriate inter-authority agreements required to support the delivery of the Housing and Growth Deal, subject to the agreement of the Cabinet;
8. agree that the Cabinet will take any other executive decisions arising from agreement to the Oxfordshire Housing and Growth Deal, until the revised terms of reference of the Growth Board are in place;
9. agree to participate in the preparation of a Joint Statutory Spatial Plan (JSSP) for Oxfordshire in accordance with the timescales set out in the Delivery Plan and in accordance with Section 28 of the Planning and Compulsory Purchase Act 2004, the milestones for progressing the JSSP being contingent on Government delivering the Planning Freedoms and Flexibilities as described in the Delivery Plan; and
10. agree that commencement of work to support and deliver the JSSP is subject to Cabinet being satisfied that the conditions set out at Appendix 4 of the report of the head of partnership and insight to Cabinet on 9 February 2018 have been met.

Co.61 Treasury management mid-year monitoring 2017/18

Council considered Cabinet's recommendations, made at its meeting on 9 February 2018, on the treasury management activities for the first six months of 2017/18.

The Joint Audit and Governance Committee had considered the report at its meeting on 29 January 2018 and had not recommended any adjustments to the strategy as a result of the first six months' activities. That committee and Cabinet had concluded

that the treasury management activities had operated within the agreed parameters set out in the approved treasury management strategy.

RESOLVED: to approve the head of finance's treasury management mid-year monitoring report 2017/18 to Cabinet on 9 February 2018.

Co.62 Treasury management strategy 2018/19

Council considered Cabinet's recommendations, made at its meeting on 9 February 2018, on the council's treasury management strategy and investment strategy for 2018/19 to 2020/21.

The Joint Audit and Governance Committee considered the report at its meeting on 29 January 2018 and recommended that the head of finance should consult the co-chair of Joint Audit and Governance Committee before investing in any Non-UCITS Retail Scheme. Cabinet supported the proposed strategy and the amendments as well as the recommendation of the Joint Audit and Governance Committee.

RESOLVED: to

1. approve the treasury management strategy 2018/19 set out in appendix A to the head of finance's report to Cabinet on 9 February 2018;
2. approve the prudential indicators and treasury limits for the period 2018/19 to 2020/21 as set out in table 2, appendix A to the head of finance's report to Cabinet on 9 February 2018; and
3. approve the annual investment strategy set out in appendix A (paragraphs 18 to 59), subject to the head of finance consulting the co-chair of Joint Audit and Governance Committee before investing in any Non-UCITS Retail Scheme, and the lending criteria detailed in table 5 to the head of finance's report to Cabinet on 9 February 2018.

Co.63 Revenue budget 2018/19 and capital programme to 2022/23

A. Question from Councillor Judy Roberts to Councillor Mike Murray, Cabinet member for Development and Regeneration

"What funding is allocated in the 2018-19 Vale budget specifically to the Housing Enabler role as outlined in the Joint Housing Delivery Strategy?"

Answer

Councillor Ware responded to the question in the absence of Councillor Murray. She stated that the 2018/19 funding for the housing enabler role will be found from the existing housing team strength.

Supplementary question/answer

In response to a supplementary question Councillor Ware stated that requirements for additional resources would be subject to future growth bids.

B. Debate on revenue budget 2018/19 and capital programme to 2022/23

The Chairman referred to regulations that require councils to record the names of those councillors voting in favour, against or abstaining from any vote on the budget, including amendments, and the council tax. In accordance with the regulations she would call for a named vote on each of these matters at this meeting.

The Chairman reminded councillors that they were not entitled to vote on any issue affecting the level or administration of the council tax, or other decisions which might affect the making of any such calculation such as the budget, if they were over two months in arrears with their council tax payments. Where such circumstances applied, councillors were under a statutory obligation to disclose the restriction placed on them and refrain from voting at the relevant meeting. No councillor made any such declaration.

Council noted the report of the chief finance officer on the robustness of the budget estimates and the adequacy of the reserves.

Councillor Sharp, Cabinet member for finance, presented the Cabinet's proposals for the revenue budget 2018/19 and capital programme to 2022/23. On behalf of the council he thanked officers for their part in preparing the draft budget.

Councillor Sharp moved and Councillor Barber seconded a motion to approve Cabinet's recommendations as follows:

1. set the revenue budget for 2018/19 as set out in appendix A.1 to the head of finance's report to Cabinet on 9 February 2018;
2. approve the capital programme for 2018/19 to 2022/23 as set out in appendix D.1 to the head of finance's report to Cabinet on 9 February 2018, together with the capital growth bids set out in appendix D.2 of the report;
3. set the council's prudential limits as listed in appendix E to the head of finance's report to Cabinet on 9 February 2018;
4. approve the medium term financial plan to 2022/23 as set out in appendix F.1 to the head of finance's report to Cabinet on 9 February 2018.

The majority of councillors supported the budget which continued provision for grants to community projects, included provision for a feasibility study for electrical charging points at district council locations, included a fund to improve the look of public areas across the district and provided for a new leisure centre in Wantage. The increase in council tax is prudent to address the long term sustainability of the council by matching revenue against expenditure.

Other councillors spoke against the budget. The fund to improve the look of public areas was not required because the work should already be undertaken by the parish councils, Oxfordshire County Council and existing contractors. The increase in council tax, following previous council tax freezes, illustrated that the council had failed to acknowledge the financial situation it faces. The failure to increase council tax in previous years had led to a loss of revenue which would impact on reserves in future years. Concern was also raised regarding slippage in the delivery of capital projects.

In accordance with regulations requiring councils to record the names of those councillors voting in favour, against or abstaining from any vote on the council tax the

Chairman called for a recorded vote, which was carried with the voting being as follows:

For	Against	Abstentions
Councillors	Councillors	Councillors
Alice Badcock	Debby Hallett	Margaret Crick
Mike Badcock	Dudley Hoddinott	
Matthew Barber	Bob Johnston	
Eric Batts	Helen Pighills	
Edward Blagrove	Judy Roberts	
Yvonne Constance	Emily Smith	
Roger Cox	Catherine Webber	
Charlotte Dickson		
St John Dickson		
Katie Finch		
Robert Hall		
Jenny Hannaby		
Anthony Hayward		
Simon Howell		
Vicky Jenkins		
Mohinder Kainth		
Monica Lovatt		
Sandy Lovatt		
Ben Mabbett		
Chris McCarthy		
Chris Palmer		
Julia Reynolds		
Robert Sharp		
Janet Shelley		
Henry Spencer		
Elaine Ware		
Total: 26	Total: 7	Total: 1

RESOLVED: to

1. set the revenue budget for 2018/19 as set out in appendix A.1 to the head of finance's report to Cabinet on 9 February 2018;
2. approve the capital programme for 2018/19 to 2022/23 as set out in appendix D.1 to the head of finance's report to Cabinet on 9 February 2018, together with the capital growth bids set out in appendix D.2 of the report;
3. set the council's prudential limits as listed in appendix E to the head of finance's report to Cabinet on 9 February 2018;
4. approve the medium term financial plan to 2022/23 as set out in appendix F.1 to the head of finance's report to Cabinet on 9 February 2018.

Co.64 Council tax 2018/19

Council considered the report of the head of finance on the setting of the council tax for the 2018/19 financial year.

In accordance with regulations requiring councils to record the names of those councillors voting in favour, against or abstaining from any vote on the council tax the Chairman called for a recorded vote, which was carried with the voting being as follows:

For	Against	Abstentions
Councillors	Councillors	Councillors
Alice Badcock		
Mike Badcock		
Matthew Barber		
Eric Batts		
Edward Blagrove		
Yvonne Constance		
Roger Cox		
Margaret Crick		
Charlotte Dickson		
St John Dickson		
Katie Finch		
Robert Hall		
Debby Hallett		
Jenny Hannaby		
Anthony Hayward		
Dudley Hoddinott		
Simon Howell		
Vicky Jenkins		
Bob Johnston		
Mohinder Kainth		
Monica Lovatt		
Sandy Lovatt		
Ben Mabbett		
Chris McCarthy		
Chris Palmer		
Helen Pighills		
Julia Reynolds		
Judy Roberts		
Robert Sharp		
Janet Shelley		
Emily Smith		
Henry Spencer		
Elaine Ware		
Catherine Webber		
Total: 34	Total: 0	Total: 0

RESOLVED:

1. to note that at its meeting on 13 December 2017 the council calculated the council tax base 2018/19:
 - (a) for the whole council area as 50,451.8 [Item T in the formula in Section 31B of the Local Government Finance Act 1992, as amended (the “Act”)]; and

- (b) for dwellings in those parts of its area to which a parish precept relates as in column 1 of appendix 1.
2. that the council tax requirement for the council's own purposes for 2018/19 (excluding parish precepts) is £6,391,739.
3. that the following amounts be calculated for the year 2018/19 in accordance with Sections 31 to 36 of the Act:
- (a) £77,514,025 being the aggregate of the amounts which the council estimates for the items set out in Section 31A(2) of the Act taking into account all precepts issued to it by parish councils;
 - (b) £67,308,728 being the aggregate of the amounts which the council estimates for the items set out in Section 31A(3) of the Act;
 - (c) £10,205,297 being the amount by which the aggregate at (3)(a) above exceeds the aggregate at (3)(b) above, calculated by the council, in accordance with Section 31A(4) of the Act as its council tax requirement for the year. (Item R in the formula in Section 31B) of the Act);
 - (d) £202.28 being the amount at (3)(c) above (Item R), all divided by Item T (1(a) above), calculated by the council, in accordance with Section 31(B) of the Act, as the basic amount of its council tax for the year (including parish precepts);
 - (e) £3,813,558 being the aggregate amount of all special items referred to in Section 34(1) of the Act, as set out in column 2 of appendix 1;
 - (f) £126.69 being the amount at (3)(d) above less the result given by dividing the amount at (3)(e) above by Item T (1(a) above), calculated by the council, in accordance with Section 34(2) of the Act, as the basic amount of its council tax for the year for dwellings in those parts of its area to which no parish precept relates.
4. to note that for the year 2018/19 Oxfordshire County Council has stated the following amounts in precepts issued to the council, in accordance with Section 40 of the Local Government Finance Act 1992, for each of the categories of dwellings shown below:

Band A	£950.79
Band B	£1,109.26
Band C	£1,267.72
Band D	£1,426.19
Band E	£1,743.12
Band F	£2,060.05
Band G	£2,376.98
Band H	£2,852.38

5. to note that for the year 2018/19 the Police and Crime Commissioner for Thames Valley has stated the following amounts in precepts issued to the council, in accordance with Section 40 of the Local Government Finance Act 1992, for each of the categories of dwellings shown below:

Band A	£121.52	
Band B	£141.77	
Band C	£162.03	2
Band D	£182.28	
Band E	£222.79	
Band F	£263.29	

6. that the council, in accordance with Sections 30 and 36 of the Local Government Finance Act 1992, hereby sets the aggregate amounts shown in appendix 3 as the amounts of council tax for 2018/19 for each part of its area and for each of the categories of dwellings shown in appendix 3.
7. to determine that the council's basic amount of council tax for 2018/19 is not excessive in accordance with principles approved under Section 52ZB Local Government Finance Act 1992.

Co.65 Pay policy statement 2018/19

Council considered the report of the head of corporate services on the adoption of a pay policy statement to meet the requirements of the Localism Act.

RESOLVED: to approve the pay policy statement for 2018/19 attached to the report of the head of corporate services to Council on 14 February 2017.

Co.66 Review of membership of the Planning Committee and the political balance on committees

Council considered the report of the head of legal and democratic on the membership of the Planning Committee and the political balance of committees.

RESOLVED: to

1. reduce the size of the Planning Committee from 11 members to nine members;
2. allocate seats to each political group in accordance with paragraphs 8 - 11 of the report of the head of legal and democratic to Council on 14 February 2018;
3. (with no councillor voting against) allocate one of the Conservative Group seats on the Planning Committee to the Liberal Democrat Group to ensure the overall political balance;
4. (with no councillor voting against) allocate one of the Conservative Group's seats on the Corporate Services Joint Scrutiny Committee to the Liberal Democrat Group;
5. appoint councillors and substitutes to sit on the Planning Committee and Corporate Services Joint Scrutiny Committee as follows;

	Planning Committee, 9 Members
Conservative (6)	Liberal Democrat (3)
Anthony Hayward	Jenny Hannaby
Robert Hall	Bob Johnston
Sandy Lovatt (Chairman)	Catherine Webber
Ben Mabbett	
Chris McCarthy	
Janet Shelley (Vice-Chairman)	

	Planning Committee, 9 Members
Conservative (6)	Liberal Democrat (3)
PREFERRED SUBSTITUTES	
Conservative (6)	Liberal Democrat (3)
Mike Badcock	Margaret Crick
Yvonne Constance	Helen Pighills
St. John Dickson	Emily Smith
Monica Lovatt	
Chris Palmer	
Julia Reynolds	

Names	Corporate Services Joint Scrutiny Committee, 2 Members
Conservative (1)	Liberal Democrat Group (1)
Ben Mabbett	Debby Hallett
PREFERRED SUBSTITUTES	
Conservative (3)	Liberal Democrat (3)
Alice Badcock	Helen Pighills
Yvonne Constance	Judy Roberts
Chris Palmer	Emily Smith

6. authorise the head of legal and democratic to make appointments to any vacant committee or panel seat and substitute positions in accordance with the wishes of the relevant group leader.

Co.67 Report of the leader of the council

Council noted that Councillor Eric Batts will continue as the Cabinet member for community safety and the council's representative on both the Safer Oxfordshire Partnership Oversight Committee and the South and Vale Community Safety Partnership.

In accordance with the Cabinet arrangements and procedure rules, Council noted that on 21 December 2017, the Cabinet member for corporate services took an urgent decision to award a contract to purchase a software licence. The agreement of the Scrutiny Committee chairman was sought and received before the Cabinet member made this decision.

Co.68 Questions on notice

1. Question from Councillor Catherine Webber to Councillor Matthew Barber, Cabinet member for partnership and insight

“Residents are asking about the Five Council Partnership deal and why the expectant savings for tax payers of £50 million has now dropped drastically to only £20 million. Can the Cabinet Member help members, and the public, to understand what’s gone wrong by publishing the relevant information? After all, this is public money we’re talking about. The deal seems to be shrouded in secrecy, so anyone seeking information is forced to file a Freedom of Information (FOI) request. Responding to FOI requests is costly to the Council, and frustrating for our residents. How can the administration improve transparency and ensure the public have access to more detailed information about the Five Council Partnership?”

Answer

Councillor Barber responded that officers are still in negotiation with both Capita over a deed of variation, and VINCI. The discussions are commercially sensitive for all parties and cannot be conducted in public without undermining the council's position. Although final figures will not be known until the negotiations are completed, the council remains confident that the corporate services contracts will provide significant savings to the councils compared with the previous cost of running the services. If required, confidential briefing sessions or meetings of the Scrutiny Committee could be held for councillors. The council would respond to FOI requests but could not divulge confidential information.

2. Councillor Debby Hallett to Councillor Matthew Barber, Cabinet member for partnership and insight

“Whenever a decision is made to outsource public services to an external provider, we outsource the work but not the responsibility. It is Vale that must meet payroll, manage HR issues, keep the IT systems working, and replace batteries in officers’ mobile telephones. Cabinet decided to trust Capita with much of this work.

News of Capita’s fall in share price after profits warnings are of huge concern to this council. Their announced strategic and operational changes raise the question of whether Capita are still willing and able to carry out their performance commitments to us. This council is just a small part of their world, but they are a big part of ours.

When Cabinet decided to outsource this work, it appears no one was designated as Contract Manager. Who at Vale is now responsible for managing the contract with Capita? What is the true savings per year for Vale now that we have so many of our senior officers dedicating so much of their time to this outsourcing scheme? What has been the cost of officers in addressing issues arising? And what is the level of service now, compared to what it was before 5CP?

Where can members and the public see what contingency plans Vale has put in place to mitigate the risk of Capita’s services to Vale ceasing?”

Answer

Councillor Barber responded that from the commencement of the contract there has been a joint client team, shared by all the five council partners and headed by a client relationship director who is clearly designated as contract manager.

Matters relating to the performance of the contractors will be reported to the Scrutiny Committee in the usual way and contingency plans are in place for all contractors.

Supplementary question/answer

In response to a supplementary question regarding the officer contact Councillor Barber responded that the relationship between the council and the joint client team will now be a responsibility for the head of partnership and insight but individual issues would be addressed by the relevant service.

3. Councillor Emily Smith to Councillor Roger Cox, Cabinet member for planning:

“In terms of the Housing Test imposed by Government, here are the targets, as I understand them to be, for house building Vale must achieve, or face consequences in our planning policies or processes:

Year	If housing delivery falls below x% of target	Action
2017	95%	LPAs will need to develop an action plan to address shortfall
2017	85%	LPAs will need to plan for a 20% buffer in their annual housing land supply calculations
2018	25%	The presumption in favour of Sustainable development will automatically apply.
2019	45%	The presumption in favour of Sustainable development will automatically apply.
2020	65%	The presumption in favour of Sustainable development will automatically apply.

I understand the 2020 target is likely to actually be 75%.

Can the Cabinet member explain to Council how we measure and report our figures, how we are doing so far, and what steps are being taken to ensure we do not regress into the situation where we've been for most of the time he's been in charge, where speculative developers have the upper hand?”

Answer

A new housing delivery test was put forward in the Government White Paper '*Fixing our Broken Housing Market*', however the implementation date has been delayed and no new date specified.

The test is designed to “highlight whether the number of homes being built is below target, provide a mechanism for establishing the reasons why, and where necessary trigger policy responses that will ensure that further land comes forward”¹.

The test measures housing delivery over a three year period, so for 2017/18 the test would have measured housing completions as an average from 2014/15 to 2016/17, measured against the district's housing need. The housing need for Vale of White Horse will be taken from our up to date Local Plan.

¹ Page 43, '*Fixing our Broken Housing Market*', available from https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/590464/Fixing_our_broken_housing_market_-_print_ready_version.pdf

Table 1 for year 18/19 to 22/23 shows how Vale would perform against the test.

Table 1: Housing Delivery Test, Vale of White Horse

Year	2018/19	2019/20	2020/21	2021/22	2022/23
HDT requirements	25%- Presumption in favour of sustainable development	45%- Presumption in favour of sustainable development	75%- Presumption in favour of sustainable development	75%- Presumption in favour of sustainable development	75%- Presumption in favour of sustainable development
Vale position (%)	135%	140%	153%	166%	174%

Progress against Housing Delivery Test

Table 1 illustrates that the Vale performance figures exceed the housing delivery test. This is with supply as of 1 October 2017 and trajectories for housing completions updated with survey and developer information from October/November 2017. The annual housing need as stated in the adopted LPP1 is 1028, increasing to 1211 annually from 2019/20, to cover Oxford City's unmet need if LPP2 is adopted.

Again, the table shows that the Vale is expected to pass the test on projected delivery for the next five years.

Steps to help housing delivery

In recognition that it will be a challenge to meet our housing need over the next 14-16 years, a joint Housing Delivery Strategy (HDS) has been produced. This strategy aims to enable housing delivery to be accelerated and to ensure the type and quality of homes delivered are what is required.

Co.69 Motions on notice under Council procedure rule 38

No motions were submitted under Council procedure rule 38.

Co.70 Exclusion of the public

RESOLVED: to exclude members of the press and public from the meeting for the following item of business under Part 1 of Schedule 12A Section 100A(4) of the Local Government Act 1972 and as amended by the Local Government (Access to Information) (Variation) Order 2006 on the grounds that:

- I. it involves the likely disclosure of exempt information as defined in paragraphs 1,2 and 3 of Part 1 of Schedule 12A of the Act, and
- II. the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

Co.71 Minutes

RESOLVED: to approve the confidential minutes of the meeting held on 13 December 2017 as a correct record and agree that the Chairman sign them as such.

The meeting closed at 9.15pm

Council report



Report of Head of Legal and Democratic

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To: COUNCIL

DATE: 16 May 2018

Appointments to committees, panels and joint committees 2018/19

Recommendations

That Council:

1. appoints the committees and panels for the 2018/19 year, allocates seats to each political group and appoints councillors and substitutes to sit on them in accordance with paragraphs 8-13 of this report and as set out in the schedule circulated at the meeting;
2. considers allocating one of the Conservative Group seats on the Planning Committee to the Liberal Democrat Group;
3. appoints chairmen and vice-chairmen as set out in the schedule circulated at the meeting;
4. appoints all local members representing the wards covered by the relevant area committees to those committees for the 2018/19 municipal year; in accordance with paragraph 14 of this report and as set out in the schedule circulated at the meeting;
5. appoints councillors to the Licensing Acts Committee in accordance with paragraphs 15-17 of this report and as set out in the schedule circulated at the meeting;
6. appoints a representative and a substitute on the Oxfordshire Joint Health Overview and Scrutiny Committee;
7. appoints a representative and an observer substitute on the Thames Valley Police and Crime Panel;
8. appoints three representatives to the Oxfordshire Growth Board Scrutiny Panel;
9. authorises the head of legal and democratic to make appointments to any vacant committee or panel seat and substitute positions in accordance with the wishes of the relevant group leader;
10. authorises the head of legal and democratic to amend the constitution as necessary to reflect the arrangements set out in this report.

Purpose of report

1. This report invites Council to agree appointments to those committees required to be politically balanced together with the Area Committees and the Licensing Acts Committee. It also invites Council to make appointments to joint bodies.

Background

2. The Council is required by the Local Government and Housing Act 1989 to appoint committees, review the political balance and to appoint councillors to the committees annually.
3. In summary the Council has a duty to ensure the following principles are adhered to:
 - (i) not all seats are allocated to the same political group
 - (ii) a majority group should get the majority of seats on each committee
 - (iii) the seats allocated to groups on a committee reflect the membership of the Council as a whole
 - (iv) the allocation of the total number of seats on all committees reflects the membership as a whole.
4. Ordinary committees are those that have decision-making powers but excluding the Licensing Acts Committee and area committees.

Strategic Objectives

5. This report supports the council's corporate plan in that it contributes to running an efficient council. It is also in line with the council's requirement to review the political complexion of committees and other bodies, having regard to the Local Government and Housing Act 1989.

Political balance

6. The number of seats held by the various political groups is currently as follows:

Conservative	29	(76.32%)
Liberal Democrat	9	(23.68%)
7. The Local Government (Committees and Political Groups) Regulations 1990 require a constituted political group to be two or more members.

Composition of committees

8. The ordinary committees and panels that are required to be politically balanced both individually, and overall, are set out below.

Committee	Members	Comments
Vale Scrutiny Committee	9	
Joint Scrutiny Committee	5	10 in total with South Oxfordshire District Council
Joint Audit and Governance Committee	4	8 in total with South Oxfordshire District Council
Planning Committee	9	Council, at its meeting in February 2018, agreed to reduce the size of the committee from 11 to 9
General Licensing Committee	12	
Community Governance and Electoral Issues Committee	6	
Appeals Panel	3	
Joint Staff Committee	3	6 in total with South Oxfordshire District Council
Totals	51	

- The membership of the General Licensing Committee and the Licensing Acts Committee are the same, although they are two separate entities. This allows for a sufficiently large, well trained pool of councillors from which to draw the Taxi Licensing and Licensing Panels, and avoids confusion as to which members are on which committee. These committees may appoint the same, or different chairmen and vice chairmen.
 - The co-chairs of the Joint Scrutiny committee should be the same as the chairs of the district Scrutiny committees to eliminate potential conflict around the call in arrangements and work programmes.
9. At its meeting on 14 February 2018 Council agreed to reduce the size of the Planning Committee from 11 to 9 members. In doing so Council also agreed to allocate one of the Conservative Group seats on the committee to the Liberal Democrat Group to ensure the overall political balance. Council is invited to consider whether to continue this allocation for 2018/19.
10. The terms of reference of the council's committees and panels are set out in the constitution.
11. The political balance calculation and the entitlements to seats on committees are set out in the tables below. Fractional entitlements of less than one half are rounded down and entitlements of one half or more are rounded up. Some adjustments must be made to ensure that the overall percentage of seats is correctly apportioned.

Group	Group members	Total of council	Total number of committee seats
Conservative	29	76.32%	39
Liberal Democrat	9	23.68%	12
TOTAL	38	100%	51

Committee	Total number of seats	Conservative	Liberal Democrat
Scrutiny	9	7	2
Planning	9	7	2
General Licensing Committee	12	9	3
Appeals Panel	3	2	1
Joint Scrutiny	5	4	1
Joint Audit and Governance	4	3	1
Community Governance and Electoral Issues Committee	6	5	1
Joint Staff Committee	3	2	1
Total	51	39	12

12. If the Council wishes to allocate any seats not in accordance with the political balance requirements it can only do so if no councillor votes against the proposal.

Substitutes

13. Each political group is entitled to the same number of preferred substitutes as the number of ordinary seats it holds on a committee or panel, and up to a maximum of three preferred substitutes where it has fewer than three members on a committee or panel. All substitutes for regulatory committees must have met the relevant training requirement, regardless of whether they are preferred or other substitutes.

Area Committees

14. In 2003, the Council established area committees with the terms of reference set out in the council's constitution. The areas were revised by Council in May 2015. In January 2011 the Executive delegated the award of community grants to the area committees. The area committees consist of councillors for the relevant area only.

Council is invited to confirm the membership of the area committees for the next municipal year as those local members representing those areas. The Council is asked to note that the area committees do not need to be politically balanced and, therefore, the area committees are not included in the calculation of seats to political groups. Council is requested to appoint councillors to the area committees as set out in the schedule circulated at the meeting.

Licensing Acts Committee

15. The Licensing Acts Committee is a statutory committee and is not required to be included in the calculation of political balance. The whole committee meets rarely to deal with licensing and gambling policy matters but a membership of 12 provides a pool of councillors from which panels of three can be drawn to deal with hearings relating to premises licence applications and reviews, and gambling matters.
16. Council has previously agreed to appoint a committee in accordance with the political balance of the Council. The membership will mirror the membership of the General Licensing Committee and will, therefore, be politically balanced but will not in itself contribute to the total political balance of the council's committees.
17. As a statutory committee with a specified membership substitutes may not be appointed.

Eligibility to sit on committees and panels.

- Any member of the council may be appointed to any committee with the following exceptions and caveats:
- No member of Cabinet may sit on any Scrutiny Committee;
- No member of Cabinet may sit on the Joint Audit and Governance Committee;
- No member of Cabinet may sit on the Planning Committee;
- No member may sit on an Area Committee if they do not represent that area;
- The Chairman or Vice Chairman of Council may not be the Chairman or Vice Chairman of any committee or panel;
- No Cabinet member may be the Chairman or Vice Chairman of any committee or panel with the exception of the Joint Staff Committee;
- Most panels meet during the daytime, and only members who have some daytime availability should be selected for these panels. This includes General Licensing Committee and Licensing Acts Committee, which do most of their work through daytime panels.

Appointments

18. Officers have invited group leaders to submit the names of councillors they wish to sit on each of the above bodies. A table of nominations will be circulated at the meeting.

Joint Health Overview and Scrutiny Committee

19. Council is invited to appoint a representative and a named substitute to the Oxfordshire Joint Health Overview and Scrutiny Committee.

Thames Valley Police and Crime Panel

20. Council is invited to appoint a representative to the Thames Valley Police and Crime Panel. The constitution of the panel does not provide for formally appointed substitutes but Council may appoint one in an observer capacity.

Appointments to sub groups of the Oxfordshire Growth Board

21. The Oxfordshire Growth Board is now responsible for delivery of the Oxfordshire Housing and Growth Deal which was agreed by all Oxfordshire authorities and Government in February 2018. The Growth Board terms of reference have been updated to reflect these new responsibilities and new programmes of work required to deliver the commitment in the Deal.

Oxfordshire Growth Board Advisory Sub Groups

22. The terms of reference establish advisory sub groups to the Growth Board to oversee programmes of work on infrastructure, housing and the Joint Statutory Spatial Plan. The purpose of the sub groups is to oversee the programmes of work to deliver the commitments in the Deal, to monitor progress against the key milestones and make recommendations to the Growth Board on decisions required. It is expected that the sub groups will normally meet on a quarterly basis.
23. The advisory sub groups will be made up of elected member representatives from each of the constituent councils appointed by the leader of that council and other representatives as agreed by members of the Growth Board Joint Committee. The chairmen of the sub-groups will be appointed by the Growth Board and normally drawn from the voting membership of the Growth Board acting as an independent chairman. The leader of the council will advise of the nominations and substitutes in their leader's scheme.

Oxfordshire Growth Board Scrutiny Panel

24. The terms of reference also establish a new Growth Board Scrutiny Panel to enable effective and coordinated scrutiny of Growth Board functions and decisions. The Scrutiny Panel will be non-statutory to enable flexibility for the constituent councils to reflect local scrutiny membership. The ability of the constituent council scrutiny committees to scrutinise the Growth Board will remain. The terms of reference and working arrangements for the Scrutiny Panel will be developed with input from the scrutiny committee chairmen of the individual councils. The chairman will be elected by the members of the Scrutiny Panel.
25. As a non-statutory panel, the Scrutiny Panel does not need to be politically balanced. It is suggested that Council appoints two Conservative and one Liberal

Democrat representatives to reflect the membership of the district Scrutiny Committee. There is no provision for substitutes.

26. Council is invited to appoint three representatives to the Scrutiny Panel.

Financial implications

27. There are no direct financial implications.

Legal implications

28. These are set out in the body of the report.

Conclusion

29. In deciding the committees and panels it wishes to establish for the 2018/19 year, Council is required to allocate seats to political groups in the same proportion as they hold on the council as a whole. Against that background, Council is invited to establish the committees and panels set out in the table in paragraph 8 of this report and to appoint councillors to them. Council is also invited to appoint councillors to the area committees and the Licensing Acts Committee and to appoint representatives to the Oxfordshire Joint Health Overview and Scrutiny Committee, the Thames Valley Police and Crime Panel and the Oxfordshire Growth Board Scrutiny Panel. If all committee and panel seats and substitute places are not filled at the meeting, Council is invited to delegate authority to the head of legal and democratic to make appointments in accordance with the wishes of the relevant group leader. Council is also invited to delegate authority to the head of legal and democratic to amend the constitution as necessary.

Background Papers: None.

Council report



Report of Head of Legal and Democratic and Monitoring Officer

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To: COUNCIL

DATE: 16 May 2018 (Vale) and 17 May 2018 (South)

Changes to the council's constitution

Recommendations

That Council agrees to:

1. amend the constitution in the Summary and Explanation section and the Cabinet Arrangements and Procedure Rules to update the key decision definition by amending paragraph (a) to read: "to incur expenditure, make savings or to receive income (except government grant) of more than £75,000.";
2. amend paragraphs 40 and 41 of the constitution's Summary and Explanation section relating to the authentication of documents and common seal of the councils to allow the head of legal and democratic, the chief executive, the legal services manager or a senior lawyer to sign and attest the sealing of documents;
3. delete reference to the Five Councils' Partnership Scrutiny Committee in paragraph 83 of the Scrutiny Committees Procedure Rules;
4. amend paragraph 3 of the Planning Committee Procedure Rules to reflect the Vale Council's decision on 14 February 2018 to reduce its Planning Committee membership from 11 to nine;
5. delegate authority to the head of corporate services "to act as the council's data protection officer under the General Data Protection Regulations" and reflect this responsibility in the Proper Officer and Authorised Officer section of the constitution;
6. delegate authority to the head of development and regeneration: "To determine applications from registered housing providers to waive the 80 per cent equity share restriction on shared ownership dwellings, on a case-by case basis, where such a restriction has been included within a section 106 planning agreement, and where the application meets the established criteria for granting the waiver.";

7. delegate authority to the head of development and regeneration: “To determine continuous market engagement requests and confirm support to Homes England for both grant and nil-grant applications from registered housing providers, for the inclusion of affordable dwellings or developments within the national affordable homes programme.”
8. amend the delegation to the head of housing and environment in paragraph 4.3: “To authorise and serve any notices and take all necessary actions relating to ~~the collection of waste, the provision of dustbins and to secure the removal of rubbish. (S.34 PHA 1961)~~ **the council’s duties as a waste collection authority as set out in sections 45 and 46 of the Environmental Protection Act 1990 (as amended).** *[N.B. deleted text is crossed through, added text is in **bold type**];*
9. delegate authority to the head of housing and environment: “To authorise and serve any notices and take all necessary actions relating to the council’s duties as a principal litter authority in accordance with section 89 of the Environmental Protection Act 1990 (as amended).”;
10. amend the delegation to the head of housing and environment in paragraph 19.2: “To exercise the council’s powers and duties under The Dangerous Wild Animals Act 1976, The Pet Animals Act 1951, The Breeding of Dogs Acts 1973 and 1991, The Animal Boarding Establishments Acts 1963 and 1970, The Zoo Licensing Act 1981, The Riding Establishments Acts 1964 & 1970, **and the Breeding and Sale of Dogs (Welfare) Act 1999**, including licensing and registration functions, taking of enforcement action, inspections, powers of entry and the appointment of inspectors.”;
11. move the delegations in relation to local amenity/overgrown gardens from the head of housing and environment (section 21 refers) to the head of planning;
12. delegate authority to the head of planning: “To authorise the making of footpath and bridleway dedication agreements.”;
13. amend paragraph 11.1 of the head of planning’s scheme of delegation regarding the collection of Community Infrastructure Levy: “To collect Community Infrastructure Levy revenue and calculate the chargeable amount under Regulation 40 of the Community Infrastructure Levy Regulations 2010. Appropriate budgets must be created as follows in accordance with the financial procedure rules:
 - (a) for the administration of Community Infrastructure Levy (five per cent of the Community Infrastructure Levy revenue)
 - (b) for the **towns and parishes** ~~councils~~ (15 or 25 per cent of the Community Infrastructure Levy revenue)
 - (c) for the district council (remainder of the Community Infrastructure Levy revenue).”;
14. amend the delegations to the head of planning (paragraph 11.3) and the head of development and regeneration (paragraph 3.2): “To make payments to the **towns and parishes** in relation to the Community Infrastructure Levy Regulation 59 and 59D and approve payments (by 28 October and 28 April in any financial year) to the relevant receiving town ~~and or~~ parish council **or parish meeting**.”;
15. amend paragraph 11.9 of the head of planning’s scheme of delegation regarding Community Infrastructure Levy recovery: “To deal with the recovery of the Community

Infrastructure Levy including stop notices, liability orders and other enforcement mechanisms under Regulations 89 to 94 and 111 of the Community Infrastructure Levy Regulations 2010.”;

16. amend paragraphs 74 and 75 of the Financial Procedure Rules to allow the head of planning to request and the head of finance to approve the creation of Community Infrastructure Levy budgets as follows:
 - “74. For section 106 or Community Infrastructure Levy agreements that provide clear and unambiguous details on how the receipts raised must be used, where that agreement has been approved by the Planning Committee and over which further discretion cannot be applied, then the ~~strategic management team~~ **head of planning** can request **and the head of finance can approve** the creation of the relevant revenue or capital budget.
 75. For all other section 106 and Community Infrastructure Levy agreements where contributions are received by the council, a budget for the spending of the receipt must be created as follows:
 - (a) For agreements of up to £20,000, budgets can be **requested by the head of planning and** approved by the ~~senior management team~~ **head of finance**.
 - (b) For agreements greater than £20,000 up to £100,000, budgets can be approved by the relevant Cabinet member in consultation with the Cabinet member for finance.
 - (c) For agreements of greater than £100,000, budgets must be approved by Council.”;
17. amend Financial Procedure Rule 90 to make it explicit that no request for a supplementary estimate is necessary where it arises from a government grant for a specific purpose;
18. amend Financial Procedure Rule 91 as follows to reflect the normal process for authorisations used elsewhere in the constitution: “~~The leader of council in consultation with the chief executive and chief finance officer~~ **chief finance officer in consultation with the leader of council and chief executive** may increase the revenue or capital budget after considering a request from the relevant head of service where the council has:
 - (a) Received government grant outside of the usual budget setting cycle for which no budget exists.
 - (b) Received additional income for fees and charges that has led to additional costs that require a budget to give authority to spend.
 - (c) Received additional income from insurance claims.In all instances a budget no greater than the increase in income can be created.”
19. agree to amend the Contract Procedure Rules as set out in appendix 1 to this report;
20. authorise the head of legal and democratic to update the constitution to reflect the agreed amendments with effect from 1 June 2018; and
21. authorise the head of legal and democratic to make any minor or consequential amendments to the constitution for consistency and to reflect the council’s style guide.

Purpose of report

1. This report proposes revisions to the current constitution to ensure it is up-to-date and reflects the council's changing environment.

Strategic objectives

2. The constitution underpins the council's decision-making and therefore supports its strategic objectives.

Background

3. A full constitution review was undertaken and a revised constitution agreed by Council at its meeting in December 2016 in pursuance of the requirements of Section 37 of the Local Government Act 2000 to keep the constitution under review. Council has since approved further adjustments, the last being in December 2017. The Joint Constitution Review Group met on 15 March 2018 to consider matters that have arisen since 2017. Mostly, the changes are a tidying up of the document. This report sets out proposed changes supported by the review group, and recommends that these changes take effect from 1 June 2018.

Key decisions

4. A key decision is subject to the scrutiny call-in process and is defined in the constitution as a decision of the Cabinet, individual Cabinet member or an officer acting under delegated powers, which is likely to:
 - (a) incur expenditure, make savings or to receive income of more than £75,000;
 - (b) award a revenue or capital grant of over £25,000; or
 - (c) agree an action that, in the view of the chief executive or the relevant head of service, would be significant in terms of its effects on communities living or working in an area comprising more than one ward in the area of the council.
5. The review group has noted that the receipt of a government grant over £75,000 becomes a key decision in the above definition. The review group considers it is unnecessary to allow scrutiny call-in of a decision to accept a government grant and recommends that paragraph (a) in the above definition should be amended to read "to incur expenditure, make savings or to receive income (**except government grant**) of more than £75,000." Council should note that it will still be a key decision to spend grant money over £75,000, and it will still be necessary to meet the requirements of Financial Procedure Rules 90 and 91 to create the necessary budgets.

Authentication of documents and common seal of the council

6. Paragraphs 40 and 41 of the constitution's Summary and Explanation section refer to the authentication of documents and common seal of the council. This requires that the signing of documents and affixing of the common seal will be attested by the head of legal and democratic services or by the chief executive or a strategic director or a senior lawyer. Following the management restructure, there is a need to delete references to strategic director and to add reference to the legal services manager.

7. The review group considers that the head of legal and democratic, the chief executive, the legal services manager or a senior lawyer should be authorised to sign and attest the sealing of documents.

Scrutiny Committees Procedure Rules – Five Councils’ Partnership Scrutiny Committee

8. When the Five Councils’ Partnership was set up in 2016, it established a joint scrutiny committee. Although this committee met a few times, late in 2017 it was disbanded by the partnership. Instead, the partnership agreed that scrutiny of the partnership’s work should be conducted through each partner council’s own arrangements. Therefore, the review group considers that reference to the Five Councils’ Partnership Scrutiny Committee in paragraph 83 of the Scrutiny Committees Procedure Rules should be deleted.

Planning Committee Procedure Rules – committee membership

9. At its Council meeting in February 2018, the Vale Council reduced its Planning Committee membership from 11 to nine. This will need an amendment to paragraph 3 of the Planning Committee Procedure Rules. The review group considered whether a similar change should be recommended for South Oxfordshire’s Planning Committee.
10. The review group heard the views of two South Oxfordshire councillors on this subject, who both believed that South Oxfordshire’s Planning Committee should retain its 11 members due to the committee’s current high workload. The Review Group therefore did not support a reduction in the committee membership for South Oxfordshire’s Planning Committee at this time. However, the review group agreed that the committee’s membership could be revisited in six months’ time.
11. The review group also considered a suggestion that Cabinet members should be allowed to be full members of the Planning Committee. The review group did not support this suggestion as best practice suggested that Cabinet members could attend Planning Committee meetings and give advice but they should not be committee members. This maintained a separation of the policy-making and policy implementation roles.

Area Committee Procedure Rules (Vale only) – committee membership

12. The committee procedure rules for most committees provides that the chairman of a committee shall be a non-Cabinet member. However, there was no such reference in the Vale’s Area Committee Procedure Rules. The review group noted that whereas the awarding of grants was an executive function delegated to the area committees (which formed the majority of their workload), the Area Committee Procedure Rules also provided that matters that were not the responsibility of the Cabinet could also be discussed by the area committees. The review group debated a suggestion that an area committee’s chairman should be a non-Cabinet member.
13. The review group was minded to support this suggestion but considered that the practicality of restricting the chairmanship (and thereby the vice-chairmanship) to non-Cabinet members would cause problems for the Faringdon Area Committee as it only had a membership of seven, four of which were currently Cabinet members. Therefore, the review group agreed that, to allow flexibility, no such restriction should

be imposed and the Area Committees Procedure Rules should not be amended at this time.

14. Since the review group met, a further suggestion has come forward that no Cabinet member should act as chairman or vice-chairman of any committee, unless if an area committee has fewer than two non-Cabinet members then an exception can be made.

Scheme of delegation to the head of corporate services

15. The General Data Protection Regulations will come into force in May 2018. The scheme of delegation needs to allocate responsibility to an officer to ensure the council complies with these regulations. The review group considers that the following should be added to the scheme of delegation for the head of corporate services: "To act as the council's data protection officer under the General Data Protection Regulations."
16. This responsibility should also be reflected in the Proper Officer and Authorised Officer section of the constitution.

Scheme of delegation to the head of development and regeneration – staircasing restrictions

17. A significant number of shared ownership homes are developed in parts of the district which are classified as Designated Protected Areas by the Secretary of State. Part of the purpose of a designated protected area is to ensure the retention of shared ownership units in areas where they may be hard to replace. A restriction is therefore placed in section 106 agreements which limit the amount of equity a shared owner can purchase, to 80 per cent of the open market value.
18. In recent years, this restriction has proved problematic with lending institutions and has significantly reduced the range of mortgages available to prospective purchasers. Moreover, Registered Providers have indicated that, in almost all cases, they will not be prepared to acquire sites where this restriction (known as the 'staircasing' restriction) will not be lifted. Government guidance allows the council to lift these restrictions if it deems this appropriate. The council has a mechanism and criteria in place for the lifting of this 'staircasing' restriction upon application from a registered housing provider. In recent years, the Cabinet member for housing has approved lifting such staircasing restrictions. It should be noted that shared ownership units on rural exception sites are not included under the waiver request option.
19. The review group considers that authority should be delegated to the head of development and regeneration as follows: "To determine applications from registered housing providers to waive the 80 per cent equity share restriction on shared ownership dwellings, on a case-by case basis, where such a restriction has been included within a section 106 planning agreement, and where the application meets the established criteria for granting the waiver."

Scheme of delegation to the head of development and regeneration – continuous market engagement requests

20. Continuous market engagement is a data gathering mechanism within the National Affordable Homes Programme. It is used by Homes England (formerly Homes and Communities Agency) to help it determine requests from Registered Providers to include affordable homes within the affordable homes programme. These affordable homes are additional to those identified at the beginning of the programme period (currently 2016-2021). When Homes England receives a request, it consults the council. This request seeks specific information such as planning status, additionality, and contribution to local priorities.
21. Most of these requests are at nil grant (simply for inclusion within the national affordable housing programme). However, some bids seek a grant, and where grant funding is awarded, funds are transferred direct from Homes England to the registered housing provider, at nil cost to the council.
22. Officers sought a specific delegation to the head of development and regeneration to determine continuous market engagement requests and confirm support to Homes England for both grant and nil-grant applications from registered housing providers, for the inclusion of affordable dwellings or developments within the affordable homes programme. In each continuous market engagement case, the decision by the council is simply a confirmation of facts to Homes England; the decision whether to approve the application rests with Homes England.
23. The review group considers that authority should be delegated to the head of development and regeneration to determine continuous market engagement requests.

Scheme of delegation to the head of housing and environment – waste and litter

24. In a tidying exercise, the review group considers the scheme of delegation to the head of housing and environment should be updated in paragraph 4.3: “To authorise and serve any notices and take all necessary actions relating to ~~the collection of waste, the provision of dustbins and to secure the removal of rubbish.~~ (S.34 PHA 1964) **the council’s duties as a waste collection authority as set out in sections 45 and 46 of the EPA 1990 (as amended).** [N.B. EPA = Environmental Protection Act]
25. The review group considers the scheme of delegation to the head of housing and environment should be updated to include a new delegation to allow the serving of notices and taking necessary actions as the principal litter authority: “To authorise and serve any notices and take all necessary actions relating to the council’s duties as a principal litter authority in accordance with section 89 of the EPA 1990 (as amended).”
26. The review group also identified the need to include a reference to the Breeding and Sale of Dogs (Welfare) Act 1999 in the head of housing and environment’s scheme of delegation paragraph 19.2: “To exercise the council’s powers and duties under The Dangerous Wild Animals Act 1976, The Pet Animals Act 1951, The Breeding of Dogs Acts 1973 and 1991, The Animal Boarding Establishments Acts 1963 and 1970, The

Zoo Licensing Act 1981, The Riding Establishments Acts 1964 & 1970, **and the Breeding and Sale of Dogs (Welfare) Act 1999**, including licensing and registration functions, taking of enforcement action, inspections, powers of entry and the appointment of inspectors.”

Scheme of delegation to the head of housing and environment and the planning – local amenity and overgrown gardens

27. The scheme of delegation to the head of housing and environment includes delegations to deal with local amenity and overgrown gardens (section 21 refers). The review group considers that as this work is now carried out by the planning enforcement team, these delegations should be transferred to the head of planning. They allow the council to serve notices in respect of the condition of land and buildings, to undertake clean up works in default of a notice, and take legal proceedings for failure to comply with a notice.

Scheme of delegation to the head of planning – delegation of applications with short time limits

28. The head of planning presented a list of planning applications that had short time limits for the council’s determination, some as short as four weeks. The intention was to seek a delegation of these applications to the head of planning to allow the council to meet these time limits. The review group asked the head of planning to provide further information before it agreed to support the proposal. The review group asked that a briefing session was organised for all councillors before bringing the proposal back to the next review group meeting for consideration.

Scheme of delegation to the head of planning – footpath dedication agreements

29. The scheme of delegation to the head of planning includes authority to make and confirm footpath diversion orders. Currently there is no specific authorisation to make a dedication agreement where a landowner has offered to provide an additional or new path.
30. Although such agreements can be agreed under a general delegation ‘to enter into agreements’, the review group considers that a specific delegation should be added to the head of planning’s scheme of delegation: “To authorise the making of footpath and bridleway dedication agreements.”

Scheme of delegation to the head of planning – Community Infrastructure Levy

31. Officers suggested amending paragraph 11.1 of the head of planning’s scheme of delegation to allow Community Infrastructure Levy to be collected for parish meetings, in addition to town or parish councils. The review group agreed to recommend the following change to paragraph 11.1, encompassing the three types of local council into the phrase ‘towns and parishes’:
“To collect Community Infrastructure Levy revenue and calculate the chargeable amount under Regulation 40 of the Community Infrastructure Levy Regulations 2010. Appropriate budgets must be created as follows in accordance with the financial procedure rules:

- (a) for the administration of Community Infrastructure Levy (five per cent of the Community Infrastructure Levy revenue)
- (b) for the towns and parishes ~~councils~~ (15 or 25 per cent of the Community Infrastructure Levy revenue)
- (c) for the district council (remainder of the Community Infrastructure Levy revenue)."

32. The review group considers that a minor change is necessary to the head of planning's delegation paragraph 11.9 to reflect the Community Infrastructure Levy regulations correctly: "To deal with the recovery of the Community Infrastructure Levy including stop notices, liability orders and other enforcement mechanisms under Regulations 89 to ~~94~~ and 111 of the Community Infrastructure Levy Regulations 2010."

Scheme of delegation to the head of planning and the head of development and regeneration – Community Infrastructure levy spending

33. Officers suggested that the scheme of delegation was amended to allow Community Infrastructure Levy payments to parish meetings, in addition to the current delegation to make payments to town and parish councils. The authority appears in the scheme of delegation for both the head of planning and the head of development and regeneration. Although the new management structure had moved the responsibility for Community Infrastructure Levy spending to the head of development and regeneration, the structure changes have not yet been effected.
34. The review group considers that the delegation should enable officers to make community infrastructure levy payments to parish meetings. The review group considers the change should be made to both the scheme of delegation for both the head of planning and the head of development and regeneration during the transition of the Community Infrastructure Levy spending function to the head of development and regeneration.

Financial Procedure Rules

35. The review group considered some suggested adjustments to the Financial Procedure Rules. With regard to the Community Infrastructure Levy, the review group considers the Financial Procedure Rules should be amended to allow the head of planning to request and the head of finance to approve the creation of budgets following the receipt of Community Infrastructure Levy. Currently, the Financial Procedure Rules only allow the strategic management team to create such budgets. This change affects paragraphs 74 and 75 of the Financial Procedure Rules.
36. Financial Procedure Rule 90 requires that requests for revenue supplementary estimates in excess of £100,000 shall be made to the Cabinet, which shall seek the approval of full Council. Currently revenue supplementary estimates are required when the council receives a government grant; the review group considers this is unnecessary if the council receives a grant from the government for a specific purpose and the review group recommends that this is made explicit in rule 90.
37. Financial Procedure Rule 91 currently authorises the leader of the council in consultation with officers to increase a revenue or capital budget after considering a

request from a head of service. The review group considers that this should be amended to authorise the chief finance officer, rather than the leader of the council, thereby reflecting the normal process for authorisations used elsewhere in the constitution. The wording would be amended to:

~~“The leader of council in consultation with the chief executive and chief finance officer~~
chief finance officer in consultation with the leader of council and chief executive may increase the revenue or capital budget after considering a request from the relevant head of service where the council has:

- (a) Received government grant outside of the usual budget setting cycle for which no budget exists.
- (b) Received additional income for fees and charges that has led to additional costs that require a budget to give authority to spend.
- (c) Received additional income from insurance claims.

In all instances a budget no greater than the increase in income can be created.”

Contract Procedure Rules

38. Changes are needed to the Contract Procedure Rules to reflect the agreed management restructure, such as the removal of references to strategic director posts that no longer exist under the revised management structure. The responsibilities previously allocated to the strategic directors have been re-allocated to heads of service or the chief executive as appropriate, as shown in appendix 1 to this report. The review group considers these changes are an appropriate re-allocation of responsibilities.

Financial Implications

39. The democratic services budget for printing will meet the costs of producing copies of the amended constitutions.

Legal Implications

40. Section 37 of the Local Government Act 2000 requires the Council to keep its constitution under review.

Conclusion

41. This report sets out proposals to amend the constitution. Officers recommend Council approves the proposed changes for implementation on 1 June 2018, and authorises the head of legal and democratic to make these changes and any further minor or consequential amendments. The Joint Constitution Review Group supports the proposals set out in this report.

Background Papers

None

Contracts procedure rules

Introduction

1. These contracts procedure rules (issued in accordance with section 135 of the Local Government Act 1972) are intended to promote good purchasing practice, public accountability and to deter corruption. These contracts procedure rules are the rules that regulate council contracts.
2. The purpose of the rules is to ensure that works, supplies/goods, or services are appropriate for their purpose, provide the right balance between price and quality and are procured in an open way that demonstrates probity and compliance with the law, best practice and council policies.
3. Contracts procedure rules apply to **all** council contracts excluding contracts of employment and contracts with employment agencies for the engagement of temporary employees. Contracts include:
 - works contracts;
 - the purchase of supplies/goods, services, computer hardware and software; leasing arrangements;
 - hire of plant and equipment;
 - consultancy services;
 - the acquisition and disposal of land; and
 - the disposal of goods and materials.
4. Contracts procedure rules apply irrespective of the size of the contract. A formal contract may not necessarily be involved e.g. the intention may be to issue an Order. The contract may involve expenditure by or income to the council.
5. The rules form part of the council's constitution.
6. These contracts procedure rules should be read in conjunction with all other elements of the council's constitution. These contracts procedure rules do not provide guidance on what is the best way to purchase works, supplies/goods, and services. They set out the minimum requirements to be followed. Further information and guidance are set out in the council's purchasing guide and procurement strategy and the council's tender evaluation policy available on the council's procurement intranet.

Definitions

7. In these contracts procedure rules the following words and phrases mean as follows:

“Approved list”	A list of contractors, approved by the Cabinet or relevant Cabinet member or a committee, for types of works, supplies/goods or services with specified contract limits applicable to contractors from which limited lists of tenderers can be drawn.
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“Award criteria”	The criteria by which the successful quotation or tender is to be selected.
“Cabinet member”	The member of the Cabinet to whom the council has allocated responsibility for the service or in the Cabinet member’s absence an alternative Cabinet member.
“Cabinet or a committee”	The Cabinet or committee with budget and service responsibility for a particular contract.
“Certified contract”	A contract which may be certified under the Local Government (Contracts) Act 1997.
“Competitive dialogue procedure”	An EU procedure as an alternative to the open, restricted, and negotiated procedures, designed for the award of “complex contracts” and which provides for open dialogue with short listed providers.
“Contract”	A legally binding agreement between two or more parties which is intended to be enforceable at law.
“Contract sum”	The amount of expenditure or income specified in the contract or order.
“Contract value”	The estimated total value of an individual contract or series of contracts (both income generating and involving expenditure) calculated in accordance with contract procedure rule 34.
“EU”	European Union.
“EU procedure”	The procedure required by the EU where the total value of the contract exceeds the relevant EU threshold.
“EU threshold”	The current threshold value at which the EU public procurement directives must be applied for advertisement under the EU public procurement rules.
“Framework agreement”	An agreement between one or more authorities and one or more economic operators, the purpose of which is to establish the terms governing contracts to be awarded during a given period, (in particular with regard to price and, where appropriate, the quantity envisaged).
“Gateway review”	A review of all compliant procurement options and contracts available to the council.
“Head of service”	The head of service with responsibility for the contract, or an officer with authority to act on behalf of that head of service in relation to the contract, or an officer with line management responsibility for the head of service and in the absence of the officer <u>head of service</u> with

~~line management~~ responsibility, **any strategic director**
~~or an alternative head of service or~~ the chief executive.

“Land acquisition”	Any acquisition of land or buildings by the council by way of a freehold or leasehold purchase.
“Land disposal”	Any disposal of land or buildings by the council by way of a freehold sale or a lease for a term exceeding seven years.
“Most economically advantageous offer”	A tender or quotation which provides the best value for the council having regard to both price and other evaluation criteria relevant to the contract.
“Negotiated procedure”	An EU procedure where the council negotiates with one or more potential service providers and which may only be used in exceptional circumstances.
“Order”	A written priced and signed order authorised and issued in accordance with the council’s financial procedure rules.
“Open procedure”	A one-stage procedure where all contractors who respond to an advertisement are invited to complete a pre-qualification questionnaire and tender for the contract.
“Portal”	Any e-tendering portal that has been chosen by the council for the purposes of e-commerce.
“Procurement strategy”	The document setting out the council’s approach to procurement and key priorities and available on the council’s procurement intranet.
“Purchasing guide”	A suite of guidance documents, together with a number of standard documents and forms, which supports these contracts procedure rules and are available on the council’s procurement intranet.
“Quotation”	A price provided to the council as a contractor’s formal offer.
“Restricted procedure”	A two-stage procedure where contractors who respond to an advertisement are short listed by way of a pre-qualification assessment and then invited to tender.
“Select list”	A limited list of tenderers for a contract selected following advertisement, expression of interest, pre-qualification assessment and tender evaluation.

~~“Strategic director”~~ ~~The strategic director responsible for the contract, an officer with authority to act on behalf of that director in~~

~~relation to the contract and in the absence of the strategic director responsible for the contract, any strategic director or the chief executive.~~

“Tender”	A sealed bid submitted by a contractor by a specified date and time in accordance with terms specified by the council.
“Validator”	A person independent from the purchasing or audit process on the procurement, authorised to open the e-tenders on the Portal.

General requirements

COMPLIANCE WITH OTHER RULES, STATUTES, REGULATIONS AND EC TREATY AND EUROPEAN DIRECTIVES

8. All contracts made by or on behalf of the council shall comply with these contracts procedure rules and
 - (a) The budget and policy framework.
 - (b) Financial procedure rules.
 - (c) The scheme of delegation.
 - (d) All other parts of the council's constitution.
 - (e) Statutes (including specific rules on advertising tenders).
 - (f) Regulations.
 - (g) EC treaty and EU directives.
9. Where there is any conflict between national law, European regulations and directives and these contracts procedure rules, national law and European regulations and directives shall prevail.

COLLABORATIVE PARTNERSHIPS AND JOINT WORKING

10. Collaborative and partnership arrangements are subject to all United Kingdom and EU procurement legislation and must follow these contracts procedure rules.
11. Any partnerships or joint procurement arrangements with other local authorities or public bodies including membership or the use of purchasing consortia for procurements the aggregated contract value of which exceeds the relevant EU threshold shall be approved by the Cabinet member prior to the commencement of any procurement on behalf on the council.

AGENCY ARRANGEMENTS

12. Where the council acts as an agent for another local authority, these contracts procedure rules shall apply unless that authority specifies the use of alternative procedures, or has chosen the contractor using its own selection procedures in accordance with contracts procedure rule 146.

WORKING WITH OTHER PARTNERS

13. These contracts procedure rules apply to contracts in partnership with other bodies unless authorised as an exception under section J.

CONTRACT DOCUMENTATION

14. The formal advice of the head of legal and democratic must be sought for the following contracts:
 - (a) where the contract value exceeds £75,000;
 - (b) those involving leasing arrangements;
 - (c) where it is proposed to use a supplier's own terms;
 - (d) those involving the purchase of application software;
 - (e) those that are complex in any other way.
15. Every contract made by or on behalf of the council shall be evidenced in writing. Where the contract value does not exceed £75,000 the contract may be by an order or an alternative method of recording the arrangements where permitted under financial procedure rules or, if the head of service considers appropriate, a formal written contract signed by the head of service.
16. Where the contract value exceeds £75,000 the contract shall be in writing in a form approved by the head of legal and democratic and shall be sealed with the common seal of the council unless the head of legal and democratic considers that the contract need not be made under seal.
17. Where appropriate the council's standard terms and conditions shall be used.
18. Every formal written contract for any contract value shall include the following provisions unless the head of service and head of legal and democratic considers it inappropriate to do so. The contract shall state:
 - (a) the purpose and basis of the contract;
 - (b) the nature of the works, supplies/goods or services to the council;
 - (c) the amount to be paid by the council including any terms for deductions and discounts;
 - (d) the duration of the contract;
 - (e) delivery arrangements;
 - (f) the council's requirements in respect of relevant council policies (e.g. health and safety);
 - (g) such additional conditions as the head of service or head of legal and democratic shall determine;
 - (h) a requirement that works, supplies/goods and services shall comply with any relevant international or European standard or where these do not exist any relevant British standard; and
 - (i) the provisions for the parties to terminate the contract.
19. Where the contract value exceeds £75,000 the contract shall unless the head of service and head of legal and democratic consider it inappropriate to do so state:
 - (a) any insurance requirements;
 - (b) health and safety requirements;
 - (c) data protection requirements, if relevant;
 - (d) that charter standards are to be met if relevant;
 - (e) equality and diversity requirements;

- (f) environmental requirements;
- (g) freedom of information requirements;
- (h) that the contractor must comply with the council's policies relevant to the delivery of the contract;
- (i) where agents are engaged to let contracts, that agents must comply with the council's contracts procedure rules;
- (j) a right of access to relevant documentation and records of the contractor for monitoring and audit purposes if relevant;
- (k) that if the contractor fails to perform the contract, the council may cancel all or part of the contract or may terminate the contract and recover from the contractor any additional sums incurred;
- (l) that the contractor shall be liable to liquidated damages if it fails to meet the terms of the contract;
- (m) that the contract may not be assigned or otherwise transferred by the contractor without the written permission of the council;
- (n) that the council may terminate the contract and recover any loss resulting from such cancellation if the contractor, its employees or anyone acting on the contractor's behalf do any of the following:
 - (i) offer, give or agree to give any person a gift or consideration of any kind as an inducement or reward for any action to show favour or disfavour to any person in relation to the contract or any contract with the council;
 - (ii) if the act or like acts have been undertaken by any person or party employed or acting upon the contractor's behalf (whether with or without the contractor's knowledge);
 - (iii) do anything improper to influence the council in the award of the contract; or
 - (iv) commit an offence under the Prevention of Corruption Acts 1889 to 1916 or Section 117 (2) of the Local Government Act 1972 or the Bribery Act 2010
 - (v) commit any fraud in connection with this or any other council contract whether alone or in conjunction with councillors, contractors or employees.
- (o) that the contractor must comply with the comments and complaints procedure or an equivalent procedure agreed between the council and the contractor to serve the same purpose; and
- (p) whether and how the contractor must publicise or advertise the fact that the contract works being carried out or the services delivered are being carried out or delivered by the contractor on behalf of the council.

20. Where there is a standard form of contract recognised by a professional institution or body for a particular type of contract, the relevant head of service shall following consultation with the head of legal and democratic, use the standard form of contract subject to any variations or additions agreed by the head of service and the head of legal and democratic.

CERTIFIED CONTRACTS

21. In the case of certified contracts, every relevant contract shall be accompanied by a certificate under the 1997 Act and Regulations certified by the head of legal and democratic.

22. There shall be inserted in every certified contract a clause which states on the part of the council that the contract is a certified contract under the Local Government (Contracts) Act 1997 Act and that the certification requirements under the 1997 Act are intended to be satisfied by the council within six weeks of the signing of the contract.

MANAGEMENT AND SUPERVISION OF CONTRACTS

23. All council employees and anyone engaged by the council to manage and supervise a council contract shall comply with the requirements of these contracts procedure rules.
24. Heads of service shall appoint a named contract manager for the entirety of any contract for which they are responsible.

BONDS AND GUARANTEES

25. If the contract value exceeds £75,000 the contract manager for that contract shall carry out a risk assessment for the procurement and send this with suggested mitigation measures including the need for a performance bond or parent company guarantee and the level of such bond/guarantee and the need for a liquidated damages provision to the head of finance and the head of legal and democratic for their approval prior to commencing the procurement.
26. The terms of any performance bond or parent company guarantee required including provisions for its release shall be approved by the head of legal and democratic.

SIGNING/SEALING OF DOCUMENTS

27. A decision of the Cabinet, an individual Cabinet member, or a committee, or the exercise of any power delegated to an officer in relation to any contract will be sufficient authority for signing or sealing any document necessary to give effect to the decision.
28. The common seal of the council shall be affixed to those documents, which in the opinion of the head of legal and democratic should be sealed. The affixing of the common seal shall be attested by the head of legal and democratic or by the chief executive, ~~a strategic director~~ the legal services manager or a senior lawyer.

COMMENCEMENT OF CONTRACT

29. No works, services or supplies shall be commenced until a contract has been completed or an order has been issued to the contractor unless the ~~strategic director~~ head of service approves otherwise.

DECLARATION OF INTERESTS

30. Officers of the council shall declare to their head of service their direct or indirect pecuniary interest in contracts, which have or are proposed to be entered into by the council. An officer with an interest in a contract whether declared or not shall take no part in the procurement process or advise on the council's dealing with that contract.

31. Officers shall declare their interest if a contract in which they have an interest arises at a meeting at which they are present, and if appropriate withdraw from the proceedings.

NOMINATED SUB-CONTRACTORS AND SUPPLIERS

32. Where a sub-contractor or supplier is to be nominated to a main contractor, the head of service shall follow the requirements of these contracts procedure rules when inviting quotations or tenders in order to select a sub-contractor or supplier.

Financial limits for quotations or tenders

33. The contract value determines which quotation or tendering requirements apply.
34. The contract value is calculated (exclusive of VAT) in the following way:
- (a) the estimated total value of a fixed term contract or a series of contracts;
 - (b) for contracts for an indefinite period by multiplying the estimated monthly value by 48;
 - (c) the total contract value for the purposes of clarifying whether or not the contract exceeds the relevant EU threshold means the total value of the contract to all councils participating in the procurement calculated over the lifetime or term of the contract (including any provision for extension of the term specified in the contract documents)
35. These calculation methods apply to contracts involving both expenditure by and income generated for the council and a record shall be kept of the calculation.
36. If the contract value calculated over the lifetime or term of the contract (including any provision for extension of the term specified in the contract documents) does not exceed £10,000 one written quotation shall be obtained as a minimum, although the head of service may choose to seek additional written quotations if this is likely to obtain better value for money. The procedure for obtaining quotations is set out in section F.
37. If the contract value calculated over the lifetime or term of the contract (including any provision for extension of the term specified in the contract documents) exceeds £10,000 but does not exceed £75,000, three written quotations shall be invited as a minimum using the Portal, unless an exception set out in section J applies. The procedure for obtaining quotations is set out in section F. However, the head of service may instead choose to seek tenders if this is likely to obtain better value for money. The procedure for obtaining tenders is set out in section G.
38. If the contract value calculated over the lifetime or term of the contract (including any provision for extension of the term specified in the contract documents) exceeds £75,000, tenders shall be invited in accordance with the procedure set out in section G.
39. A summary of the financial limits and the application of contracts procedure rules are set out in appendix A.

40. If an officer knowingly and deliberately disassembles a contract or series of contracts to avoid the requirements of contracts procedure rules, which would apply to the complete scheme, this will amount to misconduct and may lead to disciplinary action.
41. No individual external contractor shall be awarded work totalling more than £75,000 (excluding any contracts awarded as an exception under section J) in any financial year by the same head of service on the basis of single written quotations. Allocation of work above this total shall only be made on the basis of a minimum of three written quotations or tenders being invited in accordance with these contracts procedure rules.

Steps prior to letting contracts

GENERAL REQUIREMENTS / GATEWAY REVIEW

42. The head of service shall appraise the contract, in a manner commensurate with its complexity and value, and take into account any guidance on the council's procurement intranet by:
 - (a) taking into account the requirements from any relevant review;
 - (b) appraising the need for the expenditure and its priority;
 - (c) defining the objectives of the contract;
 - (d) assessing the risks associated with the contract and how to manage them;
 - (e) considering what procurement method is most likely to achieve the contract objectives, including internal or external sourcing, partnering, relevant packaging strategy and collaborative procurement arrangements with another local authority, government department, statutory undertaker or public service purchasing consortium;
 - (f) consulting users as appropriate about the proposed procurement method, contract standards, performance and user satisfaction monitoring; and
 - (g) setting out these matters in writing and by confirming that:
 - (i) there is a Cabinet/committee individual Cabinet member or delegated approval in accordance with the scheme of delegation as set out in the council's constitution for the contract and expenditure; and
 - (ii) if the contract is a key decision, all appropriate steps required by the constitution have been taken.

PROCUREMENT PROCEDURE

43. Before engaging in a tender exercise officers shall establish whether any contracts including framework agreements placed by other public authorities (e.g. Office of Government Commerce, buying consortia) are available for the council's use, potentially saving time and money.
44. Where tenders are required to be invited any of the methods specified in these contracts procedure rules may be employed as well as any other method permitted under the EU Procedure.
45. The Office of Government Commerce (OGC) approved e-procurement technology may be used for tendering purposes.

PROJECT MANAGEMENT

46. Procurements which are of sufficient value or complexity should also be considered as projects and as such the head of service and relevant officer must follow the council's project management system including the completion and agreement of key project documents.

IDENTIFYING AND ASSESSING POTENTIAL CONTRACTORS

47. Officers shall ensure that, where proposed contracts, irrespective of their total value, might be of interest to potential candidates located in other member states of the EU, a sufficiently accessible advertisement is published.
48. Generally, the greater the interest of the contract to potential bidders from other member states, the wider the coverage of the advertisement should be.
49. The head of service is responsible for ensuring that all candidates for a relevant contract are suitably assessed. The assessment process shall establish that the potential candidates have sound:
- (a) economic and financial standing; and
 - (b) technical ability and capacity.

to fulfill the requirements of the council.

PRE-TENDER MARKET RESEARCH / GATEWAY REVIEW AND CONSULTATION

50. The head of service:
- (a) may consult potential suppliers prior to the issue of the invitation to tender in general terms about the nature, level and standard of the supply, contract packaging and other relevant matters, provided this does not prejudice any potential candidate, but
 - (b) must not seek or accept technical advice on the preparation of an invitation to tender or quotation from anyone who may have a commercial interest in them, if this may prejudice the equal treatment of all potential candidates or distort competition, and must seek advice from the head of legal and democratic- and from the procurement team.

RECORDS

51. Where the contract value calculated over the lifetime or term of the contract (including any provision for extension of the term specified in the contract documents) is less than £75,000 the following records must be kept by the officer responsible for the purchase:
- (a) invitations to quote and quotations (where the work is conducted through the Portal this will automatically be held)
 - (b) a record:
 - (i) of any exemptions and the reasons for them; and
 - (ii) of the reason if the lowest price is not accepted.
 - (c) written records of communications with the successful contractor or an electronic record if a written record of the transaction would normally not be produced.

52. Where the contract value calculated over the lifetime or term of the contract (including any provision for extension of the term specified in the contract documents) exceeds £75,000 the officer must record:
- (a) the method for obtaining tenders;
 - (b) any contracting decision and the reasons for it;
 - (c) any exemption together with the reasons for it;
 - (d) tender documents sent to and received from candidates;
 - (e) pre-tender market research;
 - (f) clarification and post-tender negotiation (to include minutes of meetings);
 - (g) the contract documents;
 - (h) post-contract evaluation and monitoring; and
 - (i) communications with candidates and with the successful contractor throughout the period of the contract.
53. Records required by this rule must be kept for six years after the end of the contract. However, written documents which relate to unsuccessful candidates need only be retained for 12 months from award of the contract, provided there is no dispute about the award.
54. A business case must be prepared for all procurements with a potential value over the EU threshold. Provision for resources for the management of the contract, for its entirety, must be identified in the business case.
55. For all contracts with a value over the relevant EU Threshold Contract managers must maintain a risk register during the contract period, undertake appropriate risk assessments and for identified risks ensure contingency measures are in place.

QUOTATIONS

56. Unless otherwise required by law or an exception set out in in rules 137 – 147 applies, the financial limits relating to quotations are:
- (a) up to £10,000 calculated over the lifetime or term of the contract (including any provision for extension of the term specified in the contract documents).
Minimum of one written quotation to be obtained.
 - (b) £10,001 to £75,000 calculated over the lifetime or term of the contract (including any provision for extension of the term specified in the contract documents)
Minimum of three written quotations to be invited.
57. Quotations may be invited from any of the following:
- open invitation via the Portal
 - contractors on approved lists
 - in the absence of an approved list or where the head of service considers it appropriate from identified providers of the required works, supplies/goods or service.
58. Requests for written quotations shall be made in writing. If the lifetime value of the contract exceeds £5,000 then any open invitation to quote must be published via the Portal.

59. The written quotations need not be received at the same time but should be considered according to the same evaluation criteria.
60. Quotations shall not be divulged to other contractors.
61. A quotation shall only be accepted if it is within an approved revenue or capital budget.
62. All relevant circumstances shall be taken into account when evaluating and accepting quotations. Where the accepted quotation is not the lowest (or highest in the case of income) the reasons for acceptance shall be recorded. quotations may be accepted as follows:
63. Up to £75,000 calculated over the lifetime or term of the contract (including any provision for extension of the term specified in the contract documents) by the head of service.
64. Where a minimum of three written quotations have been invited but fewer than three have been received, the head of service, in consultation with the Cabinet member, may accept one of them if satisfied that the quotation is suitable and inviting additional quotations is unlikely to achieve greater value for money.
65. Where written quotations have been sought based on a genuine estimate, but the one recommended for acceptance exceeds £75,000, it may be accepted by the Cabinet member if seeking Tenders is unlikely to provide greater value for money.
66. A quotation up to £75,000 shall be accepted by an order unless a formal written Contract is entered into or an alternative method of recording the arrangements is permitted under financial procedure rules. If a quotation above £75,000 is accepted under contracts procedure rule 64, the contract shall be in writing in a form approved by the head of legal and democratic and shall be sealed with the common seal of the council at the discretion of the head of legal and democratic.
67. A written record shall be kept of all requests for, receipt and acceptance of quotations (this will be automatic if the procurement is conducted via the Portal).
68. No individual external contractor shall be awarded work totalling more than £75,000 (excluding any contracts awarded as an exception under section J) in any financial year by the same head of service on the basis of single written quotations. Allocation of work above this total shall only be made on the basis of three written quotations or Tenders being invited in accordance with these contracts procedure rules.

Tenders

GENERAL

69. Tenders must be invited if the contract value exceeds £75,000 calculated over the lifetime or term of the contract (including any provision for extension of the term specified in the contract documents) unless an exception under section J applies.

70. Tenders may also be invited for contracts below this amount where this would be in the best interests of the council e.g. it is likely to provide better value for money and wider competition.
71. Tenders may also be preferred to quotations where it is known that the contract value is likely to be close to the £75,000 limit.
72. Unless a decision of the council or law requires otherwise, heads of service in consultation with the **head of finance HR, IT and technical services** and the Cabinet member shall select which of the following Tender procedures is in the best interests of the council:
 - (a) Approved list.
 - (b) Select list.
 - (c) EU open/restricted/competitive dialogue procedure.
 - (d) EU negotiated procedure (if the use of this procedure is approved by the **head of service strategic director**, the monitoring officer and the chief finance (section 151) officer.
 - (e) EU framework agreements.
 - (f) Crown Commercial Service buying consortia agreements.

This will constitute a contract Gateway review.

73. In selecting contractors invited to tender or awarding a contract, heads of service shall assess and evaluate the suitability of contractors.

APPROVED LIST - (see rules 148 – 160)

74. Approved lists should be used where recurrent transactions of similar types are likely but not where such transactions need to be individually priced and cannot easily be aggregated and priced in a single tendering exercise.
75. Tenders shall be invited from at least five contractors on the approved list for contracts of the type and value in question.
76. The five contractors shall include:
 - (a) at least one contractor from the approved list selected by rotation;
 - (b) up to two contractors from the approved list who have satisfied the head of service that they have previously provided value for money to the council for a similar Contract, taking into account overall performance and the final Contract cost.

SELECT LIST

77. Invitation for inclusion on a select list shall be by way of an open or restricted non-EU or EU open restricted or competitive dialogue procedure and shall be advertised:
 - (a) on the council's website or Portal which is linked to Contracts Finder
 - (b) in a local newspaper, unless the head of service is satisfied that this would not provide additional competition and is not required by law; and
 - (c) in an appropriate professional or trade journal, unless the head of service is satisfied that this would not provide additional competition and is not required by law; and

- (d) on appropriate portal websites specifically created for public contract advertisements e.g. the South East Improvement and Efficiency Business Portal, My tenders, Contracts Finder, Constructionline.
 - (e) in the Official Journal of the European Union (OJEU)/tenders Electronic Daily (TED) where the head of service considers this appropriate or required by law.
78. Contractors responding to the advertisement may be required to complete a pre-qualification questionnaire to provide a basis for selection, unless they already have passed PAS91 or e-certis certification to a sufficient level for the tender.
79. Tenders shall be invited from at least five contractors who respond to the advertisement under contract procedure rule 75
80. Where fewer than five contractors express an interest, the head of service shall repeat the select list procedure, follow an alternative tender procedure or seek instructions from the Cabinet or relevant Cabinet member or a Committee.

OPEN PROCEDURE

81. The Contract shall be advertised:
- (a) on the council's website or Portal
 - (b) in a local newspaper, unless the head of service is satisfied that this would not provide additional competition and is not required by law; and
 - (c) in an appropriate professional or trade journal, unless the head of service is satisfied that this would not provide additional competition and is not required by law; and
 - (d) on appropriate portal websites specifically created for public contract advertisements e.g. the South East Improvement and Efficiency Business Portal, My tenders, Contracts Finder, Constructionline.
 - (e) in the Official Journal of the European Union (OJEU)/Tenders Electronic Daily (TED) where the head of service considers appropriate or required by law.
82. Tenders shall be invited from all contractors responding to the advertisement.
83. Where fewer than five contractors express an interest, the head of service shall repeat the open procedure, follow an alternative procurement procedure or seek instructions from the Cabinet or relevant Cabinet member or a committee.

RESTRICTED PROCEDURE

84. This is a two-stage procedure where contractors who respond to an advertisement or notice are short listed by way of a pre-qualification assessment and then invited to tender. Candidates must be selected on the basis of published pre-qualification criteria.
85. The advertisement/notice will specify a time limit within which interested parties must submit requests to be selected to tender. The head of service must send invitations in writing to all contractors selected to tender. The invitation will include the specification and contract documentation.

86. If the publication of a notice in the OJEU is not required, the advertising requirements are the same as in the open procedure except that the advertisement/notice shall state that the restricted procedure is being used.

COMPETITIVE DIALOGUE PROCEDURE

87. The competitive dialogue procedure may be used where the council wishes to award a particularly complex contract and the EU open or restricted procedure does not provide for the award of that contract (particularly complex contract and where it is not possible objectively to define the technical means capable of satisfying the council's requirements or objectives or objectively to specify the legal or financial makeup of a project or both).
88. The advertising requirements are the same as in the open procedure and the restricted procedure except that the advertisement/notice shall state that the competitive dialogue procedure is being used.
89. The head of service will send invitations in writing simultaneously to each candidate selected via a pre-qualification questionnaire to participate in the dialogue. The invitation will include the outline specification and Contract documentation.
90. The competitive dialogue procedure may take place in successive stages by applying the award criteria in the contract notice or tender documents and number of contractors invited to participate in the final stage must be sufficient to ensure genuine competition. The competitive dialogue procedure may continue until it can identify one or more solutions capable of meeting the council's needs.
91. When the head of service declares that the dialogue is concluded he/she must inform each participant, and request that each participant submit a final tender containing all elements required and necessary for the performance of the contract.

NEGOTIATED PROCEDURE

92. The negotiated procedure may be used in limited circumstances and only where the EU Open, Restricted or competitive dialogue procedure is not appropriate.
93. This procedure applies when the head of service, with the approval of the strategic director, the monitoring officer and the chief finance (section 151) officer considers it appropriate to consult and negotiate with one or more potential service providers and specifies the conditions under which work, supplies/goods and services shall be provided.
94. The head of service will publicise the council's intention to seek offers in relation to the contract by sending a notice to OJEU inviting requests to be selected to negotiate. In certain limited circumstances the negotiated procedure may be used without prior publication of a contract notice.
95. The Contract shall be advertised:
- (a) on the council's website or Portal
 - (b) in a local newspaper, unless the head of service is satisfied that this would not provide additional competition and is not required by law; and

- (c) in an appropriate professional or trade journal, unless the head of service is satisfied that this would not provide additional competition and is not required by law; and
- (d) on appropriate portal websites specifically created for public contract advertisements e.g. the South East Improvement and Efficiency Business Portal, My tenders, Contracts Finder, Constructionline.
- (e) in the Official Journal of the European Union (OJEU) / Tenders Electronic Daily (TED) where appropriate or required by law.

96. The notice will specify a time limit in which the contractor must return a request to be selected to negotiate and the head of service must send invitations in writing to all contractors selected to tender. The invitation will include the contract documentation.
97. On receipt of expressions of interest the Cabinet or relevant Cabinet member or a Committee shall select and invite a contractor to negotiate.

FRAMEWORK AGREEMENTS

98. The term of an EU Framework Agreement must not exceed four years and, while an agreement may be entered into with one provider, where an agreement is concluded with several organisations, there must be at least three.
99. Contracts based on Framework Agreements may be awarded by either:
- (a) applying the terms set out in the Framework Agreement (where such terms are sufficiently precise to cover the particular call-off) without reopening competition; or
 - (b) where the terms set out in the Framework Agreement are not precise enough or complete for the particular call-off, by holding a mini competition in accordance with the following procedure:
 - (i) inviting the organisations within the Framework Agreement that are capable of executing the subject of the contract to submit tenders;
 - (ii) fixing a time limit which is sufficiently long to allow tenders for each specific Contract to be submitted, taking into account factors such as the complexity of the subject of the contract; and
 - (iii) awarding each Contract to the tenderer who has submitted the best tender on the basis of the award criteria set out in the tender documents of the Framework Agreement.

STANDARDS AND AWARD CRITERIA

100. The head of service shall ascertain the relevant British, European or international quality standards which apply to the subject matter of the contract. The head of service shall include those standards which are necessary to describe the required quality. The head of legal and democratic and the **head of finance HR-IT and technical services** must be consulted if it is proposed to use standards other than British or where appropriate European quality standards.
101. The head of service shall define award criteria that are appropriate to the contract and designed to secure an outcome giving value for money for the council. The basic criteria shall be:

- (a) a lowest price provided the tender/quotation meets the specification and any stated minimum standards where payment is to be made by the council or
- (b) Most Economically Advantageous Offer with weighting as specified in the council's tender evaluation policy unless for a particular contract an exception to the weighting has been considered and agreed by the relevant head of service in consultation with the relevant Cabinet member prior to invitations to quote/tender have been sought.

If the latter criterion is adopted, it must be further defined by reference to sub-criteria which may refer only to relevant considerations. These may include price, service, quality of goods, running costs, technical merit, previous experience, delivery date, cost effectiveness, quality, relevant environmental considerations, aesthetic and functional characteristics (including security and control features), safety, after-sales services, technical assistance and any other relevant matters. The head of service must record their justification for using the selected criteria

102. Award criteria must not include matters which discriminate against suppliers from the European Economic Area or signatories to the Government Procurement Agreement.

INVITATIONS TO TENDER

103. Invitations to tender shall:

- (a) include copies of all Contract documents;
- (b) give instructions to tenderers, including the latest day, time and place for the delivery of tenders;
- (c) if the tender is submitted in hardcopy, state that it must be submitted in the tender envelope supplied by the council or in a packet marked in the same manner sealed and addressed to the **Head of HR, IT, and Technical Services Finance** and bearing the words "tender – Do Not Open" and the name of the project but with nothing on the envelope to identify the tenderer;
- (d) if the tender is submitted electronically, state that it must be submitted to the council's specified email address for tenders and must include in the subject a specific key word relating to the tender as notified in the tender documentation.
- (e) state that the council shall not be bound to accept a late or any tender.

104. The head of service may respond to requests from tenderers for supplementary information or clarification of tender documentation provided that this does not provide a tenderer with a competitive advantage.

105. The head of service, in relation to contract procedure rule 102 shall use discretion to send information to all tenderers to ensure that they are not disadvantaged.

RECEIPT AND OPENING OF TENDERS (INCLUDING LATE TENDERS)

106. Tenders opened from the Portal will be opened by the Validator at the appointed time on the system.

Hard copy/envelopes received shall:

- (a) not be opened on receipt (and if opened shall be reported to the monitoring officer);
- (b) be marked at the time of receipt or as soon as practical with the date and time of receipt and initials of the officer receiving the tender;

- (c) be retained by the hHead of HR, IT and technical servicesfinance who shall be responsible for the tenders until they are opened.

107. Tenders shall be opened at a meeting convened by the head of service and only in the presence of the following:

- (a) the head of service and / or a member of staff representing him / her;
(b) a member of staff from HR, IT and technical servicesfinance or a person appointed by him/her.

108. Electronic tenders shall be retained in a secure portal area until opened by the Validator.

109. Hard copy tenders shall be recorded in the council's standard schedule of tenders opened with the full names of the contractors tendering and the amounts of the tenders submitted.

110. Any hard copy tender not delivered to the council's offices by the due date and time for tendering or not received in the envelope supplied by the council or in a sealed packet marked in the same manner shall be returned promptly to the tenderer by the head of service. The tender may be opened to ascertain the name of the tenderer, but no details of the tender shall be disclosed.

111. Any tender delivered electronically but after the due date and time for tendering shall be placed in the late tenders folder and shall be returned promptly to the tenderer by the head of service.

112. In exceptional circumstances a strategic directorhead of service in consultation with the monitoring officer and the Chief Finance (Section 151) Officer may decide to include and assess/evaluate a late tender.

ALTERATION TO THE TENDER SUM AND POST TENDER NEGOTIATIONS

113. Providing clarification of an invitation to tender to potential or actual candidates or seeking clarification of a tender, whether in writing or by way of a meeting, is permitted. However, discussions with tenderers after submission of a tender and before the award of a contract with a view to obtaining adjustments in price, delivery or content (i.e. post- tender negotiations) must be the exception rather than the rule. In particular, they must not be conducted in an EU Procedure where this might distort competition, especially with regard to price.

114. If post-tender negotiations are necessary after a single-stage tender or after the second stage of a two-stage tender, then such negotiations shall only be undertaken with the tenderer who is identified as having submitted the best tender and after all unsuccessful candidates have been informed.

115. During negotiations tendered rates and prices shall only be adjusted in respect of a corresponding adjustment in the scope or quantity included in the tender documents. Officers appointed by the head of service to carry out post-tender negotiations must ensure that there are recorded minutes of all negotiation meetings and that both parties agree actions in writing.

116. The head of legal and democratic together with the ~~finance~~head of HR, IT and technical services must be consulted wherever it is proposed to enter into post-tender negotiation. Negotiations must be conducted by at least two officers or one officer with a consultant engaged by the council.

117. Where post-tender negotiation results in a fundamental change to the specification (or Contract terms) the contract must not be awarded but re-tendered.

ACCEPTANCE OF TENDERS

118. Before accepting any tender, the head of service must consider whether the contractor seems sufficiently capable and financially sound to undertake the contract.

UP TO £75,000

119. Where the contract value does not exceed £75,000 calculated over the lifetime or term of the contract (including any provision for extension of the term specified in the contract documents) and does not relate to the disposal of land and property with an estimated value exceeding £10,000 (see section H), the head of service shall have authority to accept the tender which is the lowest where payment is to be made by the council or highest where payment is to be received by the council or is the Most Economically Advantageous Offer provided that the following conditions are met:

- (a) no fewer than three valid tenders were submitted. If fewer than three valid tenders were submitted in response to the invitation, the head of service in consultation with the Cabinet member may decide to include and assess/evaluate the tender.
- (b) the amount of the tender does not exceed by 10 per cent or £10,000, whichever is the less, the estimated tender sum for the scheme where one exists, and does not exceed the overall budget provision available. If the amount of the tender exceeds the above limits, the head of service shall either re-tender the contract or seek instructions from the Cabinet or relevant Cabinet member or a committee.
- (c) there have been no post tender negotiations. Acceptance of tenders following post tender negotiations is dealt with in contract procedure rule 120.
- (d) unless otherwise approved by the ~~head of service~~strategic director, any Government consents, planning and financial approvals have already been granted.
- (e) where no specific sum has been agreed by the council the Cabinet or relevant Cabinet member or a Committee, subject to ~~consultation with approval by~~ the ~~head of service~~strategic director and the Cabinet member where the contract value exceeds £10,000.

120. Where a head of service considers that a tender should be accepted other than the lowest, where payment is to be made by the council or highest, where payment is to be received by the council or not the Most Economically Advantageous Offer authority must be sought to accept an alternative tender from the Cabinet or relevant Cabinet member or a committee.

BETWEEN £75,001 AND EU THRESHOLD

121. Where the contract value calculated over the lifetime or term of the contract (including any provision for extension of the term specified in the contract documents)

exceeds £75,000 but does not exceed the EU Threshold the tender shall be referred to the Cabinet member or a Committee for acceptance with full details of the evaluation procedure, unless acceptance in an alternative manner is authorised in advance.

ABOVE EU THRESHOLD

122. Where the contract value exceeds the EU Threshold the tender shall be referred to Cabinet or relevant Cabinet member or a Committee for acceptance with full details of the evaluation procedure, unless acceptance in an alternative manner is authorised in advance.
123. Officers may take a report to Cabinet or relevant Cabinet member at the start of the procurement in order to:
- (a) authorise the procurement; and
 - (b) authorise the head of service in consultation with the Cabinet member to accept a tender in accordance with the evaluation criteria stated in the invitation to tender.

POST TENDER CLARIFICATION

124. Tender sums revised following post tender clarification may be accepted as follows:

Up to £75,000	by the head of service strategic director, in consultation with the Cabinet member.
£75,001 to EU Threshold	by the Cabinet member or a committee.
Over EU Threshold	by the Cabinet or relevant Cabinet member or a committee.

TENDER RECORDS AND REGISTERS

125. A written record shall be kept of all invitations and acceptance of tenders.
126. A record shall be kept of the receipt and opening of tenders.
127. The ~~hHead of HR, IT and technical services~~finance shall keep a tenders' register which every councillor may inspect at any reasonable time. This will generally be held on the Portal.

Land

128. Contracts procedure rules apply to land disposals and land acquisitions except those:
- (a) under a statutory obligation;
 - (b) where a tenant has a right to renew a lease;
 - (c) under a confirmed compulsory purchase order; or
 - (d) under a scheme for the disposal of more than one piece of land or more than one building which has been previously approved by the council.

129. Disposals of surplus land and property with an estimated value of up to £10,000 can be authorised by a head of service. Consultation evidenced in writing with the Cabinet member is required for disposals of land and property with a book value between £5,000 and £10,000. Above that value disposals must be authorised by the Cabinet member as a formal delegated decision up to a book value of £50,000 and by Cabinet or relevant Cabinet member if the value exceeds £50,000. Before deciding whether to dispose of land or property the head of service or Cabinet or relevant Cabinet member shall consider a report setting out all relevant information, including the planning position, potential use, current or proposed development restrictions and estimated value.
130. Unless otherwise agreed by the Chief Finance (Section 151) Officer and the monitoring officer all disposals with an estimated value over £5,000 shall be by way of a competitive tender process with bids invited from as many interested parties as is commensurate with the estimated value and intended use.
131. If land is sold by tender, the procedures in rules 69 to 127 shall apply.
132. For all disposals, a qualified valuer must provide an initial written valuation. If the likely value exceeds £100,000 then this must be supplemented by a second external valuation.
133. All disposals shall be on the best financial terms unless otherwise agreed by the Chief Finance (Section 151) Officer in consultation with the Cabinet member. Except where a general consent exists specific consent shall be obtained from the Secretary of State prior to an interest in land or property being disposed of for a price less than the reasonable market consideration.
134. Heads of Service may enter into negotiations for land disposals and land acquisitions provided that:
- (a) all necessary consents, budgetary approvals and Cabinet or relevant Cabinet member, committee and Council decisions are obtained and financial procedure rules complied with before the council is legally committed; and
 - (b) any procedures adopted by the council for the disposal of Council-owned land are followed.
135. No officer shall allow a party to take up occupancy of council-owned land until a transfer, lease, licence or other suitable document approved by the head of legal and democratic has been completed.

Surplus goods

136. Heads of service shall follow the requirements of these contracts procedure rules to obtain quotations or tenders and of financial procedure rules when disposing of any surplus goods or obsolete items of stock or stores or items on an inventory.

Exceptions

GENERAL

137. A Contract may be approved by or on behalf of the council without seeking quotations or tenders if there are special circumstances justifying an exception. There can be no exception if the EU Procedure applies.

RECORDS OF EXCEPTIONS

138. The head of service shall keep a record of every exception and the reasons for it.
139. Tenders or quotations need not be invited in the following circumstances:

EMERGENCIES DISASTERS AND IMMEDIATE ACTION

140. If immediate action is necessary to let a contract to prevent significant loss to the council or danger, injury or serious hardship to persons in the council's area, the best practicable means of obtaining value for money in the selection of the contractor shall be used, using an approved list wherever practical. If the contract value exceeds £10,000, the relevant Cabinet member shall be consulted.

NEGOTIATIONS WITH AN EXISTING CONTRACTOR

141. If, after a contract has been let, circumstances arise which were not foreseen when the original tenders or quotations were invited, variations to, extension of or a further Contract with the original contractor may be made provided that:
- (a) it is permitted by law;
 - (b) the terms and conditions of the original Contract apply;
 - (c) the total value of the addition or modification does not exceed 25% of the original Contract Sum unless the ~~strategic director~~ head of service in consultation with the relevant Cabinet member is satisfied that value for money will be achieved;
 - (d) the variation follows any method of variation specified in the original Contract;
 - (e) if the value of the variation exceeds £75,000, the relevant Cabinet member shall be consulted;
 - (f) the cost is within the budget provision; and
 - (g) any changes to the contract period are agreed with relevant head of service, head of legal and democratic and recorded in the contracts register.

PROPRIETARY ARTICLES

142. If supplies/goods, materials or services are proprietary articles, are sold by a single supplier or their prices are wholly controlled by Government Order or in the case of repairs to or the supply of parts of existing proprietary articles, tenders or quotations need not be invited if no reasonably satisfactory alternative is available.

SPECIALIST CONTRACTS

143. If the supplies/goods, services or works are of such a specialist nature that quotations or tenders cannot be obtained or can only be obtained from fewer contractors than normally required by contracts procedure rules or, can only be

purchased under a trade name or description or, in the case of professional services, e.g. the use of barristers or external solicitors where a particular individual or firm has specialist expertise in the field and the head of service is satisfied that value for money will be provided in all the circumstances.

LOCAL AUTHORITIES AND STATUTORY UNDERTAKERS

144. If the services are to be provided by another local authority, by a statutory undertaker or by a supplier of gas, electricity or water services.

CONSORTIUM

145. If tenders have been invited by a consortium, collaboration or similar body of which the council is a member, the council may follow that body's procedures or the procedures set out in these contracts procedure rules. Also, the council may access Government catalogue-based procurement schemes, e.g. Office of Government Commerce buying solutions agreements under Customer Access Agreements subject to compliance with the contract financial limits and reporting requirements of these contracts procedure rules and the requirement to secure the Most Economically Advantageous Offer for the council.

AGENCY ARRANGEMENTS

146. The council is acting as agent for another local authority and that authority specifies the use of alternative procedures or has chosen the contractor using its own selection procedures.

EXCEPTIONS AUTHORISED BY THE CABINET OR RELEVANT CABINET MEMBER OR COMMITTEE

147. If any other exceptions are specifically authorised by the Cabinet or relevant Cabinet member or a Committee.

Approved lists – compilation and maintenance

148. Heads of service may compile approved lists for use in relation to future contracts for works, supplies/goods and services (including consultancy).

149. Approved lists shall be available for corporate use.

150. Approved lists shall be compiled following advertisement in:

- (a) on the council's website or Portal
- (b) in a local newspaper, unless the head of service is satisfied that this would not provide additional competition and is not required by law; and
- (c) in an appropriate professional or trade journal, unless the head of service is satisfied that this would not provide additional competition and is not required by law; and
- (d) on appropriate portal websites specifically created for public contract advertisements e.g. the South East Improvement and Efficiency Business Portal, My tenders, Contracts Finder, Constructionline; and
- (e) in the Official Journal of the European Union (OJEU)/tenders Electronic Daily (TED) where appropriate or required by law.

151. A minimum period of four weeks shall be given to respond to the advertisement.
152. All contractors responding to the advertisement shall be invited to complete an application form, including where appropriate, a pre-qualification questionnaire, to provide the basis for inclusion on the approved list.
153. Approved lists shall be compiled on the basis of categories of works, supplies/goods or services and appropriate maximum contract values shall be applied to individual contractors.
154. The minimum number of contractors on an approved list shall be six.
155. Approved lists shall be submitted to the Cabinet or relevant Cabinet member or a Committee for approval.
156. Approved lists shall be reviewed at least every five years.
157. Heads of Service may add contractors to an existing approved list subject to suitability following assessment and evaluation.
158. Contractors on approved lists shall be required to advise the council of any changes in circumstances relevant to their inclusion.
159. Heads of service shall have discretion to remove contractors from an approved list because of changes in circumstances or poor performance.
160. ~~Strategic directors~~ The chief executive or an alternative head of service appointed by him/her shall provide an appeals procedure for contractors refused admission or excluded from an approved list.

Contract management

MANAGING CONTRACTS

161. Heads of service shall name contract managers for all contracts for the entirety of the contract period. Contract managers shall follow the contract management requirements agreed in the contract and information available on the procurement intranet.

CONTRACT MONITORING, EVALUATION AND REVIEW

162. All contracts which have a value higher than the EU Threshold limits, or which are considered high risk, shall be subject to monthly formal review with the contractor. The review may be conducted quarterly if permitted by the head of service ~~and strategic director~~.
163. For all contracts with a value higher than the EU Threshold limits, or which are high risk, an annual report shall be submitted to the Scrutiny Committee.

Appendix A

Application of contracts procedure rules requirements

Contract Value	One Written quotation	Three Written quotations	Tenders	Tenders Opened by officers or Validator	Acceptance of tenders by officers	Acceptance of tenders by relevant Cabinet/member or Committee	Order / Contract Signed by head of service	Contract Approved and Sealed by HLD	Bond Required
Up to £10,000	Yes	Optional	No	N/A	N/A	N/A	Yes	Optional	N/A
£10,001 - £75,000	No	Yes	Optional	Yes	If within Budget	If exceeds Budget	Yes	Optional	N/A
£75,001 - EUT	No	No	Yes	Yes	No	Cabinet member	No	Yes	Risk Assessment must be carried out
Over EUT	No	No	Yes/EU	Yes	No	Cabinet or relevant Cabinet member or committee	No	Yes	Risk Assessment must be carried out