

POLICY & RESOURCES COMMITTEE

Date: 4 July 2011

Venue: East Northamptonshire House, Cedar Drive, Thrapston

Time: 7.30 pm

Present: Councillors:-

Richard Lewis (Chairman)
Glenvil Greenwood-Smith (Vice-Chairman)
Steven North (Leader of the Council)
Philip Hardcastle (Deputy Leader of the Council)

David Brackenbury
Wendy Brackenbury
Richard Gell
Roger Glithero

Glenn Harwood
Dudley Hughes
Rupert Reichhold
Jeremy Taylor

70. URGENT ITEM

The chairman referred to minute 33 of the last meeting (Waste Contract Update – Oundle Recycling Centre) and reported that the committee's decisions had been called in by the Scrutiny Committee. He had asked that the outcome of the Scrutiny Committee should be reported back to this committee now and that further consideration be given to the issue at this meeting.

An additional report was therefore being presented under section 100(B)(4)(b) of the Local Government Act 1972 as the next scheduled meeting of the committee would not be held until 12 September and there was a need to resolve the matter before then.

It was

RESOLVED:

That the additional item be taken next in the proceedings.

71. WASTE CONTRACT UPDATE – OUNDLE RECYCLING CENTRE

A report was submitted following the call in, by members of the Scrutiny Committee, of the decisions reached under minute 33 of the last meeting. The Scrutiny Committee had decided

That the Policy and Resources Committee be asked to reconsider its decisions on the Oundle Recycling Centre and delay the start date for the removal of the manned element of the site until after the Policy and Resources Committee on 12 September.

Members supported the request made by the Scrutiny Committee and thanked the residents of Oundle for the very keen interest they were showing in this issue.

RESOLVED:

That the start date for the removal of the manned element of Oundle Recycling Centre be delayed until after the meeting of the committee on 12 September, when it is expected that this issue will be resolved.

(Reason - This delay to the change would recognise the depth of feeling within the Scrutiny Committee and the community on this issue and allow discussions between officers, Oundle Town Council and members of the Scrutiny Committee to continue along with investigation of the alternative options, with an update report to be brought to the Policy and Resources Committee meeting on 12 September.)

72. PUBLIC SPEAKERS

The following people spoke from the public gallery in connection with the additional item (Scrutiny Call In - Oundle Recycling Centre):-

- | | |
|-----------------------------|------------------------------------|
| • Councillor Phillip Stearn | Chairman of the Scrutiny Committee |
| • Councillor Mark Ormrod | Oundle Town Councillor |
| • Mr Philip Norman | Resident of Oundle |
| • Councillor David Bateman | Member of the Scrutiny Committee. |

73. MINUTES

The minutes of the meeting held on 9 June 2011 were approved and signed by the chairman.

74. APOLOGIES

Councillors John Farrar and Andy Mercer sent their apologies.

75. DECLARATIONS OF INTEREST

The following councillors declared personal interests in the items indicated and remained in the meeting during the consideration and voting on the respective item:-

Councillors	Item	Nature of Interest
David Brackenbury, Wendy Brackenbury, Roger Glithero, Glenvil Greenwood-Smith, Glenn Harwood, Jeremy Taylor Rupert Reichhold	Additional item Item 8	Members of the Green Waste Club Observer: Volunteer Action - Oundle
Glenvil Greenwood-Smith, Philip Hardcastle and Richard Lewis Dudley Hughes	Item 10 Item 10	Members of the Stanwick Lakes Management Board Reserve – Stanwick Lakes Management Board
Dudley Hughes	Item 12	Negotiated the original contract on public conveniences

76. QUESTIONS BY MEMBERS UNDER COUNCIL PROCEDURE RULE 10.3

There were no questions.

77. FINANCE WORKING PARTY

Members received and noted the minutes of the meeting of the Finance Working Party held on 30 June 2011 (attached at pages 143 to 145).

78. PROCUREMENT STRATEGY 2011 AND PROCUREMENT PROCEDURES

Members considered –

- a revised draft Procurement Strategy which formally documented how the council aimed to procure goods and services in the most effective, efficient and economic ways to deliver value for money for customers and provide transparency and accountability throughout the process, and
- revised procurement procedures, which set out the regulations that must be followed by the council when it procured goods, services and works. It was intended that this document would replace part 4.6 of the constitution.

The primary objectives of the procurement procedures were to:-

- Ensure that the council obtains value for money and fulfils the duty of achieving best value as defined in section 3 of the Local Government Act 2003.
- Ensure that the council complies with English law and European law in force in England that governs the procurement of goods, services and works (including the Public Contracts Regulations and applicable EU laws).
- Establish tendering procedures which when followed should protect members and officers of the council from any allegation of acting unfairly or unlawfully which may be made in connection with any procurement by the council of goods, services, or works.
- Ensure that any risks associated with entering into the contract are assessed as part of the procurement process.

The Finance Working Party had considered the documents on 30 June and had put forward a number of comments (see page 145).

RESOLVED:

That the Procurement Strategy be approved, subject to changing the word “may” in paragraph 4.5 to “will”.

(Reason – to ensure a consistent approach to procurement)

It was further

R.2 RESOLVED TO RECOMMEND:

That the revised procurement procedures – as set out in appendix 1 at pages 146 to 168 and including the comments of the Finance Working Party be approved for inclusion as section 4.6 of the council's constitution.

(Reason – to ensure compliance with legislation)

79. CAPITAL OUTTURN REPORT 2010/11

The committee considered the report of the Finance Manager, details of which are set out in minute 6.0 of the Finance Working Party on 30 June (see page 144). The working party had endorsed the recommendations being made to the committee.

Members noted the capital outturn and financing for 2010/11 and

RESOLVED:

That the revised capital programme for 2011/12, as submitted, be approved.

(Reason – to reflect changes approved since the original budget was set and take account of rescheduling of some capital projects in order to deliver them in 2011/12)

80. REVENUE OUTTURN REPORT 2010/11

The committee considered the report of the Finance Manager, details of which are set out in minute 5.0 of the Finance Working party on 30 June (see page 143). The working party had endorsed the recommendations being made to the committee.

Members noted the revenue outturn for 2010/11 and

RESOLVED:

That the following carry forwards for 2011/12 be approved:-

Budget code	Amount £	Reason
CAA001/4471 CAA008/9111	12,200 15,000	Mobilisation of new waste management contract - some expenditure required on publicity in 2011/12 in the run up to the start of the contract.
CKS105/4416	50,000	Irthlingborough Master Plan – funding was approved in 2010/11 but none spent by the year end
CKS106/4416	20,000	Oundle Master Plan - funding was approved in 2010/11 but none spent by the year end

(Reason – to reflect changes approved since the original budget was set and take account of rescheduling of projects in order to deliver them in 2011/12)

81. HOMELESSNESS GRANT 2011/12

The Housing Strategy Manager presented a report seeking approval to:-

- the release of funds from the homelessness budget for a grant of £5000 to the East Northamptonshire Domestic Abuse Forum to continue the 'Sanctuary Project'
- the arrangements for administering the remaining homelessness grant of £45,000, on the basis of the approach adopted last year, and the split between the funding to be administered as external grants and that to be retained as a contingency/for other projects, and
- the criteria to be adopted for administering grants to external organisations.

The committee believed that the approach introduced last year had operated satisfactorily and felt it should be continued.

RESOLVED:

- (1) That the release of £5000 to East Northamptonshire Domestic Abuse Forum to continue the 'Sanctuary Project' be approved.
- (2) That the arrangements followed last year be continued and the split between external grants and contingency/other projects be £15,000 and £30,000 respectively, and that an update report be made later in the year.
- (3) That the draft criteria attached as appendix 2 to these minutes at page 169 be approved.

82. EAST NORTHAMPTONSHIRE TOURISM STRATEGY 2010-15

Further to minute 409 (15 March 2010), the committee received an update on the progress of the tourism strategy action plan and programme over the next 18 months (see main elements below) and was asked to give approval for external funding and section 106 monies to be secured to deliver future phases of the Greenway project.

- The information on promotional activity carried out and planned under the two Tourism Strategy themes ("Escape, Explore Enjoy" and "Green and Blue Ways") was noted. These included the successful use of Nene Valley News cut out vouchers, financial support for five circular walks leaflets, roll out of EN dedicated leaflet displays at key venues such as Stanwick Lakes and production of heritage trail leaflets being finalised for Higham Ferrers and Oundle. The North Northamptonshire Leader Programme had awarded £794,117 to tourism businesses relating to the Green and Blue ways theme (£5,000 being contributed by the council to these costs)
- The importance of tourism to the local economy was noted. Tourism revenue for the District had increased from £81.77 million in 2010 from £79.08 million on 2009 with increases in visitors to local attractions (Lyveden New Bield recording a 9% increase). The outcomes of the Tourism Strategy would be rolled-up in the forthcoming Economic Development Strategy to be presented to the committee in September. In addition the "Green and Blue ways" theme would be explored in conjunction with Northamptonshire Enterprise Partnership's planned "Destination River Nene" activity.
- "Best of British" celebration of East Northamptonshire was being explored with town councils for 2012, to capitalise on national events. However progress was dependent

on practical support being secured from Town and Parish Councils; a further report on this subject would be presented to the committee in September

Funding was being sought to support the delivery of further sections of the Greenway. Phase 2 involved the Irthlingborough section (for which £125,676 section 106 monies were available) and phase 3, covered the Higham Ferrers section.

RESOLVED:

- (1) That the progress made in relation to the Tourism Strategy action plan be noted.
- (2) That the updated plan up to 31 March 2012 be approved.
- (3) That approval be given for external funding and section 106 monies to be secured to deliver future phases of the Greenway project.

(Reason – to progress the tourism strategy)

It was further

R.3 RESOLVED TO RECOMMEND:

That the Greenway Project Board be reinstated and the Leader of the Council be asked to nominate two members to serve thereon.

(Reason – To continue the member involvement on this project)

83. FUNDING COMMUNITY TRANSPORT IN EAST NORTHAMPTONSHIRE

Further to minute 387 (14 February 2011), the committee considered the conclusions of the member panel on the award of voluntary sector grants for community transport. An Equality Impact Assessment was also considered.

The member panel and officers had met with all community transport providers on 21 March and a further meeting had been held on 14 April with SERVE, who had now submitted a written grant application for a consortium approach with Volunteer Action (Oundle) and Nene & Ouse Community Transport (Thrapston).

The member panel was satisfied that the proposal submitted was targeted at delivering an improved and efficient community transport service across the whole of East Northamptonshire, giving a priority to medically related journeys. However, the panel highlighted the need for a very detailed and specific grant agreement that included measures to ensure the achievement of the following outcomes:-

- Improved access to medical services as a priority
- Improved access to other basic services
- Reduced isolation for residents in communities who have a high IMD score for access to services (rural areas)
- People who are frail, elderly or have a disability and who choose to remain in their own homes, are helped to maintain independent living.

The potential for service development – set out in a 3 year plan – had been welcomed by the panel, and it wished to see the use of one telephone number for community transport services in East Northamptonshire and efficiencies achieved through the partner organisations' administration and management, allowing grant to be invested further in the service. It was proposed to apportion the funding as follows:-

2011/12	£10,000
2012/13	£20,000
2013/14	£20,000.

RESOLVED:

- (1) That the member panel's recommendations be approved and that a voluntary sector grant be awarded to the SERVE consortium on the basis of a detailed and specific grant agreement as set out in the preamble, on the understanding that SERVE should be the lead organisation.
- (2) That the Equality Impact Assessment be endorsed.

(Reason – To continue with the implementation of the new grant funding model as approved by the committee on 8 November 2010)

84. PROPOSED CONSTITUTIONAL CHANGES

Consideration was given to the following changes to the constitution:-

- The removal of paragraph 2.08 of article 2, relating to the appointment of lead members, and consequential amendments to Parts 3, 4.1 and 6. No appointments had been made at the Annual Council meeting on 18 May.
- Changes to paragraph 4.02 of article 4 to redefine what was meant by the 'policy framework' (ie matters referred to the full council for approval). The paragraph would have the additional words "and other specific legislation" inserted at the end of the fourth line of (i); the deletion of the bullet points The Performance Plan, The strategies and plans which together comprise the Housing Investment Programme, and The Performance Management Framework, and the insertion of "The Corporate Plan" as a last bullet point.

It was noted that the Leader of the Council would be considering the position of council champions and a further report would be submitted to the next meeting of the committee.

R.4 RESOLVED TO RECOMMEND:

- (1) That the abolition of the role of lead members be approved and consequential amendments be made to article 2, and parts 3 and 4.1 of the constitution.
- (2) That the Monitoring Officer be authorised to make changes to other council documents which make reference to lead members.
- (3) That a change be made to part 6 of the constitution when the Members' Allowances Scheme is again considered, and

- (4) That the changes to article 4 of the constitution – as specified above – be approved and that the Monitoring Officer be authorised to adjust other parts of the constitution if necessary.

(Reason – to ensure that the constitution is continuously kept up to date; to ensure that all relevant legislation is included, and to facilitate the supply of a completely revised constitution to all members of the council)

85. STANWICK LAKES BUSINESS PLAN

Consideration was given to the draft Stanwick Lakes business plan 2011-2014, prepared by the Rockingham Forest Trust, and the release of capital funding.

The committee noted that –

- The site had covered its own revenue costs within three years of opening as a visitor centre
- The centre had exceeded expectations in terms of income, public reaction and the number of visitors it had helped attract to the site, and had won design awards
- The business plan had been modified to increase profits and thereby contribute towards capital costs; a more commercial approach had been adopted
- Income generating ideas should add around £40,000 per annum to the net income
- Changes were proposed to car parking procedures and charges.

The capital cost of 9 repairs and maintenance items was £117,000 and the trust proposed that the cost be met through a mixture of trust reserves (£65,000), council capital contribution (£50,000) and Heritage Lottery Fund (£2000).

RESOLVED:

- (1) That the draft Stanwick Lakes business plan be noted.
- (2) That the release of a capital contribution of £50,000 to Rockingham Forest Trust, for the repairs and maintenance costs outlined in the report to the committee, be approved.

(Reason – to allocate resources as per the approved capital programme)

86. FUTURE OPTIONS FOR ENABLE

The Executive Director asked the committee to consider the future role of ENable, the East Northamptonshire local strategic partnership (LSP). Whilst there was currently no statutory requirement to have an LSP, there was a statutory requirement to produce a sustainable community strategy (SCS) and it was usual for the LSP to assist with its production. Changes to the regulations would mean the statutory requirement to produce a SCS would cease but there appeared to be a central government expectation that local authorities would continue to produce a SCS in the light of the 'localism' agenda.

Members considered four options:-

- ENable continues to function as it does now
- ENable is closed down
- Big Society/enabling information sharing network
- ENable becomes a federated structure.

The committee took the view that support for the LSP should be withdrawn. However, in the light of the Localism Bill, and the issues surrounding planning policy, it was felt that the opportunity should be taken at a later stage to introduce a more appropriate form of community arrangement.

RESOLVED:

That the council withdraw its support for ENable.

87. CONTINUATION OF MEETING - PROCEDURE RULE 8

At 9.30pm, the meeting having lasted for two hours, it was

RESOLVED:

That the remaining business be completed.

88. PUBLIC CONVENIENCES

The Head of Resources and Organisational Development submitted a report on the discussions which had been taking place with the town councils in East Northamptonshire about transferring, to them, ownership and responsibility for the public toilets.

No formal agreements had yet been reached with town councils. It was noted that cleaning services were currently provided as part of this council's waste management contract with Cory Environmental Services and that this would come to an end on 31 July 2011. Kier Street Services, this council's new waste management contractor, had agreed to continue to provide the cleaning services in all toilets except Raunds. Raunds Town Council had confirmed that it would accept ownership of, and responsibility for, the toilet in Raunds.

Members considered whether to continue funding the toilets or close them, but were advised by the Monitoring Officer that before making a decision, an Equality Impact Assessment would need to be prepared. Funding had only been agreed in the budget to cover the period up until 31 July. No provision had been made in the capital budget to cover the one-off settlement payments of £15,900 offered to each town council.

The committee called for a final decision to be made on this matter at the next meeting on 12 September.

R.5 RESOLVED TO RECOMMEND:

(1) That further time be allowed to –

- Establish town council decisions.
- Undertake an audit of use of the public toilets.
- Establish whether there are any other toilets in the local area that can be used by the public.

- Undertake some consultation with users
- Complete an Equality Impact Assessment

(Reason – to enable sufficient information to be collected so members can make an informed decision)

- (2) That the additional revenue funding of £25,000 be agreed to cover cleaning and maintenance of the public toilets on a temporary basis for the period to 30 September 2011.

(Reason – to make budget provision while information can be collected)

- (3) That the capital budget be amended to include the one off payments of £79,500 to the town councils as financial support towards the future maintenance liabilities of the public toilets, should they decide to take them on.

(Reason – to make budget provision if the transfer of assets to town councils takes place)

- (4) That it be noted that a further report will be provided to the Policy and Resources Committee on 12 September documenting the outcomes of the actions set out at (1) above, to enable a final decision to be made.

Note: All dual hatted members in Rushden, Raunds, Higham Ferrers, Irthlingborough and Thrapston had been granted a dispensation by the East Northamptonshire Standards Board to speak and vote on this issue.

Chairman



Finance Working Party

Minutes of a meeting held on Thursday 30 June 2011 at 7.30 pm, Members' Room, East Northamptonshire House, Thrapston

Present:

Councillors: David Brackenbury Philip Hardcastle
Roger Glithero Steven North
Glenvil Greenwood Smith

Officers: Rosanne Fleming (RF) Keith Osborne (KO) minutes

1.0 APPOINTMENT OF CHAIRMAN

Action

1.1 Councillor Steven North was appointed Chairman of the Working Party for the ensuing year.

RR

2.0 MINUTES

2.1 The minutes of the meeting held on 30 March 2011 were received and approved, subject to the deletion of the words "The scheme would be funded from the revenue support grant and" in minute 6.2..

3.0 APOLOGIES

3.1 Councillor Richard Lewis sent his apologies..

4.0 DECLARATIONS OF INTEREST

4.1 Councillor Roger Glithero declared a personal interest in agenda item 7 (Treasury Management Annual Report) because he held shares in Lloyds Bank. He remained in the meeting and took part in the discussion and voting on the item.

KO

5.0 REVENUE OUTTURN REPORT 2010/11

5.1 Members received and considered a report from RF containing details of the actual spend on revenue items compared with the original 2010/11 budget.

5.2 It was noted that the net budget, as adjusted, had been £11,427,892 and the total budget had been revised to £11,497,892, taking into account two supplementary estimates of £20,000 and £50,000 for the Oundle 2020 Vision Work and the Master Plan for Irthlingborough respectively. There had been an underspend of £429,249. .

5.3 The Working Party looked at –

- A detailed breakdown of under or over spending analysed by service area
- A summary of salary costs against budget to identify where savings to hold vacancies had generated savings
- Requests for roll forward of budgets not spent in 2010
- Details of the use of revenue reserves and the reasons for appropriations, particularly the reduction of the contingency fund reserve from £10,000 to £5,000 and the removal of the concessionary fares reserve of £69,000 due to cessation of the service.

5.4 Members commented on the Irthlingborough and Oundle Master Plans carry forwards and the tourism overspend but otherwise endorsed the recommendations which would be submitted to the Policy and Resources Committee on 4 July.

RF

6.0 CAPITAL OUTTURN REPORT 2010/11

6.1 Members received and considered a report from RF containing details of the actual spend on capital items compared with the original 2010/11 budgets, and how the expenditure had been financed. The original capital programme for 2010/11 of £3,035m had been revised to £3,414m to account for agreed adjustments on Disabled Facility Grants.

6.2 The Working Party looked at –

- Details of spending of £2.196m against the revised capital programme for 2010 of £1.218m and the variations and reasons for them
- The slippage and proposed re-profiling of the 2011/12 capital budget, including the items to be carried forward
- Additional items put forward for 2011/12 – increasing the budget by £369,000
- Capital receipts, which were £773,000 higher than budgeted
- The financing of the budget.

6.3 Members asked some questions about amounts for Phase 2 of the Greenway Project; LSVT capital receipts and the provision for the Polebrook closed churchyard. They endorsed the recommendations which would be submitted to the Policy and Resources Committee on 4 July.

RF

7.0 TREASURY MANAGEMENT ANNUAL REPORT 2010/11

7.1 Members received details of the council's treasury management activities and performance for the second half of 2010/11, with particular regard to:-

- Market conditions – modest growth, persistently high inflation, low consumer confidence and low interest rates and low average return on investments
- Current portfolio on investments and latest rates of return on the instant access accounts
- Treasury Management performance - reduction of investment income in July 2010 to £136,000 and actual interest earned £162,000.

- 7.2 Members commended the performance of the Treasury team on investments and also encouraged the use of more long term and fixed term deposits.

RESOLVED:

That the treasury management performance be noted, with the above comments on long term and fixed term deposits.
(Reason – In accordance with CIPFA guidance and best practice in treasury management)

RF

8.0 PROCUREMENT STRATEGY 2011 AND PROCUREMENT PROCEDURES

- 8.1 The Working Party considered –

- a revised draft Procurement Strategy which formally documented how the council aimed to procure goods and services in the most effective, efficient and economic ways to deliver value for money for customers and provide transparency and accountability throughout the process, and
- revised Procurement Procedures, which set out the regulations that must be followed by the council when it procured goods, services and works. It was intended that this document would replace part 4.6 of the Constitution.

- 8.2 Members asked questions and commented on paragraph 4.11 of the strategy relating to the differentiation between the target for payment to local suppliers compared to those outside the District. The Working Party endorsed the strategy, which would be further considered by the Policy and Resources Committee on 4 July.

RF

- 8.3 Members commended the new Procurement Procedures – which would also be considered by the Policy & Resources Committee and then be submitted to Council on 18 July as it would replace Part 4.6 of the Constitution – but asked that the following comments on the document be conveyed:-

RF

- The need to avoid the word “estimate” and use “quotation” instead throughout the document
- Paragraph 1.1 – Add the wording of paragraph 4.5 of the strategy to this section (responsibility of members for oversight and monitoring of significant contracts – particularly relevant in relation to competitive dialogue)
- Paragraph 1.3.5 – (a) More clarity required on the distinction between the requests for exemptions referred to the Head of Resources and OD and those referred to the Corporate Management Team and (b) replacement of the word “may” in line four (member involvement) and the substitution of the word “will”
- Paragraph 3.5.1 – the word “may” to be replaced by “will” (presence of members at the tender opening)
- Paragraph 3.9.1 – Add the words “or other legal adviser” after “Solicitor to the Council” (Tender Evaluation)
- Paragraph 3.9.3 – Remove (pre-determined weighting).

Appendix 1 to Policy and Resources Committee Minute 78

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1 INTRODUCTION AND PURPOSE

1.1 Purpose of Procurement Procedures

The Procurement Procedures set out the regulations which must be followed by the Council when it procures goods, services and works.

The procedures have four primary objectives:

- a) To ensure that the Council obtains value for money and fulfils the duty of achieving best value as defined in Section 3 of the Local Government Act 2003. This includes selecting the appropriate tender route.
- b) To ensure that the Council complies with English law and European law in force in England that governs the procurement of goods, services and works. (including the Public Contracts Regulations and applicable EU laws).
- c) To establish tendering procedures which when followed should protect members and officers of the Council from any allegation of acting unfairly or unlawfully which may be made in connection with any procurement by the Council of goods, services, or works.
- d) To ensure that any risks associated with entering into the contract are assessed as part of the procurement process.

A Procurement Toolkit supplements these Procurement Procedures (see EUNICE #insert link when finalised#)

1.2 Scope of Procurement Procedures

1.2.1 These rules apply to all procurement by the Council unless any such procurement is expressly excepted under these Rules, or subject to an exemption.

1.2.2 The rules apply to all procurement activity including:

- a) Spot/Defined Contracts that are for a defined requirement for a firm price.
- b) Framework Agreements where the overall terms are agreed but the contract will only be formed when the specific requirement is called off.
- c) Works Contracts where contracts are let by public authorities for civil engineering and building works and works concession contracts.
- d) The engagement of Consultants

1.2.3 If there is any change to English law or European law in force in England which affects these rules then that change must be observed until these rules can be revised. If these rules conflict in any way with English law or European law in force in England then that legislation or case law takes precedence and the Monitoring Officer's advice should be sought.

1.3 Exemptions and Exceptions

1.3.1 Unless a Contract falls within the list of general exceptions set out in Appendix A it can only be exempted from these Rules ('an Exemption') in accordance with these Rules.

1.3.2 The Council may consider a request for an exemption to these contract procedure rules in exceptional circumstances. The Council has no power to vary or exempt the requirements of EU legislation or English law.

1.3.3 An 'Exemption Request Form' can be found at Appendix B and when an Exemption is sought this must be submitted to the Solicitor to the Council and the Finance Manager for initial clearance.

1.3.4 Finance and Legal Services will ensure that a clearance on a request for an Exemption is made within 5 working days of receipt of the relevant Form.

- 1.3.5 Requests for Exemptions will either be approved or rejected by the Head of Resources & OD (based on advice from the Solicitor to the Council and the Finance Manager) and referred to the Corporate Management Team for determination. Member involvement will be required for significant expenditure where an exemption or exception is considered necessary.
- 1.3.6 If the Exemption is approved, the application form will be endorsed and returned to the relevant department with a copy retained by the Finance Manager.

1.4 Roles and Responsibilities

- 1.4.1 The officer responsible for purchasing (“the officer”) must comply with these Rules, the Financial Procedure Rules and all UK and European Legislation in force in England. Refer to Appendix C for an overview.
- 1.4.2 The officer must also ensure that agents acting on their behalf also comply with this requirement.
- 1.4.3 The officer responsible for the contract must comply with the Council Code of Conduct and must not invite or accept any gift or reward in respect of the award or performance of any contract.
- 1.4.4 The Welland Procurement Unit (WPU) is the procurement service shared by this council and other councils admitted by the Welland Partnership Joint Committee. The WPU issues guidance and offers assistance on procurement matters to all the participating councils.
- 1.4.5 The officer must have regard to current guidance provided by the Welland Procurement Unit and the principles of the Council’s Procurement Strategy.
- 1.4.6 The officer must establish if an existing approved contract exists before seeking to let another contract. This contract must be used unless there is an overriding reason why not.
- 1.4.7 Where the Council is procuring through the Welland Procurement Unit, there is no further requirement to seek alternative quotes and tenders. The Procurement Procedures for the lead authority adopted by the Welland Executive Panel / Joint Committee for any procurement will be applied by the Welland Procurement Unit.
- 1.4.8 The officer must consult with the Welland Procurement Unit prior to commencing any tendering activity where the contract value may be greater than the EU Threshold.
- 1.4.9 The officer should take advice from the Welland Procurement Unit when any employee may be affected by any transfer arrangement, to ensure the relevant issues are considered, including Transfer of Undertaking Protection of Employment (TUPE), and that appropriate Legal/HR advice is obtained before proceeding with inviting tenders or quotations.
- 1.4.10 If the Head of the Welland Procurement Unit is not available to provide advice for any reason then advice should be sought from the Finance Manager and the Solicitor to the Council.

1.5 Consultants

- 1.5.1 An authorised officer may only appoint external consultants or advisors providing professional or consulting services if such services are not available within the Council, or if Council officers providing them do not have the resources and / or expertise to meet the needs of the service. Where such services are available in-house, the authorised officer must consult with the Executive Director or the Head of Service before taking any decision to make an external appointment.
- 1.5.2 The appointment of external consultants and advisors shall be undertaken in accordance with the relevant sections of the Procurement Toolkit.

- 1.5.3 External consultants and technical officers engaged to supervise contracts must follow these Procedures as applicable and their contracts for services must state this requirement.
- 1.5.4 All contracts for external consultants and advisors shall explicitly require that the consultants or advisors provide without delay any or all documents and records maintained by them relating to the services provided on request of the authorised officer, and lodge all such documents and records with the appropriate officer at the end of the contract.
- 1.5.5 The authorised officer shall ensure that any consultant working for the Council has appropriate indemnity insurance.

1.6 Partnership and joint arrangements

- 1.6.1 These Rules apply to any proposal for the Council to become involved procurement as part of a joint venture or partnership, including the monitoring of any such arrangement. A joint venture or partnership:
 - Includes any formal arrangement involving one or more organisations in addition to the Council through which either a specific project or services within any of the functions of the Council are to be provided, and
 - Provides a role for the Council or any of its members or officers in whatever structure is used to deliver the project or services involved (such structures may include, but are not limited to, companies, trusts and management committees).
- 1.6.2 Before any consideration is given to the Council entering into a joint venture with the private sector or a strategic service delivery partnership with any external organisation, the Head of Service concerned must submit information detailing the proposed joint venture or partnership to the appropriate authorising officer or Members body as determined on a case by case basis. They will give consideration to the proposed joint venture in accordance with these Procedures and will ensure that an appropriate Officer/Member Group is convened.
- 1.6.3 Procurement processes for strategic partnerships must include, where relevant:
 - The issue of an information memorandum to prospective bidders setting out the background to the project, the Council's objectives and an outline of the procurement process and timetable, with roles and responsibilities made clear.
 - An invitation to bidders to demonstrate their track record in achieving value for money through effective use of their supply chain, including the use of small firms; this should continue to be examined as part of contract management.
 - The inclusion in invitations to tender (or negotiate) for partnerships a requirement on bidders to submit optional, priced proposals for the delivery of specified community benefits which are relevant to the contract and add value to the community strategy.
 - Clear indication of roles and responsibilities, including nomination of the lead authority where appropriate.

2 PROCEDURE BY VALUE OF REQUIREMENT

2.1 General Principles

- 2.1.1 Obtaining value for money is an underlying principle, although the complexity of the procurement procedures that must be followed will vary according to the value and risk.

- 2.1.2 Wherever possible, local suppliers should be included, although value for money remains a primary objective.
- 2.1.3 The total value of the procurement is defined as the total anticipated contract/purchase value and this will be determined by either:
- a) The total value of the goods, services or works if a one-off purchase;
 - b) The total contract value over the full duration of the contract (not just the annual value). When the duration of the contract cannot by its nature be determined, the value will be the monthly estimated cost x 48;
 - c) For framework agreements with no guaranteed commitment the contract value will be the estimated value of call offs over the full duration of the contract.
- 2.1.4 A summary of the process and responsibilities can be found at Appendix C.
- 2.1.5 The Finance Manager must be consulted in advance where the criteria weighting given to price is less than 50%.

2.2 Low Value Transactions (up to £10,000)

- 2.2.1 Defined as transactions valued at or below £10,000 that cannot be obtained via an existing approved contract.
- 2.2.2 Whilst obtaining value for money remains the primary objective, for transactions of £5,000 or less, multiple quotations are not required provided compliance with this objective can be demonstrated.
- 2.2.3 However, an quotation of price, not necessarily in writing must be obtained for requirements under £5,000 before any order is processed and this must specify:
- a) The goods, services or works to be supplied;
 - b) Where and when they are to be supplied;
 - c) The value of the transaction;
 - d) The Terms and Conditions including Payment Terms.
- 2.2.4 For transactions over £5,000 and up to £10,000, a minimum of three quotes, not necessarily in writing, must be obtained in advance of placing an order. The specification outlined in 2.2.3 (a) to (d) above applies.
- 2.2.5 In the case of works, the use of pre agreed hourly/day rates is acceptable.
- 2.2.6 A record of all quotes obtained should be retained for audit purposes.

2.3 Intermediate Value Transactions below Formal Tender Threshold (£10,001 to £50,000)

- 2.3.1 Defined as transactions for goods or services valued at over £10,000 but below £50,000 where the transactions cannot be carried out using an existing approved contract.
- 2.3.2 The criteria for selecting the most advantageous quotation must be established before the written quotations are invited.
- 2.3.3 At least three comparable written quotations must be sought.
- 2.3.4 If fewer than three potential suppliers can be identified, the Authorised Officer must keep a record of the reasons for this.
- 2.3.5 The Authorised Officer concerned shall maintain suitable records indicating the quotations received and the action taken relating to the selection and invitation of suppliers, the receiving and valuation of quotations and the award of the transaction/works to the successful contractor.

2.4 Call Off from existing Approved Contracts

2.4.1 Where the requirement can be satisfied from an existing Approved Contract then the order will be considered consistent with these rules as long as the call off arrangements defined within the individual contract are followed.

2.5 High Value Transactions (£50,001 to EU threshold)

2.5.1 Defined as transactions for goods, services or works valued at or over the formal tender threshold of £50,000 but below the relevant current EU Threshold.

2.5.2 An appropriate advertising process applies as set out in Rule 3.2.1(c). Advertising in OJEU is not required.

2.5.3 The formal tender process applies as set out in Rule 3.

2.6 Requirements over EU Threshold (see Glossary for current thresholds)

2.6.1 Defined as intended purchases for goods, services and works valued over the life of the contract at over the EU Threshold, and not subject to exception or exemption under the EU Directive.

2.6.2 Where the anticipated value of the contract exceeds the current EU Threshold (see Glossary of Defined Terms) then the formal advice of the Welland Procurement Unit should be sought prior to any tendering activity commencing. The higher threshold for Works Contracts only applies to the works activities identified in Schedule 2 of the EU Procurement Directive.

2.6.3 The minimum standards to be applied to the selection process must be determined before the OJEU notice is published. This may involve Members in determining award criteria at this early stage.

2.6.4 An OJEU Notice is required for each EU requirement and will be published centrally by the Welland Procurement Unit in the Official Journal of the European Union (OJEU).

2.6.5 Any tender activity under the EU Procurement Procedures must comply with the detailed requirements of the EU Procurement Directives and associated case law. Guidance is available from the Welland Procurement Unit.

3 COMMON TENDERING PRINCIPLES

3.1 Use of Existing Negotiated Frameworks

3.1.1 For all significant expenditure (over £10k), initial consultation with the Welland Procurement Unit, should take place to check whether an existing negotiated framework exists for the type of goods or services required.

3.1.2 Where frameworks already exist, and are economically advantageous, they should be utilised. Examples include OGC contracts, Scape (empa) framework.

3.2 Types of Tender:

3.2.1 Open

- a) The Council publishes a contract notice in the Official Journal of the European Union (OJEU) allowing a minimum of 52 days for return of tender from date of dispatch, or 36 days where a Prior Information Notice (PIN) has been published.
- b) All suppliers expressing an interest are invited to tender.

- c) If publication of a notice in OJEU is not required, then the notice shall be published in at least two of the following media: the local newspapers circulating in the district, the Council's website, other websites recognised for offering local government tender opportunities, appropriate national press, appropriate trade journal; in order to target the market for the particular contract. Two versions of the same medium are acceptable (e.g. two websites). OJEU may still be used on a voluntary basis.
- d) The advertisement shall contain details of the proposed contract and specify a time limit within which interested parties may express an interest in tendering for the contract.
- e) The Council shall send any party expressing an interest an Invitation to Tender (ITT) within six days of receipt of the expression of interest. The ITT shall specify the date and time for tenders to be received.

3.2.2 Restricted

- a) The Council publishes a contract notice in the Official Journal of the European Union (OJEU) allowing a minimum of 37 days to register an interest from date of dispatch, and 40 days for return of tender from date of dispatch of ITT, or 36 days where a PIN has been published.
- b) Only those suppliers selected by the Council are invited to tender. Suppliers shall be selected on the basis of pre-published pre-qualification criteria.
- c) If publication of a notice in the OJEU is not required, the advertising requirements are the same as in the open procedure, except that the notice shall state that a restricted procedure is being used. If the Regulations apply a minimum of five suitably qualified suppliers shall be invited to tender.

3.2.3 The Negotiated Procedure

The Negotiated Procedure has largely been superseded by the Competitive Dialogue process (see 3.2.4) and may only be used in very limited circumstances. These are:

- a) Where the Open, Restricted or Competitive Dialogue Procedure has been discontinued because of irregular tenders.
- b) Where the work or works to be carried out are purely for the purposes of research, experimentation or development.
- c) Where the work or works to be carried out are such or the risks attaching to it are such as not to permit prior overall pricing.
- d) The absence of tenderers or appropriate tenderers responding to an invitation to tender using the Open or Restricted Procedures.
- e) Where the works are for technical or artistic reasons or for reasons connected with the protection of exclusive rights which can only be carried out by a particular person or where for reasons of extreme urgency brought about by unforeseen events and the contracting authority cannot comply with the time limits for the Open or Restricted Procedures.
- f) In addition, a public authority can use a Negotiated Procedure where it is already in contract with a person or company and due to unforeseen circumstances additional works were not included in the project initially, and for technical or economic reasons cannot be carried out separately from the original contract. This proviso is subject to the additional work not exceeding 50% of the original contract value.

The Officer should confer with the Welland Procurement Unit before commencing a Negotiated Procedure.

3.2.4 Competitive Dialogue

- a) This procedure can be adopted where the contract is highly complex and the end result which the Council wishes to achieve is known, but it is not known how this might be achieved in terms of financial or legal structure or technical requirements. Note that this process can be lengthy and costly. This route should only be selected if the costs of the process are likely to be recovered in savings or innovations identified by the contractor.
- b) In these circumstances the Council must issue a contract notice specifying that the competitive dialogue procedure will be used and stating the criteria upon which the contract will be awarded. The contract must be awarded on the basis of the Most Economically Advantageous Tender (MEAT).
- c) The Council then conducts a dialogue with selected suppliers to identify acceptable solutions to meet the authority's requirements. Once acceptable solutions are identified and the authority has declared the dialogue is concluded, suppliers are invited to submit tenders.
- d) The award criteria must be used to evaluate the tender returns.

3.2.5 Mandatory Timescales

The minimum timescales laid down by the EU Directive for the receipt of requests to participate and receipt of tenders are shown here based on paper based documents. The Welland Procurement Unit can advise on timescales using electronic means, or in cases of unforeseeable emergency (see also Appendix D).

- 3.2.6 The type of tender process followed will depend on the nature of the goods or service being procured. The Welland Procurement Unit can provide advice to officers and Members on the most appropriate method. The tender route for significant contracts will be decided by an appropriate officer / Member group.

3.3 Tender Preparation

- 3.3.1 At least five suitably qualified suppliers must be invited to tender, unless there are fewer than five suitably qualified respondents in which case all such respondents shall be invited to tender.
- 3.3.2 The specification and evaluation criteria must take into account the Council's priorities.
- 3.3.3 The specification for the requirement must be adequate, fair and without bias to allow tenders to be sought.
- 3.3.4 There must be an assessment of the quality of both tenderers and tenders by pre determined non discriminatory evaluation criteria and weightings, including whole life cycle cost where appropriate.
- 3.3.5 The risks associated with the contract must be assessed.
- 3.3.6 A tender file must be maintained to record all matters associated with the tender.
- 3.3.7 The standard terms and conditions which apply must be stipulated. Where it is proposed that a form of contract be used, which does not adopt the Council's approved standard terms (including industry standard terms); the use of such form must be approved by the Welland Procurement Unit.
- 3.3.8 The tender must explain how information provided in the tender will be treated with regard to statutory requirements.
- 3.3.9 Non EU Threshold tenderers must be given adequate time to respond, consistent with the level of complexity of the requirement and, except where the industry norm is otherwise, this should be a minimum of 15 working days.

- 3.3.10 The Invitation to Tender must request that the tender is submitted in a plain envelope or package bearing a tender label giving only the tender title and opening date. The tender label must not identify the name of the tenderer.
- 3.3.11 Tenderers must be required to hold their tenders open for acceptance for a minimum of 90 days from the date of opening.
- 3.3.12 Tenders must include a statement that the Council does not bind itself to accept the lowest tender or any other tender.
- 3.3.13 Details of expected tenders must be notified to the Solicitor to the Council or their nominee at least five days prior to the tender opening.

3.4 Receipt of Tenders

- 3.4.1 Every reply to an Invitation to Tender must be addressed to the Chief Executive of the council.
- 3.4.2 All tender documents are to be kept securely in the council's safe in the Chief Executive's office until after the closing date and time.
- 3.4.3 There is currently no mechanism for receiving tenders electronically as specific secure software is required. This may be reviewed in the future. (*could be available as early as Summer 2011*)
- 3.4.4 Tenders submitted by fax will not be considered.
- 3.4.5 Tender packets or envelopes received must be date stamped and locked away until the specified time for their opening.

3.5 Tender Opening

- 3.5.1 At least two officers must be present during the opening of the tender and at least one such officer must be independent of the Service responsible for the purchase. Most likely, (but not prescribed) the independent officer will be the Finance Manager, the Democratic Services Manager or the Solicitor to the Council. These officers may designate a deputy to be present as an independent officer. For significant contracts, an appropriate Member will also be present.
- 3.5.2 The independent officer present must ensure that all tenders are opened at the same time when the period for their submission has ended.
- 3.5.3 A record of the tenders must be logged on the Schedule of Tenderers. This document will normally be prepared by the lead officer for the contract.
- 3.5.4 The opened tenders must be date stamped and signed by the two officers at the time of opening on the page containing the overall contract value, alternatively on the pages containing the price information, where no overall value is quoted.
- 3.5.5 Tenders that are received after the closing date and time or tenders that are not submitted in accordance with these Procedures are to be disqualified unless it is agreed otherwise by the Solicitor to the Council. This will normally only be where there is satisfactory evidence that the tender was posted in good time.
- 3.5.6 After tender opening a copy of the Schedule of Tenderers and opened tender documents should be sent to the Officer responsible for the procurement.
- 3.5.7 An original version of the tender must be retained for a period of six years.

3.6 Electronic auctions

- 3.6.1 Electronic auctions are online auctions where selected bidders submit offers electronically against the purchaser's specification. All communication following and including the invitation to pre-qualified bidders to submit new prices and/or values must be instantaneous (electronic). An electronic auction requires the use of

specialised software and tenderer support, and may then be used in these circumstances:

- a) open or restricted procedures stating use of an auction
- b) open, restricted or competitive dialogue procedures have been implemented but cannot be brought to a satisfactory conclusion and the negotiated route with a contract notice is adopted
- c) mini competition within a framework if e-auctions were mentioned in the contract notice
- d) competition for contracts to be awarded through a dynamic purchasing system if stated in the contract notice; and
- e) expressions of interest invited in accordance with the selected procedure. Contract notice states that an electronic auction will be used.

Officers wishing to undertake an electronic auction should contact the Welland Procurement Unit before undertaking this work.

3.7 Dynamic purchasing systems

3.7.1 Dynamic purchasing systems are intended to address commonly used purchases. These systems are a type of electronic framework that allows bidders to apply to join at any time during their lifetime. The council does not intend to operate this type of system at present but may re-visit in the future.

3.8 Errors in Tenders

3.8.1 The arithmetic in compliant tenders must be checked. If arithmetical errors are found they should be notified to the tenderer, who should be requested to confirm or withdraw their tender. Alternatively, if the rates in the tender, rather than the overall price, were stated within the tender invitation as being dominant, an amended tender price may be requested to accord with the rates given by the tenderer.

3.9 Tender Evaluation

3.9.1 Tenders must be assessed in accordance with the pre-determined evaluation criteria and weightings. The assessment should only be undertaken on compliant tenders. If an officer assesses that a submission is not compliant, advice should be sought from the Solicitor to the Council or other legal advisor, the Finance Manager, or the Welland Procurement Unit before it is ruled out.

3.9.2 High value contracts (over £50,000) will include evaluation scoring by appropriate Officers using the pre-determined evaluation criteria. Members will also be involved in the evaluation scoring process where appropriate.

3.9.3 The successful contractor should be the one offering the lowest price, where price is the only criterion; or the highest number of points, where the evaluation criteria include both quality and price.

3.9.4 The results of the tender evaluation must be retained on the tender file.

3.9.5 A financial health check must be requested from an appropriate external body in consultation with the Finance Manager for all contracts where the criteria indicates that one is required. This may include call-offs from framework contracts.

3.9.6 The Officer must ensure that appropriate budgetary provision exists before any contract is entered into.

3.10 Post Tender Clarification

- 3.10.1 Post-tender negotiations shall only take place where this does not have the effect of distorting competition.
- 3.10.2 Negotiations shall be conducted by a team of at least two officers, at least one of whom shall be from Legal Services unless agreed otherwise in advance by Legal Services such as in instances where this is not industry practice.
- 3.10.3 Negotiations shall be conducted with all tenderers, unless there are clear reasons for excluding one or more tenderers.
- 3.10.4 Full, written records must be made and retained.

3.11 Award of Contracts

- 3.11.1 The tender may lead to an award decision; but there is no obligation for an award of contract to take place.
- 3.11.2 A contract may only be awarded by an Officer authorised to make such a commitment on behalf of the Council.
- 3.11.3 Contracts are to be authorised according to the total value of the contract:
 - a) Up to £10,000: by an Officer so authorised
 - b) Up to £250,000: by the relevant Head of Service
 - c) Over £250,000: by the relevant Director
 - d) Over £1,000,000: by the relevant Director in conjunction with the relevant Policy Chair. Committees may request that they are involved in the decision at any of these levels.
- 3.11.4 All contracts over £10,000 awarded, must be recorded on the Contract Database by the awarding Officer. Format for the Contracts Database as per Appendix E (#insert link to I drive document#).
- 3.11.5 For OJEU contracts, Officers must allow a mandatory minimum standstill period of 10 calendar days between notification of award decision to all tenderers and entering a contractually binding agreement. It is most important therefore that the notification of award decision is neither a contract award nor a conditional award which may need to be discarded in the event of a challenge within the standstill period.

3.12 Notification to Unsuccessful Tenderers

- 3.12.1 Following contract award, unsuccessful tenderers must be notified in writing in all cases.
- 3.12.2 In those instances where the standstill period and advance notification of award to all tenderers (as in 3.11.5) does not apply, then unsuccessful tenderers must be notified of the appeals procedure.

4 CONTRACT AND OTHER FORMALITIES

4.1 Contract Documents

- 4.1.1 All Contracts must be in writing. Where the contract is of a non complex nature and is for values of up to £50,000, the use of a Purchase Order is an acceptable form of contract, which must make reference to the quotation and terms agreed, and attach a clear specification or description of the subject of the order.
- 4.1.2 Every Contract over £50,000 must be in writing and, as a minimum, state clearly, in a form approved by the Solicitor to the Council:
 - a) that the supplier may not assign or sub-contract without prior written consent

- b) any insurance requirements to include clauses relating to liquidated damages and security bonds
- c) ombudsman requirements
- d) requirements relating to legislative requirements
- e) that charter standards are to be met if relevant
- f) race relations, disability, anti-discrimination and equalities requirements
- g) any sustainability requirements
- h) a right of access to relevant documentation and records of the contractor for monitoring and audit purposes, if relevant
- i) pricing mechanism and arrangements for payment
- j) rights of termination

4.1.3 The formal advice of the Solicitor to the Council must be sought prior to award for the following contracts:

- a) where the total value exceeds £50,000.
- b) those involving leasing arrangements.
- c) those which are complex or involve a recognisable risk
- d) where it is an extension or variation to an existing contract that will bring the overall value over £50,000
- e) where invoice payments are made to finance or factoring companies

4.1.4 Where assets are created as a result of a procurement exercise, the lead Officer shall notify the Finance Manager, who is responsible for ensuring the Council's Asset Register is appropriately updated.

4.1.5 Contract documents must be retained for a period of six years from the contract end date and, if under seal, for a period of twelve years.

4.2 Statistical Returns and other Reporting

4.2.1 Each year the Council is required to make a statistical return to Communities and Local Government for onward transmission to the European Commission concerning the contracts awarded during the year under the EU Directives.

4.2.2 The Solicitor to the Council shall be responsible for this statistical return and will make the necessary arrangements for information to be collected annually. Heads of Service shall comply with these arrangements and expeditiously provide any information required. Note that the Welland Procurement undertakes this task on behalf of the council.

4.2.3 From January 2011, Central Government introduced its Transparency Agenda where expenditure over £500 must be published on the Council's website. Details of tenders and contracts awarded also may be published in accordance with guidance.

4.3 Contract formalities

Agreements must be completed as follows:

TOTAL VALUE	METHOD OF COMPLETION	BY
Up to £10,000 (See paragraph 4.1.1)	Signature Use of Purchase Order, or Written Contract for complex requirements	Officer with appropriate authority to enter into a contract (paragraphs 3.11.3 and 4.3.5).
Over £10,000 and up to £50,000 (See paragraph 4.1.1)	Signature Use of Purchase Order,	Head of Service (paragraphs 3.11.3 and 4.3.5).

	or Written Contract for complex requirements	
Over £50,000 and up to £250,000 (see paragraph 4.1.2)	Signature on Written Contract	Head of Service (paragraphs 3.11.3 and 4.3.5).
Over £250,000 and up to £1,000,000 (see paragraph 4.1.2)	Signature on Written Contract	Director (paragraphs 3.11.3, 4.1.3 and 4.3.5);
Over £1,000,000	Signature on Written Contract	Director, once the appropriate Policy Chair has been consulted (paragraphs 3.11.3, 4.1.3 and 4.3.5)
Contracts for sealing	Sealing	See paragraph 4.3.6.

4.3.2 All contracts for the supply of goods and services must be concluded before the supply begins, except in exceptional circumstances, and then only with the written consent of the Chief Executive or a Director.

4.3.3 In exceptional circumstances and with the prior approval of Legal Services, a letter of intended acceptance can be issued to allow work to commence in advance of contract completion.

4.3.4 In the case of Works Contracts a tender acceptance letter is acceptable to allow work to commence, although the issue of a formal contract must follow without delay.

4.3.5 Signature:

The Officer responsible for signing the contract must have been granted the appropriate authority and ensure that the person signing for the other contracting party has authority to bind it.

4.3.6 Sealing:

Contracts must be sealed in accordance with Article 13.05 of the council's Constitution - "*those documents which in the opinion of the Chief Executive or the council's Solicitor should be sealed*"

For guidance, this is likely to be for contracts where:

- a) the Council wishes to enforce the contract for more than six years after its end (e.g. for land or construction works); or
- b) the price paid or received under the contract is a nominal price and does not reflect the value of the goods or services; or
- c) where there is any doubt about the authority of the person signing for the other contracting party; or
- d) where a bond is established on behalf of the contractor(s) or their guarantors; or,
- e) where required by parties to the agreement.

Where contracts are completed by each side adding their common seal, the affixing must be attested by or on behalf of the Solicitor to the Council. The Solicitor to the Council is responsible for the process of sealing contracts.

4.4 Bonds and Parent Company Guarantees

4.4.1 The officer responsible for the contract must consult the Finance Manager and Solicitor to the Council about whether a Parent Company Guarantee or Performance Bond is necessary when a potential supplier is a subsidiary of a parent company and,

- a) the award is based on an evaluation of the parent company, and the total value exceeds £250,000; or
- b) there is concern about the stability of the subsidiary supplier.

4.4.2 The Council must never give a bond.

4.5 Prevention of Corruption

4.5.1 The officer responsible for the contract must comply with the Council Code of Conduct and must not invite or accept any gift or reward in respect of the award or performance of any contract.

4.5.2 The Bribery Act 2010 covers offences around offering, promising or giving of an advantage; and, requesting, agreeing to receive, or acceptance of an advantage. Officers must be mindful of their conduct in relation to these offences.

4.5.3 All contracts must contain an appropriate clause that provides protection and the right to terminate the contract in the event of a supplier offering any inducement, committing fraud or committing an offence under the Bribery Act.

4.6 Declaration of Interests

4.6.1 If it comes to the knowledge of a Member or an officer of the Council that a contract in which he or she has a pecuniary interest has been or is proposed to be entered into by the Council, he or she shall immediately give written notice to their line manager in accordance with the Officers' Code of Conduct.

4.6.2 The Monitoring Officer should receive a copy of any declarations made by officers or Members.

5 CONTRACT MANAGEMENT

5.1 Managing Contracts

5.1.1 All contracts over the value of £50,000 and those of a complex nature below this value must have a designated Contract Manager whose name should be notified to the Supplier. This shall be a senior officer of the council, usually a Head of Service or Service Manager. The post designated as contract manager will be defined in the contract.

5.1.2 The Contract Manager shall be responsible for ensuring that the contractor fulfils his contractual obligations and that payment is made for satisfactory completion of those obligations.

5.1.3 The Contracts Manager shall undertake an annual review of long term contracts (greater than 2 years) to ensure value for money continues to be provided and that contract arrangements are fit for purpose. Where there is flexibility in the contract, improved terms and savings will be negotiated at this annual review.

Glossary of Defined Terms

Approved Contract	A Contract that has been created in accordance with the Procurement Procedures for call off or use by the Council. A list of contracts can be found on the Contracts Database.
Approved Standard Terms	The terms and conditions for use in contracts as agreed by an appropriate legal officer. These terms may need to be supplemented for specific contracts.
Authorised Officer	The Officer referred to in these Procurement Procedures as having authority to award a contract (see 3.11)
Buyer Profile	A database, accessible by potential suppliers through the internet, listing the council's proposed, current and concluded contracts with a value of over £50,000.
Call Off	A specific requirement which can be satisfied under the terms of a Framework Agreement, and which invokes the terms of that Framework Agreement to form a contract
Central Purchasing Body	A Contracting Authority which (a) acquires goods or services intended for one or more contracting authorities; (b) awards public contracts intended for one or more contracting authorities; or (c) concludes framework agreements for work, works, goods or services intended for one or more contracting authorities
Code of Conduct	The code regulating conduct of Officers contained within the Council's Constitution.
Contracting Authority	The public sector or other entity which lets and manages a contract for its own use and / or for the use of other entities
Contracts Database	The record of contracts held by the Council or by the Welland Procurement Unit on its behalf.
Procurement Procedures	These Rules which are approved by Council and which govern all officers and agents or consultants working on their behalf in the conduct of procurement activity.
Council's Procurement Strategy	Defines the overall approach to procurement related activity for the Council
Engagement of Consultants	Any use of professional help in supporting deliverables.
EU Procurement Directive	Regulations which are given the force of law in the UK through The Public Contracts Regulations 2006 and any successor regulations which specify in detail the procedures by which public bodies shall undertake their procurements
EU Threshold	The threshold value at which EU Procurement Directive must be applied if expected to be exceeded by the Total Value (net of VAT). The thresholds are: £ 156,442 for the supply of goods or services, £3,927,260 for building and engineering works contracts. These figures apply from until 31st December 2011, and will then be revised. The thresholds are revised every two years.
Financial Health Check	A financial risk assessment of the finances of company, parent or group of organisations in order to establish their liquidity, profitability, stability and capability to support a contract of the value required.
Financial	The Financial Procedure Rules as approved by the full Council.

Procedure Rules	
Framework Agreement	An agreement where the overall terms and conditions are agreed, but a contract is only formed in accordance with those terms and conditions when a Call Off of a specific requirement is made.
Goods	Goods which are covered by the EU Procurement Directive if they meet the relevant value threshold
Industry Standard Terms	Specific terms or conditions which are relevant only to the goods or service being purchased, or the industry sector or market within which the contract will operate.
Invitation to Tender	Invitation to tender documents in the form required by Procurement Procedures.
Management Team	Consists of the Chief Executive, Directors, and Heads of Service, which meet together as a decision making body.
The Officer	The Officer responsible for undertaking a purchase (see section (1.4))
OJEU Notice	Notice (advertisement) posted in the Official Journal of the European Union. Includes a Prior Information Notice, a Tender Notice or an Award Notice.
Parent Company Guarantee	A contract which binds the parent of a subsidiary company as follows: If the subsidiary company fails to do what it has promised under a contract with the Council, they can require the parent company to do so instead.
Performance Bond	An insurance policy: if the contractor does not do what it has promised under a contract with the Council, the Council can claim from the insurer the sum of money specified in the Bond (often 10% of the contract value). A Bond is intended to protect the Council against a level of cost arising from the contractor's failure.
Pre-determined objective selection criteria	The factors that will be assessed as part of the selection for tender short listing or final evaluation. These are normally backed up by a scoring mechanism and guidelines to enable an objective assessment.
Purchasing Cards	A Purchasing Card is designed for the purchase of low value goods and services. Procedures for the use of Purchasing Cards will be published in the Financial procedure Rules.
Services	Services which are described in Schedule 3 of the EU Procurement Directive as being either Part A, to which the full Directive applies if they meet the relevant value threshold; or Schedule B, to which much lighter requirements apply
Significant value	Contracts over £50,000 in any year
Tenderers	Organisations who have been invited to submit a tender to the authority.
Total Value	The whole of the value or estimated value (in money or equivalent value and net of VAT) for a group of similar commodities or services : <ul style="list-style-type: none"> • whether or not it comprises several lots or stages across the Council as a whole • whether or not it is to be paid or received by the Council. The Total Value shall be calculated as follows: <ol style="list-style-type: none"> (a) where the contract is for a fixed period, by taking the total price to be paid or which might be paid during the whole of the period; (b) where the purchase involves recurrent transactions for the

	<p>same type of item, by aggregating the value of those transactions in the coming 12 months;</p> <p>(c) where the contract is for a duration which cannot be determined, by multiplying the monthly payment by 48;</p> <p>(d) for feasibility studies: the value of the scheme or contracts which may be awarded as a result;</p> <p>(e) for nominated suppliers and sub-contractors: the Total Value shall be the value of that part of the main contract to be fulfilled by the nominated supplier or sub-contractor.</p> <p>(f) where an in house service provider is involved, by taking into account redundancy and similar/associated costs.</p>
Welland Procurement Unit	The Welland Procurement Unit (WPU) is the procurement service shared by this council and by other councils of the Welland Partnership. The WPU issues guidance and offers assistance on procurement matters to all participating councils. (See 1.4)
Works Contracts	Contracts let by public authorities for civil engineering and building works and works concession contracts.
Written Quotation	Must be in letter, fax or email and must be addressed personally, contain pricing information and delivery details Printouts of catalogues are not written quotations

General Exceptions from Procurement Procedures

These Procurement Procedures apply to all Goods, Services and Works purchased by the Council, with the following exceptions:

(a) Procurements of goods, services, or works where the procurement procedure to be followed by the Council is the subject of express legislation.

(d) Extension of an existing services or works contract with the

(b) Low value purchases made by a Purchasing Card that are subject to guidelines issued on the use of Purchasing Cards.

(c) Works or services procured in an emergency because of a need to respond to events that were beyond the control of the Council (e.g. natural disasters such as flooding or fires) as long as any expenditure in excess of £25,000 is first approved by the Chief Executive. Any contract entered into by the Council under this Exemption must not be for a term of more than 6 months.

same supplier provided that:

i) The circumstances for so doing were genuinely unforeseen;

ii) That such works or services are not practically separable from the original contract, or are necessary for its completion;

iii) That the value of such an extension does not exceed 50% of the original contract value;

(e) Contracts for the acquisition and disposal of land or property that are covered by separate policies and procedures.

(f) Contracts resulting from a competitive recruitment process.

(g) Works orders with utility infrastructure providers, e.g. Gas Mains.

(h) Call off or orders placed against negotiated framework agreements where the procedures defined in the contract for call off are followed.

(i) Any contract which has had an exemption agreed in accordance with rule 1.3.

(j) Grants properly approved through the appropriate Council procedures

(k) The disposal of Council Assets that are covered by a separate regulation

Exemptions and Exceptions as defined under the EU Directive are not automatically exempted or excepted from these Procurement Procedures.

Officers wishing to extend existing contracts may do so according to the extension provisions in that contract. Where no such provision is available, assistance should be sought from the Solicitor to the Council or Welland Procurement.

EXEMPTION REQUEST FORM

Name of Officer seeking Exemption:

Service Area:

Contract Title:

Description of Contract (attach supporting documentation if applicable)

Estimated Total Value of Contract:

Target Contract Start Date:

Date	Justification for Exemption Request	Authorised by Head of Service or Director
		Signed: Name:

This Form should be kept on file as evidence of compliance with Procurement Procedure Rules.

Legal Services (LS) ACTION	
LS Authorised: Yes/No Refer to Policy Committee: Yes/No Reason for rejection (if applicable):	
Signature:	Print Name:
Date:	

PROCUREMENT PROCEDURES SUMMARY

APPENDIX C

Value of Contract	Quotation/Tender Process	Who	Contract documentation	Approval
Goods and services up to £5,000, see 2.2	Obtain quotation prior to issue of Purchase Order	Service Area	Issue by Purchase Order or use of Purchasing Card	By authorised officer
Goods, services and works £5,000 - £50,000, see 2.3	Obtain at least 3 quotations	Service Area	Can use Purchase Order for non-complex requirements up to £50k. Written contract for requirements over £50k.	Up to £10,000 by authorised officer; over £10,000 by Head of Service
Goods, services and works that can be satisfied from an existing approved contract, see 2.4	Follow call off procedure within contract	Service Area	Follow call off procedure within contract	Up to £10,000 by authorised officer; over £10,000 by Head of Service; over £250,000 by Director
Goods, services and works between £50,000 and EU threshold, see 2.5	Obtain at least 5 tenders	Service Area	Written contract, complete as appropriate, see 4.3.	By Head of Service up to £250,000; over £250,000 by Director
Goods and services over EU threshold, see 2.6 For definition of EU threshold, see Glossary of defined Terms	Formal review of requirement prior to proceeding. All EU notices to be published centrally by Welland Procurement Unit. Details of all planned contracts with an anticipated value over the EU threshold will be reported to the Head of Financial Services by the Head of Service.	Service Area to review with Legal Services/ Welland Procurement	Written contract, complete as appropriate, see 4.3.	By Head of Service up to £250,000; over £250,000 by Director. All contracts over £1,000,000 will require prior consultation with the appropriate Policy Chair
Works contracts anticipated to be over the EU works threshold in value, see 2.6	Formal review of requirement prior to proceeding. All EU notices (where applicable) to be published centrally by Welland Procurement Unit. Details of all planned contracts with an anticipated value of over the EU works threshold will be reported to the Head of Financial Services by the Head of Service.	Service Area to review with Legal Services/ Welland Procurement	Written contract, complete as appropriate, see 4.3.	By Director. All contracts over £1,000,000 will require prior consultation with the appropriate Policy Chair

EU TENDER TIMETABLE

APPENDIX D

Procedure	Article	Text	Days
Open	38(2)	Minimum time for receipt of tenders from date of contract notice	52
	38(4)	Reduced when PIN published (subject to restrictions) to generally – And no less than -	36 22
	38(5)	Electronic transmission reduces all the above by 7 days so that 52 days becomes – And 36/22 become -	45 29/22
	38(6)	Full electronic access to contract documents reduces 52 by 5 days so it becomes – The reduction of 7 days for electronic transmission can be added so that 47 days becomes -	47 40
Restricted	38(3)(a)	Minimum time for receipt of requests to participate from the date contract notice is sent	37
	38(5)	Electronic transmission reduces the 37 days by 7 days so 37 days becomes -	30
	38(3)(b)	Minimum time for receipt of tenders from date invitation is sent	40
	38(4)	Reduced when PIN published (subject to restrictions) to generally, - And not less than-	36 22
	38(6)	Full electronic access to contract documents reduces 40 days by 5 days so it becomes	35

CONTRACT REGISTER TEMPLATE

APPENDIX E

Body Name	Body	Service Area Categorisation	Organisational Unit	Title of the Agreement	Scope	Contract Reference number / ID	Description	Start Date	End Date	Extension Period	Amount (Annual)	Supplier Name	Nominated contact point	Procurement category
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East Northamptonshire Council Homelessness Grant 2010/11

Application Criteria

Homelessness Grant

The Council will receive a grant during 2010/11 from the Government; which should be spent on projects and activities which seek to prevent homelessness in East Northamptonshire. The majority of this money will be allocated as small grants to external organisations, to support their work in this area.

This funding is only available until the end of March 2011, and applications will be accepted up until the end of February 2011. The maximum amount for any one application has been set at £5000.

Assessment Criteria

Projects / activities must:

- Benefit the residents of East Northamptonshire
- Come from a properly constituted group
- Directly contribute towards the prevention or reduction of homelessness

Funding will not be approved for projects / activities which have already been completed.

Applications will be assessed by the Council's Housing Strategy Manager; and a recommendation made to the Council's Policy and Resources Committee who will make the final decision.

Terms and Conditions

The following terms and conditions apply:

- Grants will be paid retrospectively
- The award of a grant is subject to the applicant meeting all statutory obligations; such as building consent and regulations, fire safety regulations, preservation orders and licensing. This includes obtaining Criminal Record Bureau (CRB) checks for all volunteers and workers dealing with vulnerable individuals and also complying with child protection procedures. A grant award does not give permission to proceed with any work without the correct statutory authorisation.
- Applications must be for a non profit making purpose.