

PLEASE NOTE VENUE

FINANCE AND EFFICIENCY PORTFOLIO DECISION SCHEDULE



Wednesday, 27 February 2008

at 10.00 am

in Owton Manor Community Centre, Wynyard Road, Hartlepool

Councillor Payne, Cabinet Member responsible for Finance and Efficiency will consider the following items.

1. KEY DECISIONS

None

2. OTHER ITEMS REQUIRING DECISION

- 2.1 Chief Executive's Departmental Plan 2007/08 – 3rd Quarter Monitoring Report - *Chief Financial Officer, Chief Solicitor and Director of Neighbourhood Services*
- 2.2 Construction Property and Highways Consultancy Services (CPHCS) and Regeneration Consultancy Services - *Head of Procurement and Property Services*
- 2.3 Licence For Alterations: Land Within The Boundary Of The Manor Residents' Association Premises, Kilmarnock Road, Hartlepool - *Head of Procurement and Property Services*
- 2.4 Procurement Strategy 2007 – 2010 – *Head of Procurement and Property Services*
- 2.5 Proposed Amendments to Contract Procedure Rules - *Head of Procurement and Property Services*
- 2.6 Proposed Lease of Premises, Cromwell Street - *Head of Procurement and Property Services*
- 2.7 Variation of Covenant at Owton Manor Social Club to Allow the Installation Of Telecommunications Equipment – *Head of Procurement and Property Services*
- 2.8 Adult Training Centre, Warren Road, Hartlepool Industrial Estate, Hartlepool - *Head of Procurement and Property Services*

3. REPORTS FROM OVERVIEW OF SCRUTINY FORUMS

None

PLEASE NOTE VENUE

4. LOCAL GOVERNMENT (ACCESS TO INFORMATION) (VARIATION) ORDER 2006

EXEMPT ITEMS

Under Section 100(A)(4) of the Local Government Act 1972, the press and public be excluded from the meeting for the following items of business on the grounds that it involves the likely disclosure of exempt information as defined in the paragraphs referred to below of Part 1 of Schedule 12A of the Local Government Act 1972, as amended by the Local Government (Access to Information) (Variation) Order 2006

5. KEY DECISION

None

6. OTHER ITEMS REQUIRING DECISION

- 6.1 Land at English Martyrs School, Catcote Road and Land at St. John Vianney School, King Oswy Drive - *Head of Procurement and Property Services*
- 6.2 Banking Arrangements Extension - *Chief Financial Officer*

FINANCE AND EFFICIENCY PORTFOLIO

Report to Portfolio Holder

27th February 2008



Report of: Chief Financial Officer, Chief Solicitor and
Director of Neighbourhood Services

**Subject: CHIEF EXECUTIVE'S DEPARTMENTAL PLAN
2007/08 – 3RD QUARTER MONITORING
REPORT**

SUMMARY

1. PURPOSE OF REPORT

To inform the Portfolio Holder of the progress made against the Chief Executive's Departmental Plan 2007/08 in the third quarter of the year.

2. SUMMARY OF CONTENTS

The progress against the actions contained in the Chief Executive's Departmental Plan 2007/08 and the third quarter outturns of key performance indicators.

3. RELEVANCE TO PORTFOLIO MEMBER

The Portfolio Member has responsibility for performance management issues in relation to finance, legal services and procurement.

4. TYPE OF DECISION

Non-key.

5. DECISION MAKING ROUTE

Portfolio Holder meeting 27th February 2008.

6. DECISION REQUIRED

Portfolio Holder is asked to: -

- notes the achievement of key actions and third quarter outturns of performance indicators

Report of: Chief Financial Officer, Chief Solicitor and
Director of Neighbourhood Services

**Subject: CHIEF EXECUTIVE'S DEPARTMENTAL PLAN
2007/08 – 3RD QUARTER MONITORING
REPORT**

PURPOSE OF REPORT

1. To inform the Portfolio Holder of the progress made against the key actions identified in the Chief Executive's Departmental Plan 2007/08 and the progress of key performance indicators for the period up to 31 December 2007.

BACKGROUND

2. The Performance Management Portfolio Holder agreed the Chief Executive's Departmental Plan in May 2007.
3. The Chief Executives Department is split into four divisions, with Finance and Legal Services reporting to the Finance and Efficiency Portfolio Holder. Issues relating to Corporate Strategy and Human Resources are reported separately to the Performance Portfolio Holder. Issues relating to Procurement Services, within Neighbourhood Services, are also reported to the Finance and Efficiency Portfolio Holder.
4. The Chief Executive's Departmental Plan 2007/08 sets out the key tasks and issues within an Action Plan to show what is to be achieved by the department in the coming year. The plan also describes how the department contributes to the Organisational Development Improvement Priorities as laid out in the 2007/08 Corporate Plan. It provides a framework for managing the competing priorities, communicating the purpose and challenges facing the department and monitoring progress against overall Council aims.
5. The Council recently introduced an electronic Performance Management Database for collecting and analysing corporate performance. In 2007/08 the database will collect performance information detailed in the Corporate Plan and the five Departmental Plans.
6. Each Division has also produced a Divisional Plan, detailing the key tasks and issues facing each division in the coming year. Each plan contains an action plan, detailing how each individual division intends

to contribute to the Organisational Development Priorities contained in the Corporate Plan, as well as the key tasks and priorities contained in the Chief Executives Departmental Plan. Divisional Chief Officers will have the lead responsibility for managing performance of issues and tasks identifies in their divisional plans. Where appropriate, issues can be escalated for consideration by CEMT.

THIRD QUARTER PERFORMANCE

7. This section looks in detail at how the Finance Division, Legal Services Division and the Procurement and Property Services Section within Neighbourhood Services (Procurement issues only) have performed in relation to the key actions and performance indicators that were included in the Chief Executives Departmental Plan 2007/08.
8. On a quarterly basis officers from across the department are asked, via the Performance Management database, to provide an update on progress against every action contained in the Departmental Plan and, where appropriate, every Performance Indicator.
9. Officers are asked to provide a short commentary explaining progress made to date, and asked to traffic light each action based on whether or not the action will be, or has been, completed by the target date set out in the Departmental Plan. The traffic light system is: -

Red	- Action/PI not expected to meet target
Amber	- Action/PI expected to be meet target
Green	- Action/PI target achieved

10. Within the Finance and Legal Services Divisions and Procurement and Property Services there were a total of 70 actions and 6 performance indicators identified in the 2007/08 Departmental Plan. Table 1, below, summarises the progress made, to 31 December 2007, towards achieving these actions and PIs.

Table 1 – Finance/Legal Services progress summary

	Finance		Legal Services		Procurement	
	Actions	PIs	Actions	PIs	Actions	PIs
Green	31	1	2	n/a	2	n/a
Amber	7	4	10	n/a	8	n/a
Red	10	1	0	n/a	0	n/a
Total	48	6	12	n/a	10	n/a

11. A total of 35 actions, or 50%, have been completed, and a further 25 (36%) are on target to be completed by the target date. However, 10 actions (14%) have been highlighted as not being on target. More

information on these actions can be found in the relevant section below.

12. There were 6 Performance Indicators included in the 2007/08 Departmental Plan and 5 of these (83%) have been assessed as being on target or having already achieved target. However, 1 (17%) has been assessed as not expected to meet target. This is also detailed in the relevant section below.

Finance Division

13. The Plan contained 48 actions that were the responsibility of the Finance Division. 31 actions (65%) have been completed, and 7 (15%) have been assessed as being on target to be completed by the target date stated in the plan. However, 10 actions (21%) have been assessed as not being expected to meet target. Table 2 below details these actions, together with a comment explaining why the deadline has not been met and any appropriate remedial action.

Table2: Finance Actions not completed on target/not on target

Ref	Action	Date to be Completed	Comment
Objective: Review of Interdepartmental Insurance Charging Framework			
CED710	Analysis of claims history / risks	Sep 07	Deferred until after introduction of Invoice centralisation
CED711	Financially model alternative charging bases / departmental budget impacts	Dec 07	
Objective: Implementation of FMS Phase 3			
CED715	Evaluate Alternate software arrangements	Dec 07	Deferred until after introduction of Invoice centralisation. Future business case to be produced.
CED716	Determine project plan / proposal for implementation of Phase 3.	Dec 07	
Objective: Development of Business Continuity Strategy			
CED734	Completed Suppliers Risk pro-forma to be considered	Oct 07	Completed for Chief Executive's and Regeneration and Planning Departments. Workload issues have led to delays in completion for other departments. Scheduled for completion by 11 Feb 08.
CED735	Review Suppliers Risk Plan and finalise for distribution	Jan 08	Given slippage in completion of suppliers' proforma's the risk plan not anticipated to be completed until March 08.
Objective: Embed awareness and use of risk management across the Council			
CED739	Develop / implement ongoing refresher training for members and senior officers	Dec 07	No further Member training planned at present. Officer training through LMDP currently being discussed in conjunction with training on the new

Ref	Action	Date to be Completed	Comment
			performance management database
Objective: Extend and evaluate homeworking pilot			
CED745	Promote and extend homeworking arrangements	Jun 07	Delayed pending the production of a report on the preferred ways of homeworking. Report finalised, preferred methods agreed. Second member of staff will be working from home by end of Feb. Another 5 members have agreed to hot desk / work from home.
CED746	Report Homeworking pilot evaluation to joint trades union group	May 07	Report to the joint trade unions delayed pending job evaluation and outstanding requested for homeworking being met.
Objective: Review and further develop integrated Efficiency Strategy			
CED104	Centralisation of FMS – payment arrangements	Jun 07	Agreed amended go live date corporately of 30 Jan 08. Implementation plan adjusted to allow for effective communication of the new process and the implication of the changes across the Council.

14. The plan also contained 6 Performance Indicators that were the responsibility of the Finance Division. 1 indicator has been assessed as not being expected to hit the target, and Table 3 below details this indicator, together with a comment explaining why the indicator has been adjudged to be not on target.

Table3: Finance PI not on target

PI	Indicator	Target	Outturn	Comment
BVPI 8	Percentage of invoices paid on time	92.5	87.51	Performance has improved again in the 3 rd quarter. Application of central invoice processing will impact on the figures.

15. Within the third quarter the Finance Division completed a number of actions, including: -

- Annual Engagement Strategy has been successfully implemented
- The Medium Term Financial Strategy has been updated following an impact review of the 3 year grant allocation from Government

Legal Services Division

16. The Plan contained 12 actions that were the responsibility of the Legal Services Division. As at 31 December 2007, 9 (75%) were on target to be completed by the target date stated in the plan. However 3 actions

(25%) have not yet been updated so a complete assessment of performance can not yet be reported.

17. Within the third quarter the Legal Services Division progressed a number of actions, including: -

- Revisions to the Members code of conduct have been implemented.

Procurement and Property Services

18. The Plan contained 10 actions that were the responsibility of the Procurement and Property Services section within the Neighbourhood Services Department. As at 31 December 2007 two actions (20%) have been completed and the remaining 8 (80%) have been assessed as being on target to be completed by the due date.

19. Within the third quarter of 2007/08 the Procurement and Property Service section have progressed a number of actions including: -

- Procurement guidance is being regularly updated and published on the Intranet and Internet and modules have been programmed into the LMDP programme.
- The review of the Procurement Strategy is being progressed, and will be reported to Portfolio Holder early in 2008.

Recommendations

20. It is recommended that Portfolio Holder: -

- notes the achievement of key actions and third quarter outturns of performance indicators

FINANCE AND EFFICIENCY PORTFOLIO

Report To Portfolio Holder

27th February 2008



Report of: Head of Procurement and Property Services

Subject: CONSTRUCTION PROPERTY AND
HIGHWAYS CONSULTANCY SERVICES
(CPHCS) AND REGENERATION
CONSULTANCY SERVICES

SUMMARY

1. PURPOSE OF REPORT

To inform the Portfolio Holder on the progress of the procurement of a framework agreement for Construction, Property and Highways Consultancy Services and Regeneration Services.

2. SUMMARY OF CONTENTS

The report highlights the current situation with the procurement process and potential collaboration with Tees Valley authorities.

3. RELEVANCE TO PORTFOLIO MEMBER

Portfolio Holder is Procurement Champion.

4. TYPE OF DECISION

Non key.

5. DECISION MAKING ROUTE

Portfolio Holder only.

6. DECISION(S) REQUIRED

That the Portfolio Holder endorses the approach to the framework collaborations.

Report of: Head of Procurement and Property Services

Subject: CONSTRUCTION PROPERTY AND HIGHWAYS
CONSULTANCY SERVICES (CPHCS) AND
REGENERATION CONSULTANCY SERVICES

1. PURPOSE OF REPORT

- 1.1 To inform the Portfolio Holder on the progress of the procurement of a framework agreement for Construction, Property and Highways Consultancy Services and Regeneration Services.

2. BACKGROUND

- 2.1 Previously a variety of options were considered for delivery of these services with the Cabinet's preferred option being the use of inhouse resources wherever possible followed by the use of resources from neighbouring authorities with a framework arrangement with relevant consultants being set up for top-up support and specialist services.

3. CONSIDERATIONS

- 3.1 Discussions have taken place with Tees Valley Authorities who have identified similar requirements and it is proposed that protocols be set up so that internal resources can be shared. Cleveland Police have also expressed an interest to be involved.
- 3.2 In addition it is proposed that a Tees Valley collaborative framework be set up to provide additional top-up and specialist services. This provides both an efficient way of procuring and accessing services.
- 3.3 Framework packages have been discussed and it is expected that they may be under the following headings, although further discussions and feasibility studies need to be undertaken:-
- Building Consultancy (architectural services, mechanical and electrical design, quantity surveying)
 - Engineering Consultancy (highway and structural design)
 - Transportation (e.g. local transport plan work, road safety)
 - Environmental (e.g. cost protection, contaminated land, landscape)
- 3.4 An initial consultation event is to be held on 26th February 2008 with consultants who have worked for each of the Councils in the past two years in order to inform them of our considerations and enable them to

have some input into how the framework may develop including how the Council staff can benefit from development in working with consultants. The event will include local companies who we intend to encourage to be involved individually or as part of consortia.

- 3.5 Hartlepool will be leading the joint procurement exercise but each Council will be responsible for their own part of the framework when it commences. The framework is scheduled to commence in January 2009.
- 3.6 In a similar vein a Tees Valley collaborative project is proposed to cover Regeneration Consultants and Middlesbrough are leading on this project.

4. RECOMMENDATIONS

- 4.1 That the Portfolio Holder endorses the approach to the framework collaborations.

FINANCE AND EFFICIENCY PORTFOLIO

Report To Portfolio Holder

27th February 2008



Report of: Head of Procurement and Property Services

Subject: LICENCE FOR ALTERATIONS.
LAND WITHIN THE BOUNDARY OF THE
MANOR RESIDENTS' ASSOCIATION
PREMISES, KILMARNOCK ROAD,
HARTLEPOOL

SUMMARY

1.0 PURPOSE OF REPORT

To inform Portfolio Holder of improvement and extension to existing premises occupied as above.

2.0 SUMMARY OF CONTENTS

The report contains the background to the proposed scheme.

3.0 RELEVANCE TO PORTFOLIO MEMBER

Portfolio Holder has responsibility for the Council's land and Property Management.

4.0 TYPE OF DECISION

Non-key

5.0 DECISION MAKING ROUTE

Portfolio Holder only.

6.0 DECISION(S) REQUIRED

That Portfolio Holder approve the Council granting a licence for alterations subject to the terms outlined in the Financial Implication Section.

Report of: Head of Procurement and Property Services

Subject: LICENCE FOR ALTERATIONS.
LAND WITHIN THE BOUNDARY OF THE
MANOR RESIDENTS' ASSOCIATION
PREMISES, KILMARNOCK ROAD,
HARTLEPOOL

1. PURPOSE OF REPORT

- 1.1 To obtain Portfolio Holder approval to the enlargement of the existing premises occupied on Lease.

2. BACKGROUND

- 2.1 In November 2002, Hartlepool Borough Council let the existing land and buildings formerly occupied by the Kilmarnock Road Day Nursery, to the Trustees of the Manor Residents Association. The Lease which ran from the 5th November 2002 was for a term of twenty years at a peppercorn of £1 per annum. The permitted user under the Lease is for the Tenants Community based objectives including an ICT Learning Centre and such other uses as may be agreed with the Landlord.
- 2.2 Since this time the tenant has not applied for any extension of this usage.
- 2.3 The Association Trustees, have submitted plans and details for Planning Consent for a new extension which we are informed has been allocated funding from their resources in the region of £135,000. Planning permission has been applied for in respect of these alterations and Building Regulation Consent would also be required.
- 2.4 The extension to the existing facility would take place on open land to the side of the existing buildings leased from us in 2002 and would be entirely at their own expense. Landlord's consent is required for these alterations and the Tenant has applied for this.
- 2.5 The Tenants are aware that the twenty year lease terminates on the 4th November 2022 but, for Portfolio Holders information, when this lease expires, they would, as business tenants under the Landlord and Tenant Act 1954 have renewal rights on terms to be agreed at that time.

3. FINANCIAL IMPLICATIONS

3.1 There is a cost to the Council in approving these plans, as officer time will be used and a licence needs to be obtained from the Council's Legal Section to formalise consent of the works.

3.2 These costs will be passed onto the Tenant and are as follows:-

	£
Consideration of plans by Building Consultancy	100.00
Legal Fees	100.00
Estates Costs	<u>50.00</u>
	250.00

3.3 The approval by the Council would be conditional upon planning permission and Building Regulation consent being granted and upon Building Consultancy not raising any objections of a structural nature to the plans.

4. RECOMMENDATIONS

4.1 That Portfolio Holder approve the Council granting a licence for alterations subject to the terms outlined in the Financial Implication Section.

FINANCE AND EFFICIENCY PORTFOLIO

Report To Portfolio Holder

27th February 2008



Report of: Head of Procurement and Property Services

Subject: PROCUREMENT STRATEGY 2007 - 2010

SUMMARY

1. PURPOSE OF REPORT

To provide an update on the progress made on the Council's Procurement Strategy and to seek endorsement of the Procurement Strategy for 2007 - 2010.

2. SUMMARY OF CONTENTS

The report highlights the background and significance of the strategy and its key objectives and links with the Corporate Strategy.

3. RELEVANCE TO PORTFOLIO MEMBER

Portfolio Holder is the procurement champion.

4. TYPE OF DECISION

Non-key decision.

5. DECISION MAKING ROUTE

Portfolio Holder only.

6. DECISION(S) REQUIRED

- i) The Portfolio Holder endorses the Procurement Strategy for 2007 - 2010.
- ii) The Portfolio Holder receives a further report and strategy on Sustainable Procurement, jointly with the Portfolio Holder for Regeneration and Liveability.

Report of: Head of Procurement and Property Services

Subject: PROCUREMENT STRATEGY 2007 - 2010

1. PURPOSE OF REPORT

- 1.1 To provide an update on the progress made on the Council's Procurement Strategy and to seek endorsement of the Procurement Strategy for 2007 - 2010.

2. BACKGROUND

- 2.1 At its meeting on 24th January 2005 Cabinet approved the revised Procurement Strategy for the Council. A report endorsing the Procurement Strategy was approved by the Portfolio Holder on 8th August 2005.

- 2.2 It is now opportune to review and prepare an updated strategy for the next 3 years.

- 2.3 This strategy is significant in bringing together several national agendas and setting them in a local context.

- 2.4 The main drivers are:

- The Local Government White Paper – Strong and Prosperous Communities
- The Comprehensive Spending Review 2007 (CSR07)
- The Council's Efficiency Strategy and Business Improvement Programme
- The Community Strategy

- 2.5 Previously the National Procurement Strategy set out how Councils can improve both delivery and cost effectiveness of high quality services through more efficient and innovative procurement practices. It underlined the need for all local authorities to raise the profile of procurement as a strategic tool and to demonstrate both political and officer leadership.

- 2.6 The key areas highlighted in the NPS were: -

- Providing leadership and building capacity
- Partnering and collaboration
- Doing business electronically
- Stimulating markets and achieving community benefits

- 2.7 The Portfolio Holder received a report and draft of the Procurement Strategy on 8th June 2007 and agreed to receive a further report to endorse the final strategy.
- 2.8 The draft has been consulted upon across the Council via the Corporate Procurement Group.

3. CORPORATE ASSESSMENT 2006 AND USE OF RESOURCES

- 3.1 The results of the Corporate Assessment indicated that the Council needs to strengthen its strategic approach to procurement and new ways of delivering services.
- 3.2 The Corporate Procurement function has been reviewed, and reports on this subject have been brought to the Portfolio Holder during 2007/08.
- 3.3 As part of the Council's Efficiency Strategy a Business Improvement Programme is being formalised which will include key elements of our Procurement Strategy.
- 3.4 We recognise that procurement is a key means of improving value for money, and in 2007/08 we will develop our 5 Year Procurement Plan and a set of Performance Indicators in line with those proposed by the Audit Commission in its current consultation paper.

4. PROCUREMENT STRATEGY

- 4.1 A revised draft of the Procurement Strategy for 2007 - 2010 is attached to this report as **Appendix 1**. The Procurement Strategy takes account of both guidance nationally and the key principles identified in the previously agreed strategy for Hartlepool.
- 4.2 The Procurement Strategy has five key objectives. These are:
- To improve the efficiency and effectiveness of the Council's procurement activity in order to achieve Best Value
 - To improve the management of procurement through the increased use of strategic procurement management information
 - To ensure continuous improvement in the Council's procurement activity
 - To use the Council's buying power to support local regeneration and economic development and drive innovation in the design, construction and delivery of service, whilst adopting best practice in complying with diversity, equality and human rights legislation
 - To ensure that the Council's procurement reflects best practice in the adoption of environmentally sustainable standards and procedures, where this is consistent with Best Value.

- 4.3 Each of the five key objectives are now supported by a series of Key Procurement Aims based on: -
- Collaborative Procurement
 - Controls, Standards and Risk
 - Efficiency and Value for Money
 - E-Procurement & Purchase Cards
 - Equality and Diversity
 - Information and Communication
 - Partnerships
 - Regeneration
 - Sustainability and Environmental Management
 - Training and Development
- 4.4 The ten Key Procurement Aims are intrinsically linked to the five Key Strategic Procurement Objectives. This can be seen in the Procurement Strategy at **Appendix 1**.
- 4.5 For each of the ten Key Procurement Aims the current position has been identified, the issues affecting this aim and what actions will be taken over the next three years to achieve each of the Aims.

5. CONSIDERATIONS

- 5.1 The Portfolio Holder is the Council's Procurement Champion and it is therefore important that updates and developments are considered at appropriate times.
- 5.2 The revised Draft has been prepared to include strategic improvement and has been the subject of consultation with the Corporate Procurement Group and Corporate Management Team.
- 5.3 The Corporate Procurement Group made up of Senior Officers from all departments is now well established and will ensure that the strategy and its delivery is embedded in departments.
- 5.4 The Corporate Procurement Unit will work along side the Corporate Procurement Group to ensure the Key Aims and Objectives identified in the Strategy are achieved over the next three years.
- 5.5 The Strategy will be shared with our suppliers and partners and will be available on the Council's Website.
- 5.6 A specific document on Sustainable Procurement, based on the outcome of the Government's Sustainable Procurement Task Force, is being prepared. This will concentrate on the social, economic and environmental benefits that procurement can contribute to. It is suggested that the Portfolio Holder receives a further report on this promptly with the Portfolio Holder for Regeneration and Liveability.

6. RECOMMENDATIONS

- i) The Portfolio Holder endorses the Procurement Strategy for 2007 - 2010.
- ii) The Portfolio Holder receives a further report and strategy on Sustainable Procurement, jointly with the Portfolio Holder for Regeneration and Liveability.



Procurement Strategy 2007-2010







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	How will it be used, monitored, reviewed and amended?
Part 2	Procurement Policy
	The Guiding Principles
	Partnerships
	Competition
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Part 4	Key Procurement Aims
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	Efficiency and Value for Money
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Foreword

Improving the way in which Councils across the country buy goods and services is a key factor in modernising local government.

Hartlepool Borough Council is working to utilise new procedures and systems to ensure we secure the best services in a cost effective and timely way.

The benefits of taking this approach are clear:

- ❖ The Council will improve the efficiency and effectiveness of procurement activity by standardising procedures and implementing Procurement systems.
- ❖ The delivery of customer services will be supported by the best available support services and goods, at the best prices.
- ❖ Businesses will find it easier to work with the Council, and will gain access to a broader market place.

This strategy seeks to rise to the challenge of a genuinely joined-up approach to Procurement and we fully support the strategy on behalf of our staff, our citizens, and our local businesses.

Councillor Robbie Payne
Portfolio Holder for Finance and Efficiency and the Council's Procurement Champion.

Part 1

Introduction





Introduction

What is a Procurement Strategy?

Procurement is the process that determines how to deliver or arrange for the delivery of a service. Procurement activity also determines how to acquire or arrange for the acquisition of supplies and works. The procurement strategy therefore will be the framework that will guide procurement processes and decisions in Hartlepool Borough Council in order to obtain supplies, works and the delivery of services.

As part of the strategy the Council will continue to follow the principles of Best Value including:

- The creation of a public-private partnership, through strategic contract or a joint venture company
- The transfer or externalisation of the service to another provider (with no in house bid)
- The market testing of all or part of the service (where the in house provider bids in open competition against the private or public sector)
- The restructuring or re-positioning of the in house service
- The re-negotiation of existing arrangements with current providers where this is permissible.
- The joint commissioning or delivery of the service

The procurement strategy will form part of the management arrangements the Council has established in order to secure continuous improvement and best value

Why do we need a Procurement Strategy?

- To formalise the key messages on procurement for staff and members
- To provide consistency and ensure best practice in the procurement process
- To assist the Council in meeting its duty to achieve best value
- To provide a source of information regarding our approach to procurement for internal and external use
- To create a climate in which all parties, internal and external, can contribute to achieving best value
- To comply with legislative government guidance and external audit requirements

National Policy - The National Procurement Strategy

The Procurement Strategy aims to fully comply with The National Procurement Strategy for Local Government, published by the Office of the Deputy Prime Minister in June 2004. The national strategy document covered the period 2003-2006, and aimed to illustrate how to use innovative ways to procure, work in partnership with others, and manage services that will:

- better achieve community plan objectives
- deliver consistently high quality services that meet users' needs, with a range of partners from other sectors

- provide savings and better value for money, thereby improving the cost-effectiveness of the Council
- build social cohesion and promote equality of opportunity for service users, businesses and council staff
- be sustainable for the communities and areas served and benefit local citizens
- support delivery of the Council's e-Government agenda
- enable councils to manage and assess risks in the market place
- be delivered through different structures and in new forms.

Hartlepool Borough Council will continue to use these principles in future years.

The Local Government White Paper, The Comprehensive Spending Review 2007 (CSR07) and Business Improvement.

The White Paper calls for transformation in the ways in which local authorities devise and secure the delivery of public services, including the move towards more of a commissioning role rather than the narrowly-defined approach to service delivery of the past. CSR07 has established spending limits for the public sector as a whole for the next three years and will require the Council to find significant cash savings from within existing resources to fund service requirements. CSR07 sets out cash savings targets of 3% per year which is considerably more than the previous target in which non-cashable savings were included.

Business improvement in the way the Council delivers services will be key in achieving efficiency targets.

Structure of the Strategy

The procurement strategy (2007-2010) sets out the priorities for procurement in the Council and will play a vital part in helping

us to concentrate on areas that will maintain our 'excellent' CPA rating. It draws together a number of elements, including:

- issues identified in audit reports;
- the Government's existing and developing agenda for public sector procurement;
- the need to increase public sector efficiency;
- electronic government targets;
- the targets of the National Procurement Strategy for Local Government;
- the strategic outcomes, or main aims, of the current Corporate Plan;
- and efficiency targets.

These elements are combined to produce a strategy for the next three years.

Aims of the strategy

The strategy is aimed at promoting effective procurement across the whole organisation. This strategy will co-ordinate departmental plans to deliver improvement in procurement practice as a corporate priority. The strategy makes clear reference to our Corporate Plan, and in particular, to our strategic outcomes. It strikes a balance between setting out a detailed plan for reforming procurement, with specific targets and a flexible planning framework. We need to be flexible to be able to respond to the rapidly changing environment around public sector procurement and to learn from our own experience and the experiences of others. The rapidly changing environment is well illustrated by the pace of technological change currently associated with e-procurement. The aims of this strategy are to:

- assist the Council in meeting its objectives;
- assist the Hartlepool Partnership in the implementation of the Community

Strategy and contribution to the Local Area Agreement;

- secure commitment to effective and efficient procurement from Members and officers at all levels throughout the organisation;
- provide a focus for procurement, helping us to co-ordinate procurement and use resources as effectively as possible;
- plan the way forward on reforming, and continuously improving, our procurement functions;
- ensure efficient and transparent procurement processes
- contribute to the Council's medium term Financial Strategy;
- draw together the various issues currently facing public sector procurement and produce a strategy that will help us to respond positively to the Government's agenda;
- ensure probity, openness and accountability in procurement processes;
- encourage long-term thinking and commitment to strategic procurement issues;
- identify and promote the benefits of strategic procurement;
- and ensure equality and diversity are embedded into the procurement process.

How will it be used, monitored, reviewed and amended?

The procurement strategy will be used within the process of:

- Analysing Council expenditure
- Identifying and delivering effective procurement solutions and efficiencies
- Business improvement Reviews
- Other service review mechanisms
- Reviewing existing contractual arrangements when they expire

The procurement strategy will be embedded in Departments' day-to-day activities by:-

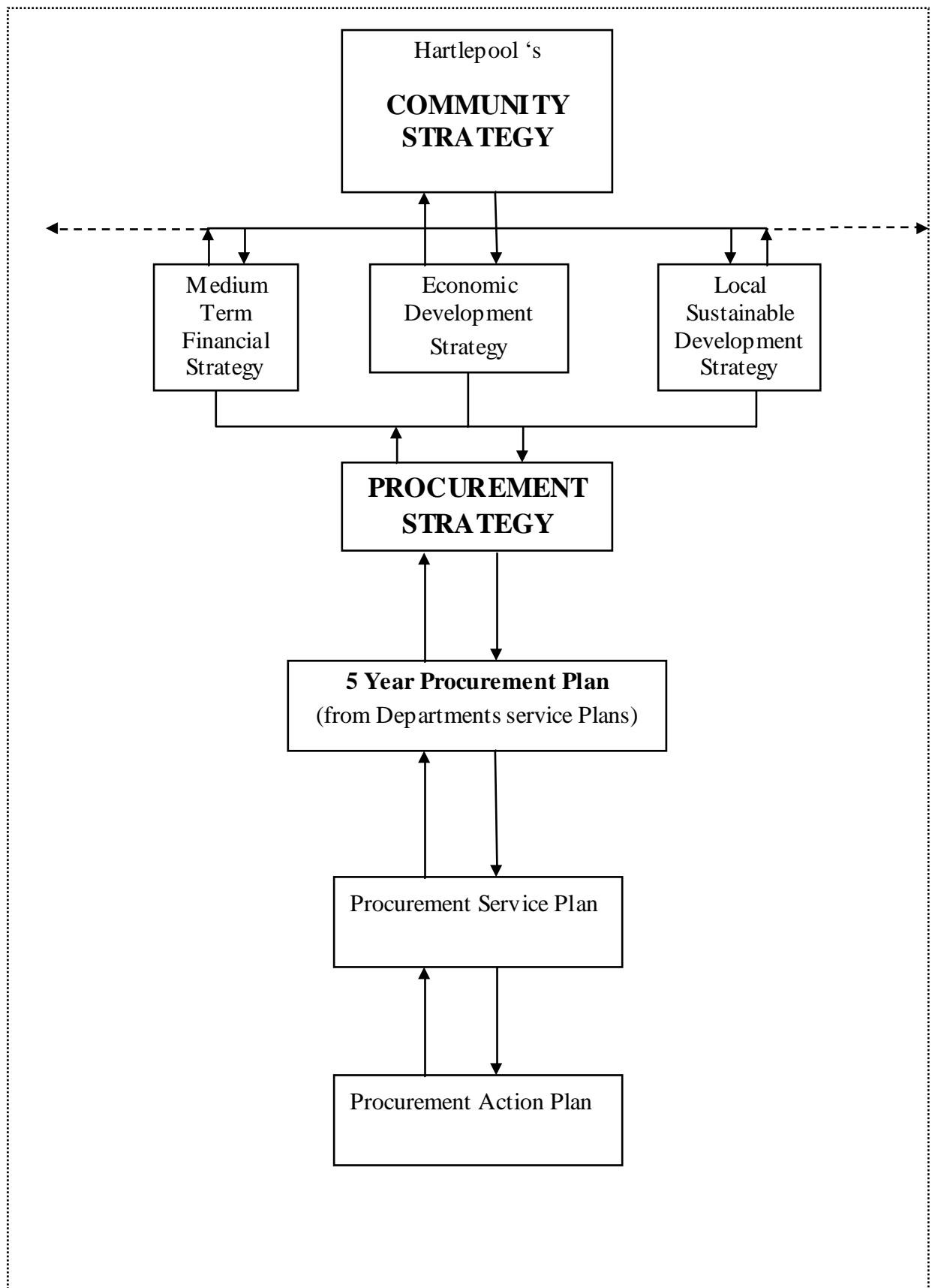
- Information gathering
- Identifying and sharing good practice
- Procurement Action Plans and performance indicators as part of Service Planning
- Training and support

The Corporate Procurement Group (CPG) will review, amend and monitor the procurement strategy in conjunction with the Corporate Management Group. The Procurement Champion (Councillor Robbie Payne, the Finance & Efficiency Portfolio Holder) is the Member champion.



Part 2

Procurement Policy





Procurement Policy

The Council's procurement strategy is aligned with the strategic aims and objectives set out in the Best Value Performance Plan, and with the other corporate and service based strategies and plans that form elements of the Council's strategic framework. Key documents in the framework that relate specifically to the procurement strategy include:

- the Community Strategy, which sets the overall strategic direction for the Council's service provision, and provides the basis from which the Council can determine its own contribution to the longer term economic, social and environmental well-being of the local community.
- the Medium Term Financial Strategy, including the Capital Strategy & Asset Management Plan which provide the framework for determining the annual budget available for the procurement of goods, works and services,
- the economic development strategy, which provides the direction for using the Council's key role as a major buyer in the local economy to support local employment and regeneration initiatives,
- the Local Sustainable Development Strategy, which provides the context for ensuring that Council procurement meets a range of sustainability aims, including the reduction of waste and pollution, and the protection of biodiversity,
- the Council's policy to support diversity and equality, which ensures that Council procurement complies with national and international equality and human rights legislation.
- the Council's implementing Electronic Government Statement

We are committed to maintaining high-quality standards and having an efficient procurement and monitoring procedure. This allows us to continue to provide best value. Using best-practice procurement techniques, we are committed to making sure that every pound we spend provides value for money, and that every pound we save is directed back into service priority areas.

All departments must keep to and promote the following principles:

The Guiding Principles

- To raise awareness of procurement.
- To ensure a customer-focussed and customer-led approach to the delivery of services.
- To ensure that the best service is available to the community regardless of who provides it.
- Commitment to a mixed economy of service provision where this will generate improvements in service.
- Be open
- Providing a level playing field to ensure that all potential providers are treated fairly.
- To ensure fair treatment for our employees.
- Encourage competition, where appropriate
- To ensure that procurement decisions comply with European, National and corporate policies, including:
 - EC Directives.
 - Local Agenda 21/ Environment Policy
 - Economic Development and Regeneration Policies

- Policies that promote social and economic well-being
- Equality – ensuring that potential suppliers and service providers have appropriate employment policies and practices, and are able to meet the Council's commitment to equality in terms of access to services, and the duty to promote equality at all stages of the procurement process.
- Contract Procedure Rules
- Corporate Safety Policy
- A flexible approach to partnership working, including the use of joint procurement, where appropriate, with for example, Health Authorities, construction partners.
- To ensure there is an appropriate balance between cost and quality
- To work in close partnership with all local stakeholders
- To share good practice.
- To monitor and review on a regular basis.

Service Delivery

All services must show that they:

- provide value for money;
- meet service aims;
- are committed to continuous improvement;
- work efficiently;
- have effective management, systems and procedures; and
- are committed to our policy aims.

We believe that in-house services can provide a high-quality, flexible framework for developing and providing services, but acknowledge that there are other ways to deliver services. We expect in-house providers to find an appropriate balance between being best on quality, value for money, service and employment practices. We will support in-house providers where

they offer value for money and work in the best interests of service users.

Partnerships & Collaboration

We acknowledge the importance of partnerships and collaboration with the private and voluntary sectors, with other public organisations acting locally and with the Government itself to deliver best value. Performance reviews should encourage open relationships with everyone involved or who may have something to offer — whether from within the Council, or through partnership and collaboration arrangements with the private and third sectors. We will encourage new methods of procurement that will deliver services more efficiently, effectively and economically.

Competition

The aim of our procurement policy is to improve performance by making use of competition.

Indirect competition

We will assess the competitiveness of different functions by measuring ourselves against other organisations, including Beacon councils and private and voluntary sector providers, among others. Services provided in-house will be supported and encouraged to achieve equivalent, or better, levels of performance.

Direct competition

We will consider current performance and suitability and decide whether another method of procurement is appropriate. We will award contracts to the provider offering the most economically advantageous balance of quality and cost. Where direct competition is considered appropriate and the in-house provider is competing, we will give the in-house provider the opportunity to compete on equal terms with outside providers. We will:

- protect social values and our policy aims;

- make sure our system is open and honest;
- consult staff and their representatives;
- develop performance standards and monitoring strategies;
- properly identify and collect cost information;
- encourage new ideas; and
- clearly explain the responsibilities of everyone involved.

Services that are already the subject of direct competition will be continually reviewed against this policy, to make sure that the service is provided in the most appropriate way to deliver best value.

Based on the aims of the strategy and the guiding principles, the Council has developed a series of key strategic objectives and key procurement aims that reflect the current state of procurement within the Council, and provide a concise framework for guiding future service planning and performance improvement during the medium term (2007-2010) and for planning and implementing effective and innovative solutions.

Local Suppliers

- Our aim, whenever possible, is to use the Council's buying power to support local regeneration and economic development and drive innovation in the design, construction and delivery of service, whilst adopting best practice in complying with diversity, equality and human rights legislation.

Sustainable Procurement Strategy

- A specific Sustainable Procurement Strategy will be developed in line with the outcomes of the Government's Sustainable Procurement Task Force and its flexible Procurement Action Plan.



Part 3

Key Strategic Objectives



Key Strategic Procurement Objectives

KSPO1	To improve the efficiency and effectiveness of the Council's procurement activity in order to achieve Best Value
<ul style="list-style-type: none"> i To provide the most effective management and planning structure for procurement within the Council ii To develop a procurement plan, based on the procurement strategy, setting out the Council's proposals for major procurement expenditure. iii To exploit the benefits of partnership and joint working with other organisations. iv To provide relevant procurement guidance and training for Council officers and members. v To incorporate best practice procedures for risk management and project management throughout the procurement process, for example through the use of Gateway Reviews. vi To exploit the benefits of new technologies, including e-Procurement, e-Tendering and purchasing cards to improve procurement efficiency and effectiveness 	
KSPO 2	To improve the management of procurement through the increased use of strategic procurement management information
<ul style="list-style-type: none"> i To undertake a comprehensive analysis of existing Council procurement expenditure as a basis for developing specific priorities for performance improvement. ii To develop systems for regular monitoring of Council procurement expenditure. To develop procedures and processes for ensuring that procurement management decision-making becomes part of the Council's mainstream activity, at all levels of service planning. iii 	
KSPO 3	To ensure continuous improvement in the Council's procurement activity
<ul style="list-style-type: none"> i To develop and adopt performance indicators that reflect the links between the Council's procurement activity and the aims and key strategic objectives of the procurement strategy. ii To develop annual targets for procurement performance improvement using the adopted performance indicators iii To ensure that the reporting of procurement performance is incorporated into all relevant service plans and strategic documents produced by the Council. iv To ensure that the lessons learnt, and problems experienced during the undertaking of major contracts or procurements are recorded and disseminated to relevant officers and members of the Council. 	

KSPO 4	To use the Council's buying power to support local regeneration and economic development and drive innovation in the design , construction and delivery of service, whilst adopting best practice in complying with diversity, equality and human rights legislation
i	To ensure that employees, service users and clients, the general public, or anyone involved in the delivery of Council services, are not subject to risks or hazards covered by the Health and Safety at Work Act.
ii	To support the growth and development of local small and medium sized enterprises (SMEs) through the Council's procurement activity
iii	To work with the market to deliver value for local taxpayers
iv	To support the growth and development of local voluntary and community organisations in order to build their capacity to win and retain Council procurement contracts.
v	To ensure that all Council suppliers comply with best practice, Council policy and relevant legislation covering Equality, Diversity and Human Rights.
vi	To ensure that the Council sustains its commitment to being a "good employer", supporting a high quality, well-motivated workforce that is kept informed about any major improvement involving potential staff transfers, or reductions.

KSPO 5	To ensure that the Council's procurement reflects best practice in the adoption of environmentally sustainable standards and procedures, where this is consistent with Best Value
i	To ensure that goods and services procured by the Council result in minimum waste, minimum pollution, and minimum impact on the environment and biodiversity.
ii	To ensure that all new built development undertaken by the Council, and the maintenance of existing buildings and outdoor spaces , takes account of environmentally responsible standards, whole life costing, and Agenda 21 issues.
iii	To ensure that sustainability is considered at all stages of the procurement cycle, including the identification of a business case, drafting of specifications, contract award criteria, and contract management.



Part 4

Key Procurement Aims



Key Procurement Aims

We have identified a number of aims under the following headings that intrinsically link in with the 5 Key Strategic Procurement Objectives. These are:-

	KSP01	KSP02	KSP03	KSP04	KSP05
Collaborative Procurement	√	√			
Controls, Standards and Risk	√	√	√		
Efficiency and Value for Money	√	√			
E-Procurement & Purchase Cards	√	√			
Equality and Diversity				√	
Information and Communication	√	√	√	√	
Partnerships	√	√			
Regeneration	√			√	
Sustainability and Environmental Management					√
Training and Development	√	√	√	√	√



Collaboration Procurement

The Government has identified collaboration (joint working) as an important aspect of effective and efficient procurement. Collaboration may be within the public sector or it may be between ourselves and external suppliers. Our work locally, sub-regionally and regionally will provide opportunities to develop collaborative procurement.

Main Aim

To improve the efficiency and effectiveness of services by working with a range of organisations to develop long-term relationships.

Current Position	Issues	Actions
<p>We are a member of a number of regional and sub-regional public and private sector groups that exist to share best practice and work on issues of mutual interest.</p> <p>We take part in local and national consortium arrangements.</p> <p>We have a track record of working with other public sector organisations,</p>	<p>Politics and systems affect each council's involvement in joint working.</p> <p>Risk assessment varies between councils and affects the level of their involvement in collaborative procurement.</p> <p>Legal and financial issues are approached differently by each council and affect the practicalities of joint working arrangements.</p>	<p>We will identify savings we could make through a variety of collaborative procurement routes.</p> <p>We will adopt partner arrangements that will support the Council in achieving the targets set out in the efficiency review.</p> <p>We will work with the Office of Government Commerce Tees Valley Authorities, the Regional Improvement and Efficiency Partnership and other organisations to identify more opportunities for joint working.</p>



Controls, Standards and Risk

There are a number of restrictions relating to public sector procurement. Councils have a duty to their taxpayers to apply controls and consistent standards across the Council to provide value for money.

Main Aim

To ensure that suitable controls are in place to maintain consistent high standards and make sure that risk is managed.

Current Position	Issues	Actions
<p>The main controls and standards that relate to procurement, currently include:</p> <ul style="list-style-type: none"> - The Constitution - Contracts Procedure Rules - Procurement strategy - Procurement documents and guidance - European Union Directives and national regulations - National Procurement Strategy for Local Government (NPSLG) - Cross Departmental Officer Groups e.g. CPG and subgroups) 	<p>We need to make sure that we keep up to date with relevant changes.</p> <p>Our clients and suppliers need clear information on controls and standards.</p> <p>Controls and standards must allow a flexible approach to procurement.</p> <p>Controls and standards need to be regularly reviewed, based on experience gained</p>	<p>Corporate Procurement Group will review Contract Procedure Rules and report the review to Members.</p> <p>We will work with departments to make sure that controls and standards are streamlined, secure value for money and do not prevent new ideas.</p> <p>We will make sure there is greater co-ordination of skills across the Council by introducing corporate standard documents.</p>



Efficiency and Value for Money

The Government's Spending Review statement set local authorities a target for efficiency gains of 2.5% a year for three years (2005-2008). At least 50% of the efficiency gains should be 'cashable' so that they can be redirected to improve front-line services. Improved procurement is seen as a major influence on a council's ability to achieve its efficiency targets. The Comprehensive Spending Review 2007 has set 3% around cashable efficiency targets.

Main Aim

We will use innovation and best practice, including the appropriate use of new technology and improved business processes, to achieve quality and efficiency benefits.

Current Position	Issues	Actions
<p>There has been a significant shift away from 'lowest cost' tendering so that quality considerations are now included as part of the assessment process.</p> <p>The 'savings' from Procurement are identified as part of the efficiency savings in the Annual Efficiency Statement.</p> <p>A programme of Corporate Procurement Projects are delivering savings.</p>	<p>It is much easier to identify efficiency savings than it is to actually achieve those savings.</p> <p>The benefits identified need to be measured and included in our procurement processes.</p> <p>We need to improve the level and detail of procurement management information to identify and monitor efficiency savings effectively.</p>	<p>We will develop and promote guidance to departments on achieving efficiency through improved procurement.</p> <p>We will continue to use a mix of partnerships, collaborators contracts (price only, quality/price) to deliver maximum benefits.</p> <p>We will continue to make the required level of procurement efficiency savings over the next three years.</p> <p>We will complete our Spend analysis Project to identify opportunities for savings.</p> <p>We will develop a set of Procurement Performance Indicators.</p>



Electronic Procurement and Purchase Cards

Electronic procurement (e-procurement) is essentially 'doing business' electronically. E-procurement improves aspects of communication in the procurement process and reduces some of the costs associated with it.

Main Aim

To make the best use of information and communications technology to improve efficiency & effectiveness, and to reduce the cost of the procurement process for the Council and its suppliers, and to encourage suppliers to adopt e-procurement methods.

Current Position	Issues	Actions
Procurement information on our intranet and website is now well developed.	Departmental and supplier ability to use e-procurement technology is inconsistent.	We will develop a user-friendly database of corporate contract information available to all departments.
Purchasing cards have been successfully introduced into some departments.	There are different rates of progress, processes and priorities of partner councils and suppliers.	We will assess and develop appropriate e-procurement solutions, including e-tenders and e-auctions.
The approved list of contractors application form is available on-line and can be processed electronically.	The need for a regional, internet-based 'supplier and contract management system' is an area for development (via NEPO).	We will develop electronic orders and invoices, to reduce paperwork in the procurement process.
A new Financial Management System (FMS) has been introduced.	The new FMS e-series has not been implemented.	We will continue to introduce e-payment solutions such as purchasing cards, BACS and direct debit across the Council.
Use of BACS and direct debits are increasing.		Tenders will be published on the Supply2.gov.uk website.



Equality and Diversity

We can use our influence to promote a positive approach to equality and diversity. In our procurement processes, we will try to make sure that we give our suppliers advice on equality issues and make sure that contracts promote equality and diversity.

Main Aim

To promote procurement practices and policies which contribute to our priorities on equality and diversity by providing information on equality issues and making sure we treat all tenders equally.

Current Position	Issues	Actions
Standard questions on equality are included in the Approved List application form and PQQ.	There are difficulties in extending our agenda on equality and diversity to suppliers.	We will contribute to the Council's work towards level 3, 4 and 5 of the Equality Standard for Local Government.
A standard contract clause is included in contract terms and conditions.	We need to make sure that information about equality and diversity in procurement is provided across the Council.	We will contribute towards developing the Council's Equality and Diversity Strategy.
Contract documents meet the latest Equality and Diversity Regulations and Acts and information about this has been delivered to departments through workshops.		



Information and Communication

Managing information efficiently is crucial to providing an effective and responsive service. Communication is an important part of managing information and makes sure that accurate and appropriate information is easily available between the Procurement Unit and client departments.

Main Aim

To provide and encourage access to high-quality information about procurement for client departments.

Current Position	Issues	Actions
<p>The intranet site has been developed to include detailed guidance to 'simple' procurement processes.</p> <p>The internet site is maintained by the Procurement Unit and information is provided in an electronic format, where possible.</p> <p>Newsletters are produced regularly to keep staff informed of recent developments.</p> <p>The Procurement Unit produces guidance on a range of topics for internal and supplier use.</p>	<p>The Procurement Unit needs to be involved early in procurement.</p> <p>The Procurement Unit is not involved in departmental and all strategic decision-making.</p> <p>It is difficult to get accurate procurement management information. In particular, it is difficult to collect information on who places orders, and how much we spend on a given service.</p>	<p>The Procurement Unit will provide guidance on the intranet for the more complicated procurement process.</p> <p>The Corporate Procurement Group will produce a list of officers with significant procurement responsibilities so we can share information.</p> <p>The Corporate Procurement Group will continue to review operational procurement in departments and develop methods for collecting and receiving information.</p> <p>Spend Analysis will provide visibility across the Council.</p>



Partnerships

We are committed to working with our partners and identifying new partnering opportunities.

Main Aim

To develop a partnering approach between the Council and suppliers to create mutually advantageous, flexible and long-term relations based on continuous improvement.

Current Position	Issues	Actions
<p>The Council's already enters into the partnering approach in Information Technology and Construction (ICT).</p> <p>There has been some growth in partnerships in delivering supplies, services and capital projects.</p> <p>The Council has a strategic partnership for building maintenance and planned works.</p>	<p>We need a consistent approach to reviewing services and options, and for partnering opportunities.</p> <p>We need to make improvements for effective contract management to achieve the aims of partnership-working.</p> <p>There must be more clarity about how cost and quality will be measured so we can make a full assessment of success or failure.</p>	<p>We will regularly review our existing partnership arrangements to influence future partnership projects.</p> <p>We will measure and report on the costs and benefits of the partnering contracts currently in place.</p> <p>The Corporate Procurement Group will increase their involvement in departmental efficiency reviews to identify opportunities for partnership arrangements.</p>



Regeneration

Working with small and medium-sized enterprises (SMEs), social enterprises (SEs), voluntary and community sector suppliers, local suppliers, and black & ethnic-minority suppliers in the Council's procurement process will support the Council's local regeneration strategy, benefit the community and contribute to economic development

Main Aim

To support local regeneration and redevelopment by providing high-quality information and encouraging a varied supply market.

Current Position	Issues	Actions
<p>The Council has signed up to the SME Concordat</p> <p>The Council supports small and local suppliers by:</p> <ul style="list-style-type: none"> - publishing documents in clear English; - holding workshops, seminars and events with business support agencies; and - publishing tender opportunities on the internet. <p>The Council encourages a varied and competitive supply market.</p>	<p>Councils are limited in their ability to favour local and small business.</p> <p>Procurements of a lower value are not widely advertised.</p> <p>It may be difficult for social enterprises, voluntary and Community sector suppliers and others to meet Council requirements relating to procurement.</p> <p>It can be difficult to make sure that joint working across the region supports small and local suppliers.</p>	<p>We will work with varied and local suppliers, and support them in working with the Council.</p> <p>We will introduce Targeted Training requirements into relevant procurements and development agreements.</p> <p>We will encourage our suppliers to use small firms and local labour.</p> <p>We will review Council spending to identify opportunities for supported business.</p> <p>We will be involved in the development of the Council's strategy for working with the voluntary and community sector.</p>



Sustainability and Environmental Management

Our procurement activities, and those of our suppliers, affect the local environment and have an influence on whether we achieve our sustainable and environmental aims.

Main Aim

To reduce the negative effect on the environment of the products and services that we buy, we will achieve this by considering the effect of our decisions and by working with suppliers to make sure they have a similar commitment.

Current Position	Issues	Actions
<p>We meet our council-wide environmental standards.</p> <p>We ask suppliers whether they meet environmental regulations, and have environmental policies.</p> <p>A number of schemes support the buying of environmentally friendly products.</p> <p>We purchase green(ish) electricity.</p>	<p>The pressure to provide 'more for less' may be a disincentive to buy environmentally friendly products.</p> <p>There is a view that environmentally friendly products may be more costly, or of inferior quality.</p> <p>Departments and suppliers are not always committed to sustainable procurement.</p> <p>It can be difficult to monitor the long-term effects of our procurement practices.</p>	<p>We will work with the Regional Improvement and Efficiency Partnership to develop a regional approach.</p> <p>We will make sure that sustainability is built into procurement processes and contracts</p> <p>We will contribute to the climate change agenda.</p> <p>We will produce and adopt a Sustainable Procurement Strategy.</p>



Training and Development

The key to effective public sector procurement is officers who are suitably trained and qualified to provide the necessary professional input. The level of expertise needed ranges from a formal procurement qualification and wide experience, to knowledge of basic procurement techniques.

Main Aim

To make sure there is a structured approach to education, training and development for all officers with procurement responsibilities across the Council.

Current Position	Issues	Actions
A procurement training and development plan has been produced.	We need to ensure that staff are suitably qualified / trained to do their jobs.	We will develop a programme of procurement training.
The Procurement Unit provides training across the Council on procurement procedures.	The high numbers of staff involved in procurement across the Council could result in high costs for providing training.	We will continue to include procurement in corporate training.
All senior officers have been included in the Council's Leadership and Development Programme.	The procurement-related knowledge, skills and experience of officers with procurement responsibilities vary across the Council.	All officers carrying out procurement projects are encouraged to study for a nationally recognised procurement qualification.





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यह दस्तावेज़ यदि आपको किसी अन्य भाषा या अन्य रूप में चाहिये, या आपको आनुवाद-सेवाओं की आवश्यकता हो तो हमसे संपर्क करें

یہ دستاویز اگر آپ کو کسی دیگر زبان یا دیگر شکل میں درکار ہو، یا اگر آپ کو ترجمان کی خدمات چاہئیں تو برائے مہربانی ہم سے رابطہ کیجئے۔

যদি আপনি এই ডকুমেন্ট অন্য ভাষায় বা ফরমেটে চান অথবা যদি আপনার একজন ইন্টারপ্রেটারের প্রয়োজন হয়, তাহলে দয়া করে আমাদের সাথে যোগাযোগ করুন।

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Useful websites

- Audit Commission
www.audit-commission.gov.uk
- Comprehensive Performance Assessment (CPA)
www.audit-commission.gov.uk/cpa
- Improvement and Development Agency (IDeA)
www.idea.gov.uk
- Local Government Association (LGA)
www.lga.gov.uk
- Local E-Government National Projects
www.nepp.org.uk
- North Easter Purchasing Organisation (NEPO)
www.nepoportal.org
- Office of the Deputy Prime Minister (ODPM)
www.odpm.gov.uk
- Office of Government Commerce (OGC)
www.ogc.gov.uk
- Regional Centre of Excellence
www.rcoe.gov

FINANCE AND EFFICIENCY PORTFOLIO

Report to Portfolio Holder
27th February 2008



Report of: Head of Procurement & Property Services

Subject: PROPOSED AMENDMENTS TO CONTRACT
PROCEDURE RULES

SUMMARY

1. PURPOSE OF REPORT

To seek Portfolio Holder endorsement of proposed changes to the Contract Procedure Rules (CPRs) & Article 14 of the Constitution, and submission of those changes to Constitution Working Group & Committee, and Council for approval and implementation.

2. SUMMARY OF CONTENTS

The report highlights the significance of the CPRs, the need for annual review and the changes proposed as a result of the current years review.

3. RELEVANCE TO PORTFOLIO MEMBER

Portfolio Holder is the procurement champion.

4. TYPE OF DECISION

Non key decision

5. DECISION MAKING ROUTE

Portfolio Holder and thereafter to Constitution Working Group, Constitution Committee and Council.

6. DECISION(S) REQUIRED

- i) That the Portfolio Holder endorses the proposed amendments to the Contract Procedure Rules & Article 14 of the Constitution.

- ii) That the Portfolio Holder endorses the submission of the draft Contract Procedure Rules & Article 14 of the Constitution to the Constitution Working Group & Committee and Council for approval and implementation.

Report of: Head of Procurement & Property Services

Subject: PROPOSED AMENDMENTS TO CONTRACT
PROCEDURE RULES

1. PURPOSE OF REPORT

- 1.1 To seek Portfolio Holder endorsement of proposed changes to the Contract Procedure Rules (CPRs) & Article 14 of the Constitution, and submission of those changes to Constitution Working Group & Committee, and Council for approval and implementation.

2. BACKGROUND

- 2.1 The Council's Procurement Strategy is significant in bringing together several national agendas and setting them in a local context. The main drivers are:
- The National Procurement Strategy and Milestones
 - The Gershon Efficiency Agenda
 - The Council's Way Forward
 - The comprehensive Spending Review 2007.
- 2.2 The changes brought about by the Procurement Agenda have already resulted in a revised Procurement Strategy being adopted by the Council, the adoption of an e-Procurement Strategy, the production of the "Selling to the Council Guide" and the review & re-launching of the procurement guidance as the "Officers Guide to Procurement".
- 2.3 The work carried out to formulate these documents also identified the need to carry out an annual review of the CPRs, which form part of the Council's Constitution, in order to reflect the changing procurement environment brought about by the procurement agenda.
- 2.4 As the CPRs are "Standing Orders" within the Constitution, the Constitution requires any amendments to be referred to full 'Council' and the Constitution Committee for implementation.

3. CONSIDERATIONS

- 3.1 A subgroup was formed from members of the Corporate Procurement Group (CPG) consisting of representatives for legal and procurement to consider the necessary changes and the resultant draft CPRs were circulated to and discussed with members of the CPG. As part of the review of the CPRs, it was identified that changes proposed to the

CPRs would need to be reflected in the corresponding section of Article 14 of the Constitution in order to avoid possible contradictions. On 8th November 2007 the Draft CPRs & proposed amendments to Article 14 were submitted to the CPG for agreement.

- 3.2 The Corporate Management Team (CMT) have also discussed the proposed changes to the CPRs & Article 14, and endorsed those changes.
- 3.3 The finalised draft CPRs are attached at **Appendix 1**, with all amendments highlighted, by being typed in red. An additional briefing note is attached at **Appendix 2** which discusses the considerations and reasons for the proposed changes.
- 3.4 An extract from Article 14 of the Constitution is attached at **Appendix 3**, with all amendments highlighted, by being typed in red. A briefing note which discusses the considerations and reasons for the proposed changes to Article 14 is attached at **Appendix 4**.

4 RECOMMENDATIONS

- 4.1 That the Portfolio Holder endorses the proposed amendments to the Contract Procedure Rules & Article 14 of the Constitution.
- 4.2 That the Portfolio Holder endorses the submission of the draft Contract Procedure Rules & Article 14 of the Constitution to the Constitution Working Group & Committee and Council for approval and implementation.

HARTLEPOOL BOROUGH COUNCIL – CONTRACT PROCEDURE RULES

Approved by Council 13th April 2006

Draft as at 23rd October 2007 – **Proposed additions / amendments /
deletions in Red.**

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4. Works Contracts £5,000 - £20,000 - Informal Quotations Procedures

5. Works Contracts to £50,000 etc - Formal Quotations Procedures.

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Part H – Glossary

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CONTRACT PROCEDURE RULES

INTRODUCTION

Contracts covered by the rules

The following procedure rules apply to contracts entered into by the Council whether under authority exercised by the Executive (in respect of executive functions), Full Council (in respect of non-executive functions), a committee of either the Executive or the Council or an officer. The contracts to which they are applicable are contracts for the acquisition of goods, materials or services or for the execution of works, with certain exceptions set out in the rules.

The rules do not represent a total procedure package – rather they stipulate a number of requirements that must be complied with within any contract letting procedures adopted. For further details of the procedures to be followed in the procurement of goods and services, reference should be made to the Procurement Guidance (*Officers Guide to Procurement*), which gives a wider explanation of the Council's procurement policies and practices. Where significant expenditure is contemplated, the rules establish requirements in the context of 3 contract-letting concepts –

- Best Price basis - lowest price where price to be paid by Council;
highest price where price to be received by Council;
- Price/Performance – contractor to be selected on basis of combination of price and quality
- Partnering – contract includes:
 - establishment of partnering team
 - pricing policy
 - open-book policy
 - savings sharing formula.

Central Purchasing Contracts

Where goods or services are to be acquired of a nature in respect of which a central contract has been established by the North East Purchasing Organisation (NEPO) or the Council's Procurement Unit, such goods and services will be purchased through that contract unless the Chief Officer, following consultation with the Head of Procurement & Property Services, considers a special exemption can be made. Goods or services for which the Council has accepted a tender submitted to NEPO are outside the scope of the Contract Procedure Rules and will be obtained from the relevant supplier in accordance with the NEPO procedures.

Strategic Partnerships

Where goods or services are to be acquired of a nature in respect of which the Council has established a Strategic Partnership with another provider, such goods and services will be purchased through that Strategic Partnership. Only in exceptional circumstances and following consultation with the Head of Procurement & Property Services and the Chief Solicitor, will exemptions be made.

The rules and an In-house Provider

These rules do not apply when a decision is taken to have work executed by an in-house provider such as Neighbourhood Services, without competitive process. In such circumstances, the provider being a department or division of the Council, there is no contract as it is a fundamental principle of contract law that a party cannot contract with itself. Even where a competitive process has taken place and the work is awarded to the in-house provider on the basis of their bid, there is no contract.

This has the consequence that, when it is necessary for the in-house provider to have some part of the work done by an outside contractor, the contract with the outside contractor is a 'contract', rather than a 'sub-contract' (requiring specific contract provision regulating the relationship between the in-house provider and the external contractor which is outside the scope of this commentary). For the purposes of their bid as part of a competitive process, the in-house provider may wish to include elements of cost for an external contractor and provision is made for a higher limit for Informal/quotations procedures to be followed in such circumstances. Costs established through those informal/quotation procedures can then be used as the basis of the contract with the external contractor without further tendering procedures being followed. In these rules, such contracts are referred to as "In-house Bid Contracts".

Criteria for selection of Price/Performance and Partnering Contracts

Contracts will be of the Best Price type unless a decision has been taken that either a Price/performance contract or a Partnering contract is to be established. Considerations which will inform such a decision are likely to include: -

- Value of contract
- Nature of project - e.g. is the work involved of a specialist nature where the contractor's techniques, design talents, contacts with government departments, national agencies etc are likely to be material to any choice
- Frequency of need for services/work

- Importance of adherence to budget
- Client input throughout the project

Roles and Responsibilities

Responsibility for decision making and action under contract letting procedures and for monitoring of the application of the contract procedures will be spread over the Council, in the interests of both efficiency and probity. Statutory guidance indicates that there should be delegated to officers greater responsibility for discharge of executive functions.

The role of Members

The Executive or the Council

Most contracts will relate to executive functions and regulations provide that those functions may only be discharged by the Executive (either full Cabinet or an individual Portfolio Holder, as the case may be). In respect of contracts relating to their executive functions, the Executive will have the responsibility:

-
- To determine the project including general aims of the construction, or service to be acquired
- To establish the level of expenditure for the project
- To approve lists of selected tenderers prepared under Rule 2
- To determine the nature of the contract – best price, price/performance or partnering
- To determine the Price/Quality ratio in respect of a price/performance Contract or a Partnering Contract or other basis of assessment
- To determine the Budget Price in respect of a Partnering Contract
- To waive any element of the Contract Procedure Rules in the case of an individual contract or class or group of contracts

Occasionally, the necessity for a contract may arise in connection with non-executive functions. In such a case the roles set out above, to the extent that they may be relevant, will be discharged by the Council.

In preparing a report inviting a decision to enter into a contract, the responsible officer should structure the report so as to cover the matters which require decision as set out above thus ensuring that the nature of the action to be taken by officers following the decision is clear.

The Contracts Scrutiny Panel

In order to ensure probity and transparency in the award of contracts, the Contracts Scrutiny Panel will participate in the letting of contracts by monitoring their compliance with the Contract Procedure Rules at a number of stages, both during and after the completion of the contract procedure. In respect of any contract the Panel will have the responsibility:

- To receive and examine tenderers lists
- To open tenders
- To receive and examine reports on the outcome of price/performance and partnering contracts letting procedures

The role of Officers - The Chief Officer/Officer Team

The Chief Officer/Officer Team will have the responsibility:

- To prepare the specification
- To approve use of selected tendering list or, if none available, to determine the tendering list for the contract
- To advertise/issue invitations for expressions of interest
- To determine a marking mechanism for each contract or for categories of contracts
- To select contractors for participation in Price/performance and Partnering contracts procedures
- To interview contractors
- To evaluate proposals & contractors and allocate scores
- To approve the successful contractor

It is presumed that officers responsible for procuring goods, works and services under these rules are familiar with the powers delegated to officers under the Council's delegation scheme, at least to the extent that those powers enable an officer to take action without a specific authority from Members. Where an officer is given power to take action (e.g. to incur expenditure for which budgetary provision has been made), that power includes the power to enter into any contract necessary to secure the goods, works or services involved. In the interests of transparency, the requirement for tenders to be opened by the Contract Scrutiny Panel applies to contracts

undertaken by an officer under delegated powers, but the responsible officer, rather than the Chief Solicitor would sign such a contract.

Electronic Procurement (e-Procurement)

The Councils E-procurement Strategy requires that whenever possible procurement shall be carried out electronically. All procurement carried out, on any e-procurement system approved by the Chief Solicitor and the Head of Procurement & Property Services, is subject to these Rules.

General

In the event of conflict between this Introduction and the following Contract Procedure Rules, the latter shall prevail

These rules are made in pursuance of Section 135 of the Local Government Act 1972 and the Local Authorities (Executive Arrangements) (Modification of Enactments and Further Provisions) (England) Order 2001.

PART A - SCOPE OF CONTRACT PROCEDURE RULES**1 Application of Contract Procedure Rules**

- i) These rules apply to every contract for the supply of goods, materials or services or for the execution of works, so far as they are relevant to a contract of the type determined by the Executive or the Council (as the case may be), except as provided in (ii) below.
- ii) With the exception of (vii) below, these rules do not apply to contracts with professional persons or contractors for the execution of works or the provision of services in which the professional knowledge and skill of these persons or contractors is of the primary importance or where the contract is for the provision of caring services to children or vulnerable persons.
- iii) No exception from any of the rules shall be made otherwise than by direction of the Executive or the Council or in any case of urgency, the Chief Officer after consultation with the Monitoring Officer. A record of any exception from any of the provisions of these procedure rules shall be reported to the Contracts Scrutiny Panel at their next meeting, and shall specify the case or urgency by which the exception shall have been justified.
- iv) For the purposes of any financial limit referred to in the rules, if the application of the rules to a particular contract cannot be identified until after opening of any tender, the value of the contract shall be as estimated by the Chief Officer.
- v) Reference in these rules to any decision, authority or action of the Council, the Executive, the Contracts Scrutiny Panel or an officer shall be deemed to include reference to a decision approval or action of the responsible body or officer prior to as well as after the adoption of these rules.
- vi) The letting of any contract shall also comply with any legislation or regulations relevant to the contract, Health and Safety Regulations, the European Directive on public procurement, the Council's Financial Regulations and the Council's Procurement Strategy.
- vii) In respect of any contract to which, for whatever reason, the procedures set out in these rules do not apply, there shall be followed a procedure which:
 - has been determined and recorded prior to its commencement

- ensures a level of competition consistent with the nature and value of the contract
- is transparent and auditable
- provides value for money, and
- records the reasons for choosing the successful contractor

PART B - SELECTED TENDERERS LISTS

2 Compilation of Selected Tenderers Lists

- i) This rule applies where a decision has been made that a list shall be kept of persons to be invited to tender for contracts for the supply of goods, materials or services of specified categories, values or amounts, or for the execution of specified categories of work and such a list is not to be compiled in accordance with the Constructionline procedure formulated by or on behalf of the Department of Trade and Industry
- ii) The list shall include at least eight persons and shall:
 - be approved by the Executive and (subject to paragraph iv below) be maintained on behalf of the Executive by the Chief Officer;
 - contain the names of all persons who wish to be included in it and are approved by the Executive or Chief Officer/Head of Department, subject to no persons being included until the appropriate technical officer is satisfied that they have the capacity to undertake the contracts envisaged, the Chief Personnel Services Officer is satisfied that they have adequate Health and Safety arrangements and the Chief Financial Officer is satisfied that they are financially sound; and
 - indicate whether a person whose name is included in it is approved for contracts for all or only some of the specified values or amounts of categories.
- iii) At least **six weeks** before the list is first compiled, notices inviting applications for inclusion in it shall be published:
 - in one or more local newspapers circulating in the district,
 - **on the procurement pages of the Council's website,**
 - **on the Government Opportunities Portal - Supply2.gov.uk.**

See Note 1

See Note 2

- and in one or more newspapers or journals circulating among such persons as undertake contracts of the specified values or amounts or categories.
- iv) The list may be amended by the appropriate Chief Officer as required from time to time and shall be reviewed as follows:
 - Review to be carried out at intervals not exceeding 4 years, where an update of the list is carried out and notices inviting applications for inclusion in the list shall be published in the manner provided by paragraph (iii) of this standing order.
 - Update to be carried out at intervals not exceeding 2 years, where each person whose name appears in the list shall be asked whether s/he wishes his/her name to remain therein.

Any such amendment or update shall be reported to the Executive. Any such review shall be presented to the Executive for approval and then reported to the Contract Scrutiny Panel.

PART C - INFORMAL / QUOTATION PROCEDURES

3 Informal Procedure - Contracts under £5,000

For a contract for less than £5,000, reasonable enquiries shall be made to determine that the price is fair and reasonable.

4 Informal Quotations Procedure – Works contracts £5,000 - £20,000

For a contract for the execution of work up to £20,000 three quotations shall wherever possible be obtained.

5 Formal Quotations Procedure – Works contracts £20,000 - £50,000 Goods materials or Services Contracts £5,000 - £20,000 (In-house bid contracts £5,000 - £100,000)

See Note 3

In respect of contracts:

- for the execution of work up to £50,000 (£100,000 for In-house bid contracts [see Introduction to these Contract Procedure Rules]); or
- for the supply of goods materials or services up to £20,000 (£100,000 for In-house bid contracts)

at least three written quotations shall wherever possible be obtained.

PART D - BEST PRICE PROCEDURES

6 Works contracts over **£50,000** Goods materials or Services Contracts over **£20,000** (In-house bid contracts over **£100,000**)

See Note 3

- i) Except for contracts described in rule 6(ii), no contracts which exceed **£50,000** (**£100,000** in the case of an In-house bid contract) in value or amount for the execution of any work, or **£20,000** (**£100,000** in the case of an In-house bid contract) in value or amount for the supply of goods, materials or services shall be made unless public notice has been given in accordance with the Public Notice provisions (see rule 7).
- ii) Rule 6(i) does not apply to contracts which have been determined should be let under **the Selected Tenderer provisions (see rule 8)**

~~➔ the Price/Performance contracts provisions (see rule 10) or~~

~~➔ the Partnering contracts provisions (see rule 11)~~

See Note 4

or which relate to the following matters: -

- (a) Purchase by auction;
- (b) Work to be executed, or goods materials or services to be purchased, which are a matter of urgency;
- (c) The work to be executed or the goods, materials or services to be supplied consist of repairs to or parts for existing machinery or plant;
- (d) The goods, materials or services to be purchased are such that a substantial proportion of the price is likely to be attributable to haulage;
- (e) The purchase of goods, materials or services which are obtainable only from a limited number of contractors, but in such case a reasonable number of contractors shall be invited to submit tenders.
- (f) Purchase or repair of patented or proprietary article or articles sold only at fixed price;

(g) The goods, materials or services to be purchased are such that effective competition is prevented by government control;

(h) The prices of the goods, materials or services to be purchased are controlled by a trade organisation or for other reasons there would be no genuine competition.

7 Public Notice provisions

- i) At least **twenty eight days** public notice shall be given

See Note 5

- in one or more local newspapers circulating in the district,
- **on the procurement pages of the Council's website,**
- **on the Government Opportunities Portal - Supply2.gov.uk.**
- also, wherever the value or amount of the contract exceeds £100,000 in the case of execution of any works or exceeds **£40,000** in the case of supply of goods, materials or services in one or more newspapers or journals circulating among such persons as undertake such contracts,

See Note 2

See Note 6

expressing the nature and purpose of the contract, inviting tenders for its execution and stating the last date (not less than **28 days** after appearance of the public notice) when tenders will be received.

See Note 5

- ii) After the date specified in the public notice, invitations to tender for the contract shall be sent to not less than **four** of the persons who applied for permission to tender, selected by the Chief Officer in the approved manner, either generally or in relation to a particular contract or category of contract or, if fewer than **four** persons have applied and are considered suitable, to all such persons.

See Note 7

8 Selected tenderers provisions

This rule applies where it has been determined that the invitation to tender for a contract is to be limited to persons whose names appear on a Selected Tenderers list compiled under rule 2. An invitation to tender for that contract shall be sent to at least **four** of those persons included in the list as being approved for a contract for that value or amount or of that category, or, if there are fewer than **four** such persons, to all such persons. If there are **four** or more such persons, the persons to whom invitations are sent shall be selected by the Chief Officer in the manner approved, either generally or in relation to a particular contract or to a category of contracts.

See Note 7

9 Acceptance of tender

A tender –

- other than the lowest tender if payment is to be made by the Council or
- other than the highest tender if payment is to be received by the Council,

shall not be accepted without the fact of and reason for the acceptance being recorded and notified to the Contracts Scrutiny Panel at their next meeting.

PART E - PRICE/PERFORMANCE CONTRACTS

10 Price/performance Contracts Provisions

This rule applies when it has been determined by the Executive, that the contractor shall be chosen on the basis of a combination of price and performance and for which a price/performance ratio has been determined.

- i)
 - (a) Where there is a relevant Select List of Contractors for the nature of work or service involved in the project, the Chief Officer shall invite such number of contractors from the list as s/he considers appropriate to indicate whether they are interested in undertaking the proposed works and, if so, to provide a list of all clients for whom they have worked in the 2 years prior to the invitation.
 - (b) Where there is no Select List of Contractors ~~the Chief Officer shall compile for examination by the Contracts Scrutiny Panel a list of contractors to whom the invitation referred to in para (a) above will be submitted~~ public notice requesting expressions of interest from contractors must given in accordance with the Public Notice provisions (see rule 7).
- ii) The Chief Officer shall select from the contractors who confirm their interest and provide relevant details those contractors who will be invited to submit ~~tenders (minimum number four – see rule 7 ii) and shall compile a list of those contractors for examination by the Contracts Scrutiny Panel. unless the list is identical to the one previously reported following para 10(i)(b) above.~~
- iii) Contractors invited to submit tenders will be required to provide method statements relevant to the contract.

See Note 8

See Note 7

See Note 8

- iv) Not fewer than 4 of the contractor's former clients will be requested to complete a Referee's Questionnaire (see Rule 24) except in the case of a contractor for whom Referee's Questionnaires have been obtained during the previous 6 months.
- v) An Agreed Marking Mechanism (see Rule 14) shall be applied to calculate the Price/performance Score of each contractor.
- vi) The contractor with the highest Price/performance Score will usually be awarded the contract.
- vii) The Price/performance Score of each contractor shall be entered into a Price/performance Score Matrix (see Rule 24) which shall be submitted to the Contracts Scrutiny Panel without any indication of the identity of the Contractor to which each Price/performance Score relates at their next meeting.
- viii) No notification of the identity of the successful contractor shall be given to the successful or any other contractor or otherwise made public prior to the meeting of the Contracts Scrutiny Panel to which the Price/performance Score Matrix has been submitted.

PART F - PARTNERING CONTRACTS

11 Partnering Contracts Provisions

This rule applies when it has been determined by the Executive that there shall be a Partnering Contract, namely a contract which includes all of the following provisions: -

- the establishment of a partnering team
 - the stipulation of a Pricing Policy, being a statement of the prices to be charged by the contractor for the purchase of the materials and items set out in the statement
 - a facility for the Council to examine all aspects of the contractors accounts for the contract and
 - a Savings Sharing Formula being a formula for the sharing between the contractor and the Council of savings achieved within a Partnering Contract
- i) (a) Where there is a relevant Select List of Contractors, the Chief Officer shall invite such number of contractors from the list

as s/he shall consider appropriate to indicate whether they are interested in undertaking the proposed works under a partnering contract and, if so, to provide a list of all clients for whom they have worked in the 2 years prior to the invitation.

(b) Where there is no Select List of Contractors ~~the Chief Officer shall compile for examination by the Contracts Scrutiny Panel a list of contractors to whom the invitation referred to in para (a) above will be submitted~~ public notice requesting expressions of interest from contractors must given in accordance with the Public Notice provisions (see rule 7).

See Note 8

ii) The Chief Officer shall select from the contractors who confirm their interest and provide relevant details those contractors who will be given further consideration (minimum number four – see rule 7 ii) and shall compile a list of those contractors for examination by the Contracts Scrutiny Panel. ~~unless the list is identical to the one previously reported following para 11(i)(b) above.~~

See Note 7

See Note 8

iii) In respect of each of the contractors so selected not less than 4 of the contractor's former clients shall be requested to complete a Referee's Questionnaire except in the case of a contractor in respect of whom Referee's Questionnaires have been obtained during the previous 6 months.

See Note 9

iv) Responses to the Referee's Questionnaires shall be evaluated according to an Agreed Marking Mechanism and each of the 4 highest scoring contractors (or such greater number as may be determined by the Chief Officer) shall be invited to confirm their ability to complete the project for the project budget.

v) Contractors who so confirm will be invited to-

- provide details of the contractor's proposed overhead costs, profit element, contractors net project cost, and preliminaries costs, and
- to attend interview by an Interview Panel who will allocate an interview score for each contractor.

vi) The Partnering Score of each Contractor will be calculated by reference to an Agreed Marking Mechanism and entered into a Partnering Score Matrix which shall be submitted to the Contracts Scrutiny Panel without any indication of the identity of the Contractor to which each Partnering Score relates.

vii) The proposal of the contractor with the highest Partnering Score will usually be accepted.

G - GENERAL PROVISIONS

12 Opening of tenders

- i) Tenders shall be opened at one time and only in the presence of: -
 - at least three members of the Contracts Scrutiny Panel; and
 - the Chief Executive or an official of the Council designated by him/her.
- ii) Paragraph (i) of this Order shall not apply to tenders obtained by the In-house Provider for the purpose of compiling a bid as tender for submission by the In-house Provider, which tenders shall be opened by the Head of Procurement & Property Services and the relevant Head of Service or their nominated Officers.

13 Tenders to be returned in sealed envelopes

- i) Every notice of invitation to tender shall state that no tender will be received except in a plain sealed envelope which shall bear the word "Tender" - followed by the subject to which it relates - but shall not bear any name or mark indicating the identity of the sender. Envelopes shall be returned to the Chief Executive and once received shall remain in the custody of the Chief Executive or his/her nominee until the time appointed for their openings.
- ii) The Chief Executive or the Head of Service of the In-house Provider (as the case may be) shall keep a record of all tenders received.
- iii)
 - (a) A Schedule of all tenders received (except tenders to which rule 12(ii) applies) shall be circulated to the Contracts Scrutiny Panel or shall be tabled by the Chief Executive at the Contracts Scrutiny Panel meeting at which they are under consideration;
 - (b) No information shall be included in such schedule or given to the Panel by which any tenderer may be identified.

14 Agreed Marking Mechanism

No Price/performance procedure or Partnering procedure shall be commenced unless there has been agreed between the Chief Officer and the Council's Chief Internal Auditor, in respect of the particular

contract, or in respect of contracts of the nature of the contract in general, an Agreed Marking Mechanism complying with Rule 24. The contractors shall be informed of the elements to be marked and of the comparative importance of each element as a percentage of the available marks.

15 Contracts to be in writing

Every contract ~~other than those involving the use of Procurement Cards and having a value or amount of £2000 or less which exceeds £2,000 in value or amount~~ shall be the subject of a Council order or other formal contract and shall specify

See Note
10

- (a) the work, materials, matters or things to be furnished, had or done;
- (b) the price to be paid, with statement of discounts or other deductions; and
- (c) the time or times within which the contract is to be performed.

~~Where the value of the contract exceeds the financial limits which require a tender process to take place (see rule 6) the contract must be the subject of a formal written contract signed in accordance with rule 20.~~

See Note
11

16 Liquidated Damages and Performance bonds

Every contract which exceeds £100,000 in value or amount and is either for the execution of works or for the supply of goods, materials or services, shall, unless the Chief Officer otherwise decides after consultation with the Chief Solicitor, provide for liquidated damages to be paid by the contractor in case the terms of the contract are not duly performed, and the Council shall also require and take sufficient security for the due performance of any such contract. In the case of any such contract for the execution of works such security shall be provided by requiring the retention of a proportion of the contract sums payable until the work has been satisfactorily completed and maintained and, unless the Chief Officer, after consultation with the Chief Solicitor considers it unnecessary in any particular case, additional provision of a bond for due performance.

17 Other remedies for breach

In every contract for the supply of goods, materials or services which exceeds £2,000 in value or amount a clause shall be inserted to secure that, should the contractor fail to deliver the goods, materials or services or any portion thereof within the time or times specified in the contract, the Council, without prejudice to any other remedy for breach of contract, shall be at liberty to determine the contract either wholly or to the extent of such default and to purchase other goods, or materials of the same or similar description to make good (a) such default or (b)

in the event of the contract being wholly determined the goods, materials or services remaining to be delivered. The clause shall further secure that the amount by which the cost of so purchasing other goods, materials or services exceeds the amount which would have been payable to the contractor in respect of the goods, materials or services replaced by such purchase if they had been delivered in accordance with the contract shall be recoverable from the contractor.

18 British Standards

Where an appropriate British Standards Specification or British Standard Code of Practice, issued by the British Standards Institution or Euronorm Standard, is current at the date of the tender, every contract shall require that all goods and materials used or supplied and all workmanship shall be in accordance with that Standard.

19 Prevention of Corruption

- i) There shall be inserted in every written contract a clause empowering the Council to cancel the contract and to recover from the contractor the amount of any loss resulting from such cancellation, in any of the following circumstances: -
 - (a) if the contractor shall have offered or given or agreed to give to any person any gift or consideration of any kind as an inducement or reward –
 - for doing or forbearing to do, or for having done or forborne to do, anything in relation to the obtaining or execution of the contract or any other contract with the council or
 - for showing or forbearing to show favour or disfavour to any person in relation to the contract or any other contract with the Council; or
 - (b) if the like acts shall have been done by any person employed by him/her or acting on his/her behalf (whether with or without the knowledge of the contractor) or

if in relation to any contract with the Council the contractor or any person employed by him/her or acting on his/her behalf shall have committed any offence under the Prevention of Corruption Acts 1889 to 1916 or shall have given any fee or reward the receipt of which is an offence under Section 117 Local Government Act 1972.
- ii) The form of invitation to tender shall include an assurance in writing from the tenderer that s/he will not follow, or has not

followed, in relation to that tender, the undementioned practices: -

- (a) communicating to a person other than the person calling for tenders for the execution of the work, the amount of any proposed tender in accordance with any agreement or arrangement so to communicate.
- (b) adjusting the amount of any proposed tender for the execution of the work in accordance with any agreement or arrangement by the proposed tenderer, and any person other than the person calling for tenders for the execution of such work.

20 Signature of contracts

- i) Except for contracts entered into by an officer in exercise of delegated powers, the Chief Solicitor shall be the agent of the Council to sign on behalf of the Council all contracts agreed to be entered into by or on behalf of the Executive or the Council.
- ii) Contracts which are for a value of £100,000 or more shall be either-
 - executed by the Chief Officer and the Chief Solicitor or the Chief Financial Officer or
 - executed under the Council's seal (to be affixed in the presence of the Chief Solicitor (or in his/her absence, ~~the Chief Executive~~ some other person authorised by him/her)).

See Note 12

21 Tenderers withdrawal

In the event of any person or firm withdrawing a tender, or declining to sign a form of contract upon being called on to do so after his/her or their tender has been accepted (whether accepted subject to the Council's approval or not) no further tender from such a person or firm shall, unless the Executive or the Council otherwise resolve, be considered for a period of three years.

22 Post contract variations and negotiations

- i) Except for a variation –
 - (a) which does not substantially affect the nature of the works services goods, materials or services to be supplied to the Council and does not increase the payment to be made by the Council, or

(b) is made in accordance with paragraph (ii)

a contract shall not without the authority of the Executive or the Council depart from the description of the works, goods, materials or services for which the quotation or tender was received.

- ii) This paragraph applies where all of the tenders received exceed the budget allocated for the project and the Chief Officer and the Head of Service relevant to the contract consider that amendments may be made to the specification which would result in a price in accordance with the budget. The lowest tenderer and the next 2 lowest tenderers (if any) whose prices are not more than 125% of the price of the lowest tenderer shall each be provided with a schedule of variations and invited to submit a statement of the reductions to their tender which would apply to the variations.
- iii) Apart from discussions with contractors for the purpose of clarification of any element of a tender, or for the correction of arithmetic or other details, negotiations following receipt of tenders shall only take place in the following circumstances: -
 - (a) where a single tender has been received and the Chief Officer considers that negotiation may lead to more favourable terms to the Council, or
 - (b) when tenders cannot readily be evaluated and compared without discussion with the tenderers or
 - (c) with the approval of the Chief Financial Officer and the Chief Solicitor and the Monitoring Officer (if different) and any negotiations shall be conducted in accordance with paragraph (iv)
- iv) Discussion with tenderers for the purpose of negotiations under paragraph (iii) shall
 - take place only on Council premises
 - take place only with the knowledge of all tenderers
 - be attended by not less than 2 Council officers
 - be at a pre-determined time during normal office hours
 - be the subject of a comprehensive written record, signed by the Council officers in attendance and submitted to the Chief

Financial Officer, the Chief Solicitor or the Monitoring Officer
(if different) for approval

23 Nominated sub-contractors

This rule applies where a sub-contractor or supplier is to be nominated to a main contractor and the selection of the sub-contractor has not been undertaken in accordance with the Price/performance Contracts provisions (Rule 10) nor within the context of a project undertaken under the Partnering Contracts provisions (Rule 11).

- i) Where the estimated amount of the sub-contract or the estimated value of goods to be supplied by the nominated supplier does not exceed £5,000 then unless the Chief Officer is of the opinion in respect of any particular nomination that it is not reasonably practicable to obtain competitive tenders: -
 - (a) The Chief Officer shall invite not fewer than three tenders for the nomination. The terms of the invitation shall require an undertaking by the tenderer that if s/he is selected s/he will be willing to enter into a contract with the main contractor on terms which indemnify the main contractor against his/her own obligations under the main contract in relation to the work or goods included in the sub-contract;
 - (b) The tenders shall be opened at one time and only in the presence of the Chief Executive or an officer designated by him/her;
 - (c) The Chief Executive shall maintain a record of all such tenders received;
 - (d) The Chief Officer or an officer designated by him/her shall nominate to the main contractor the person whose tender is, in his/her opinion, the most satisfactory one, provided that, where the tender is other than the lowest received, the circumstances shall be reported to the next meeting of the Contracts Scrutiny Panel.
- ii) Where the estimated amount of the sub-contract or the estimated value of goods to be supplied by a nominated supplier exceeds £5,000 then unless the Chief Officer (for reasons to be reported to the Contracts Scrutiny Panel at their next meeting) determines in respect of any particular nomination that it is not reasonably practicable to obtain competitive tenders: -
 - (a) Tenders for the nomination shall be invited in accordance with Rules 4, 5, 6, 7 or 8 as the case may be, and Rule

- 13(i) shall apply as if the tender were for a contract with the Council. The terms of the invitation shall require an undertaking by the tenderer that if s/he is selected s/he will be willing to enter into a contract with the main contractor on terms which indemnify the main contractor against his/her own obligations under the main contract in relation to the work or goods included in the sub-contract;
- (b) The tenders shall be opened at one time and only in the presence of the Chief Executive or an officer designated by him/her and the Chief Officer or an officer designated by him/her.
 - (c) The Chief Executive or an officer designated by him/her shall maintain a record of all such tenders received.
 - (d) The Chief Officer or an officer designated by him/her shall nominate to the main contractor a person whose tender is in his/her opinion the most satisfactory, provided that where the tender is other than the lowest received, the circumstances shall be reported to the next meeting of the Contracts Scrutiny Panel.
- iii) It shall be a condition of the employment by the Council of any person (not being an officer of the council) to supervise a contract that in relation to such contract s/he shall comply with the requirements of paras. (i) and (ii) of this Rule 23 as if s/he were a Chief Officer of the Council.
 - iv) Lists of tenders and quotations received in accordance with this Rule 23 shall be retained by the Chief Officer concerned and shall be available for inspection by the Members of Contracts Scrutiny Panel and the Chief Executive and the Chief Financial Officer.

PART H - GLOSSARY

24 Interpretation

Unless the context otherwise indicates, the following terms used in these rules have the meanings stated: -

“Agreed Marking Mechanism” is the mechanism which (before the issue of any invitation to tender or attend interview) has been agreed between the Chief Officer and the Council’s Chief Internal Auditor for the allocation of marks making up the Price/performance Score. The Agreed Marking Mechanism shall include the composition of an

evaluation team being a panel of officers who shall allocate marks according to the Agreed Marking Mechanism. (see also Rule 14)

“Chief Officer” is the Chief Officer of the Council who is responsible for letting and supervising the completion of a contract or of contracts of a particular nature.

“Contractor’s Net Project Cost” is the balance of the budget price after deduction of the aggregate of the contractors expected profit and overheads or any other element of the contract which is identified by the Agreed Marking Mechanism as being deductible for the purpose of assessment of the Contractors Net Project Cost.

“Electronic Procurement (e-Procurement)” is a fully electronic procure-to pay process from initial requisition and ordering through to invoicing and payment, and can include e-Auctions, e-Purchasing, e-Tendering and Procurement Cards.

“e-Auctions” is the means of carrying out purchasing negotiations via the Internet. A real time event that occurs online allowing multiple suppliers in different geographic locations to place and modify bids simultaneously.

“e-Purchasing” is a system to automate and extend manual buying processes from the creation of a requisition through to the payment of suppliers. It encompasses back office systems, e-marketplaces and portals and supplier websites.

“e-Tendering” is systems or solutions to enable the tendering process to be conducted via the Internet. Including advertisement of requirement, documentation production, supplier registration, electronic exchange of documents between supplier and buyer, opening of tenders, evaluation of submissions, contract award and publication.

“Executive” is the executive members of the Council acting together as the Cabinet or individually in accordance with the Executive Delegation Scheme currently applicable.

“Interview Panel” is a panel comprising:

- 2 officers appointed by the Chief Officer
- 2 officers appointed by the Client Department, and
- a representative(s) of any other relevant body or department

and who, when meeting, shall be accompanied by an observer appointed by the Chief Officer.

“Partnering Contract” is a contract which includes all the following provisions: -

- i) the establishment of a partnering team
- ii) the stipulation of a Pricing Policy, being a statement of the prices to be charged by the contractor for the purchase of the materials and items set out in the statement
- iii) a facility for the Council to examine all aspects of the contractors accounts for the contract and
- iv) a Savings Sharing Formula being a formula for the sharing between the contractor and the Council of savings achieved within a Partnering Contract

“Partnering Score Matrix” is a matrix showing in respect of all contractors each element of their Partnership Score and their total scores.

“Price/performance Score Matrix” is a matrix showing in respect of all contractors each element of their Price/performance Score and their total scores.

“Price/performance Contract” is a contract for which the contractor is to be chosen on the basis of a combination of price and performance.

“Price/performance Ratio” is the comparative importance of price and performance of the product or service expressed as a percentage ratio.

“Procurement Cards” are charge cards which work in a similar way to credit cards and can be used to purchase goods and services. Can be open to use by any suppliers or have controls placed upon them by the issuer to limit their use to certain suppliers and/or commodities. They are usually used to process low-value, high-volume transactions.

“Project information” comprises: -

- i) Drawings, if any, showing outline of the construction works required
- ii) A cost plan, if available, indicating the total budget for the project
- iii) A specification of materials from which the cost plan has been prepared
- iv) The timescale for the construction works

- v) The substantial form of the contract
- vi) Any other information necessary to enable the contractor to assess the nature and likely cost of the project

“Referee’s Questionnaire” is a questionnaire addressing the following aspects of a contract, namely:

- performance;
- quality;
- adherence to timetable;
- health and safety issues; and
- any other matters considered by the Chief Officer to be relevant to assessment of the service provided by the contractor.

Briefing Notes on Considerations and Reasons for Proposed Changes to Contract Procedure Rules (CPRs)**Numbered Notes are cross referenced on Draft CPRs****General**

As part of this review of the Council's CPRs, a comparison with the CPRs of 2 other local authorities, namely 'Redcar & Cleveland' and 'Middlesbrough' Borough Councils, and the Regional Centres of Excellence (RCOE) & Eversheds model CPRs was also carried out. See section entitled 'Comparison' at the end of this briefing note. This "comparison" aided in identifying, and suggested, some of the amendments included in the Draft CPRs this document relates to.

NB: Redcar & Cleveland and Middlesbrough's CPRs were chosen for comparison due to the availability of their CPRs on the Intranet.

Note 1 - Page 9 of the draft CPRs**Public Notices inviting applications to join the Councils Selected Tenderers Lists.**

The current CPRs only require 4 week notice to be given. However, recent guidance from the Office of Government Commerce (OGC) and the European Commission has indicated that no matter the value of any public sector procurement, the minimum period for public notices should be 37 days.

It is therefore proposed that the Public Notice period should be increased to six weeks, to comply with this requirement. (Six weeks being a more easily recognisable period than 37 days)

Note 2 – Page 9 of the Draft CPRs**Inclusion of 'Electronic' Methods of Advertising.**

The guidance and requirements of both the OGC & EC referred to in Note 1 also require that all public sector contracting opportunities should be advertised on a European Union (EU) wide basis.

The proposed inclusion of the Council's own website as one of the methods of electronic advertising of contract opportunities not only complies with these requirements but additionally contributes towards the Council's and the Government's 'e-Government' objectives. At the same time it strengthens the opportunities for local businesses to be aware of contracting opportunities, as they are more likely to refer to the Councils Website, than non local companies.

The proposal to include, as a second method of electronic advertising of contracting opportunities, the use of the 'Supplier Route to Government Portal' – Supply2.gov.uk, again complies with the EU wide advertising requirements and e-government objectives. This 'Portal' automatically advises registered suppliers of any contracting opportunities for locations and goods/services for which they have declared an interest. This method of advertising aids local businesses as it is free of charge for them to use, if they limit their 'interest' to their own locality (their 'home' Council area, plus neighbouring / adjoining Councils).

In the age of e-government, continuing to publish public notices / advertise contracting opportunities in the local press as well as adopting electronic methods, continues to aid local businesses in being aware of contracting opportunities with the Council. Some councils (e.g. Middlesbrough) now use electronic methods only.

Note 3 – Pages 10 & 11 of the Draft CPRs

Increases in Tender Limits

The comparison with other CPRs discussed in 'General' above, identified various approaches to the level being set by neighbouring Councils (which were significantly higher than the level currently used in our CPRs) and the levels being suggested by the RCOEs. When the CPRs were last reviewed it was agreed that they should be amended, if applicable, to take account of inflation and general rises in costs.

As well as establishing the level at which formal tendering processes should be applied, by default these levels also indicate the level below which quotations and not tenders are acceptable. The significance of this is that when 'quotations are applied, there is no requirement to employ the strict advertising regime described in Note 2, therefore making it easier for the Council to direct these opportunities towards local providers, therefore supporting the sustainability of the local economy. This will be highlighted in the Council's sustainable Procurement Strategy and Guidance for Officers.

It is therefore proposed that the Tender Limits should be increased:
from £45K to £50K for works (in line with the suggested RCOEs limits);
by a similar amount from £15K to £20K for goods & services;
and from £75K to £100K for in-house works bids (double the 'normal' works limit as used by our neighbouring authorities).

Note 4 – Page 11 of the Draft CPRs

Exceptions to Public Notice (Advertising) Requirements

The current CPRs, if taken literally, do not require public notice to be given for contracts which have been determined by Portfolio Holder shall be let as a 'Price/Performance or 'Partnering' contract. They simply require that a list of those invited to tender be submitted to Contract Scrutiny Panel. This exception does not comply with the advertising requirements outlined in Note 2, and also appears to be in conflict with the principles of transparency and competition in contracting.

This amendment is therefore proposed so that the requirement for Public Notice (advertisement) applies to price performance and partnering contracts. This is supplemented by the amendments to both the price/performance and partnering contract provisions outlined in Note 8 below.

Note 5 - Page 12 of the Draft CPRs

Period of Public Notice

The current CPRs only require that 10 days public notice be given. The comparison discussed in 'General' above, identified public notice of 28 days being applied in other authority's CPRs. An increase in this period would also benefit Small & Medium-sized Enterprises (and by definition most local companies) who do not have

the resources to respond to such notices in a short period of time, therefore supporting the sustainability of the local economy.

It is therefore proposed that this period be increased to 28 days.

Note 6 – Page 12 of the Draft CPRs

Financial limit requiring additional public notice

The financial limit for additional public notice “in one or more new papers or journals circulating among such persons as undertake such contracts” for goods and service had historically been double the tender limit.

Therefore, if the proposal to increase the tender limit for goods & service to £20K is accepted, it is further proposed that the limit requiring additional public notice should be increased to £40K.

Note 7 – Pages 12, 13, 14 & 15 of the Draft CPRs

Number of Persons Invited to Tender

Current CPRs set the minimum number to be invited to participate as: 3 for quotations; 3 for tenders; and 5 for EU limit tenders.

The comparison discussed in ‘General’ above, shows that it is usual for the number to increase by one, as the complexity of the process increased. An increase in the minimum number of tenders would also increase the chances of a tender from a local company being considered and increases the opportunity for the tender to be awarded to a local company, therefore supporting the sustainability of the local economy. This opportunity to invite local companies will be included in the Council’s Sustainable Procurement Strategy and Guidance for Officers.

It is therefore proposed that the number of ‘tenders’ be increased from 3 to 4.

Note 8 – Pages 13, 14 & 15 of the Draft CPRs

Requirement for Public Notice to be given for Price Performance & Partnering Contracts

Further to Note 4 above, this amendment proposes that, “where there is no Select List of Tenderers” which can be used, Public Notice (advertisement) of the contract opportunity must be made. Plus, as a list of those invited to tender will now always be reported to Contract Scrutiny Panel, there is no requirement for the clause “unless the list is identical to the one previously reported etc”.

Note 9 – Page 15 of the Draft CPRs

Number of Referees Questionnaires requested to be completed

Current CPRs require that for Price/Performance contracts “Not fewer than 4 of the contractor’s former clients will be requested to complete a Referee’s Questionnaire”, but for Partnering contracts, “not less than 2 of the contractor’s former clients shall be requested to complete a Referee’s Questionnaire”. This would appear to be inconsistent when most would consider that a Partnering contract should be equally, if not more, important than a Price/Performance contract.

It is therefore proposed that the number of Referee's Questionnaire required for a Partnering Contract be increased to 4.

Note 10 – Page 17 of the Draft CPRsContracts to be in writing.

Current CPRs only require contracts “which exceeds £2,000 in value or amount shall be the subject of a Council order or other formal contract”. This limit allowed the Council to introduce the use of Procurement Cards “to process low-value, high-volume transactions”. However, it is accepted practice in the commercial environment that, other than when Procurement Cards are used, all contracts should be the subject of at least a written order, and this requirement is one which was required of, and has been implemented in, the Council's Financial Management system.

It is therefore proposed that CPRs be amended to reflect that “other than those involving the use of Procurement Cards and having a value or amount of £2000 or less” all contracts shall be the subject of a Council order or other formal contract”.

Note 11 – Page 17 of the Draft CPRsRequirements for Formal Written & Signed Contracts

Current CPRs allow contracts with a value up to £100k to be subject to a written order without the need for a formal written/signed contract. It is considered by both Legal & Procurement Officers, and has been confirmed by comparison with other authorities CPRs, that if a contract is important or valuable enough to require that a formal tender process be carried out, then this contract must be sufficiently important enough to justify that a formal written/signed contract be drawn up. Not just the subject of an order, if valued at less than £100K.

It is therefore proposed that where the value of the contract exceeds the financial limits which require a tender process to take place, the contract must also be the subject of a formal written & signed contract.

Note 12 – Page 20 of the Draft CPRsExecution of contracts under the Council's common seal

Current CPRs require the common seal to be affixed to contracts by the Chief Executive in the absence of the Chief Solicitor. However, Article 14.05 of the Constitution stipulates that, when necessary, the affixing of the common seal to “any document” can be made “by the Chief Solicitor or some other person authorised by him”.

It is therefore proposed to amend the CPRs to agree with Article 14.05 of the Constitution.

Comparison

CATEGORY	HBC Current £K	MBC £K	R&CBC £K	RCOE Eversheds Model £K	HBC Proposed £K
<u>Value for Money</u>					
Works	<5	<10.2	15	5	<5
Goods	<5	<5.2	15	3	<5
Services	as Goods	as Goods	as Works	3	as Goods
For In-house bids	<5	Double above			<5
<u>Informal Quotes</u>					
Works	3 5 to 20	n/a	n/a	n/a	3 5 to 20
Goods & Services	n/a	n/a	n/a	n/a	n/a
<u>Formal Quotes</u>					
Works	3 20 to 45	3 10.2 to <103.5	3 15 to <100	3 >5 to 50	3 20 to 50
Goods	5 to 15	5.2 to <36.3	15 to <50	>3 to 25	5 to 20
Services	as Goods	as Goods	as Works	as Goods	as Goods
For In-house bids	5 to 75	Double above	as above		5 to 100
<u>Tenders</u>					
Works	3 >45	4 103.5 to <517.5	4 100	? >50	3 >50
Goods	>15	36.3 to <103.5	50	>25	>20
Services	as Goods	as Goods	100	>25	>20
For In-house bids	>75	Double above	as above		>100
<u>OJEU etc</u>					
Tenders	5	5	5	5	5
Works	>OJEU limit	517.5	>OJEU limit	>OJEU limit	>OJEU limit
Goods & Services	>OJEU limit	103.5	>OJEU limit	>OJEU limit	>OJEU limit
For In-house bids	>OJEU limit	Lower of double above or OJEU limit	>OJEU limit	>OJEU limit	>OJEU limit
<u>Tender Adverts.</u>					
Notice or OJEU (37)	10 days Y	28 days Y	28 days Y	As OJEU Y	28 days Y
<u>Form of Contract</u>					
Order	>2	All	All		All
Written/signed	>2	As Tender Limits	W - 100, G&S - 50		As Tender Limits
CO	>100	As Tender Limits	either /		>100
CO + CS or CFO	or	>100	or		or
Sealed					

Extract from **Part 2 – Articles of the Constitution**

Draft as at 23rd October 2007 – **Suggested additions /
amendments / deletions in Red.**

Article 14

FINANCE, CONTRACTS AND LEGAL MATTERS

14.02 Contracts

Every contract made by the Council will comply with the Contract Procedure Rules set out in Part 4 of this Constitution.

14.04 Authentication of documents

(2nd paragraph)

~~Any contract with a value exceeding £2000 entered into on behalf of the local authority in the course of the discharge of an Executive function shall be made in writing. Such contracts must either be signed by at least two officers of the authority or made under the common seal of the council attested by at least one officer.~~

See Note 1

Briefing Notes on Considerations and Reasons for Proposed Changes to Article 14 of the Constitution

Numbered Notes are cross referenced on the Draft Extract from Article 14

General

As part of the review of the Council's Contract Procedure Rules (CPRs), it was identified that changes proposed to the CPRs would need to be reflected in the corresponding section of Article 14 of the Constitution. The following amendment to Article 14 is therefore proposed to ensure that CPRs and Article 14 are consistent.

Note 1 – second paragraph of Article 14.04.

The requirement for contracts to be in writing and the signature of contracts is provided for (and is more specific) in paragraphs 15 & 20 of the CPRs. The second paragraph of Article 14 currently contradicts the CPRs, as it states that:

“Any contract.....shall be made in writing”, as opposed to “Every contract other than those involving the use of Procurement Cards.....shall be the subject of a Council order or other formal contract” which appears in the CPRs, and

Such contracts must be signed by at least two officers (or made under the common seal), when the CPRs and the Council's officer delegation scheme both allow contracts with a value of less than £100K to be signed by one officer.

It is therefore proposed that this paragraph be deleted to avoid this contradiction.

NB: the requirement to follow the rules as set in the CPRs has already been established in the 'Articles of the Constitution', in Article 14.02 which states that “Every contract made by the Council will comply with the Contract Procedure Rules set out in Part 4 of this Constitution”. Therefore this deletion does not detract from the Constitution; it enhances them by directing that the more specific requirements of the CPRs must be followed.

FINANCE AND EFFICIENCY PORTFOLIO

Report To Portfolio Holder

27th February 2008



Report of: Head of Procurement and Property Services

Subject: PROPOSED LEASE OF PREMISES,
CROMWELL STREET

SUMMARY

1. PURPOSE OF REPORT

To obtain Portfolio Holder approval for the Council to take a lease of part a property at Cromwell Street to accommodate its Day Services Team.

2. SUMMARY OF CONTENTS

This report outlines rationale behind the requirement for premises to accommodate Hartlepool Day Services and considers the financial implications of the proposed lease.

3. RELEVANCE TO PORTFOLIO MEMBER

Portfolio Holder has responsibility for the Council's land and property holdings.

4. TYPE OF DECISION

Non Key

5. DECISION MAKING ROUTE

Portfolio Holder only

6. DECISION(S) REQUIRED

That Portfolio Holder grants approval to the Council taking a lease of the premises subject to the terms proposed.

Report of: Head of Procurement and Property Services

Subject: PROPOSED LEASE OF PREMISES, CROMWELL STREET

1. PURPOSE OF REPORT

- 1.1 To obtain Portfolio Holder approval for the Council to take a lease of part a property at Cromwell Street to accommodate its Day Services Team.

2. BACKGROUND

- 2.1 Hartlepool Borough Council Day Services team are currently based in the Council owned Warren Road Day Opportunities Centre where they provide support for up to 133 adults with learning disabilities.
- 2.2 A recent report by the Commission for Social Care Inspection has identified that *“the present base at Warren Road is run down and people found it over crowded in rooms which were too small for activities which were provided. Opportunities for people with high support needs were restricted”*. At the same time, a need for an integrated care facility in the north part of town has been identified and it is considered that Warren Road may be more suitable for this purpose. This is to be the subject of a further report.
- 2.3 The Government has recently published a new ‘Valuing People Now’ Plan, which states that people should have more control over their services and facilities should be provided to allow people to do the things they choose during the day, rather than going to Day Centres.
- 2.4 This has reinforced the need for Hartlepool Day Services to obtain a stand alone premises where this type of service can be offered. The intention is to offer a facility for carers and service users to ‘drop in’ and talk to people who can give advice and signpost people to relevant services. The property needs to be accessible to people of all abilities, with secure parking, private office facility and changing facilities.
- 2.5 There is also scope for working in partnership with other agencies, which a stand alone premises would facilitate. In particular, there is an intention to work with Hartlepool United Disabled Supporters Association and Hartlepool Special Olympics which would allow the team to funding and equipment benefits that are offered to the voluntary sector. Any arrangements with these groups to occupy space within the premises would require licence agreements, which would lessen the revenue implications to the Council of taking on lease premises.

- 2.6 There has been an active search for premises but this has been hindered by the lack of capital investment being given to the Day Services Team to establish itself within a property which would require adaptations to suit the needs of their users. The specific type of user of the property means that there are no 'purpose built' facilities within Hartlepool that are available, and so refurbishment of a property would be required.
- 2.7 The former Council owned Cromwell Street Depot, which the Council sold in December 2006, is being refurbished to provide several small workshop units. Discussions have been held with the present owner of this property who has stated that he is prepared to refurbish a unit to the standards and accommodation required by the Day Services Team.
- 2.8 All Council Service Departments requiring additional premises are now being asked to provide a 'Whole Life Costing Form', to show that they have considered all of the costs involved in taking on leased premises, and to demonstrate how their proposals is underpinned by their strategic direction. A copy of the Whole Life Costing Form that was completed by Adult and Community Services is attached at **Appendix 1**.

3. FINANCIAL IMPLICATIONS

- 3.1 The financial implications can be found attached at the confidential **Appendix 2. This item contains exempt information under Schedule 12A of the Local Government Act 1972, (as amended by the Local Government (Access to Information)(Variation) Order 2006) namely, Information relating to the financial or business affairs of any particular person (including the authority holding that information).**

4. RECOMMENDATIONS

- 4.1 That Portfolio Holder grants approval to the Council taking a lease of the premises subject to the terms proposed.

FINANCE AND EFFICIENCY PORTFOLIO

Report To Portfolio Holder

27th February 2008



Report of: Head of Procurement and Property Services

Subject: VARIATION OF COVENANT AT OWTON MANOR
SOCIAL CLUB TO ALLOW THE INSTALLATION
OF TELECOMMUNICATIONS EQUIPMENT.

SUMMARY

1. PURPOSE OF REPORT

To obtain Portfolio Holder's consent to proceed with the variation of covenant on Owton Manor Social Club to allow the installation of telecoms equipment on the property.

2. SUMMARY OF CONTENTS

The report outlines the background to this proposal, considering issues of previous Council policy and financial matters relating to the value of the variation of covenant.

3. RELEVANCE TO PORTFOLIO MEMBER

Portfolio Holder has responsibility for the Council's land and property holdings.

4. TYPE OF DECISION

Non-Key.

5. DECISION MAKING ROUTE

Portfolio Holder only

6. DECISION(S) REQUIRED

That Portfolio Holder considers the variation of covenant subject to the terms proposed.

Report of: Head of Procurement and Property Services

Subject: VARIATION OF COVENANT AT OWTON
MANOR SOCIAL CLUB TO ALLOW THE
INSTALLATION OF TELECOMMUNICATIONS
EQUIPMENT.

1. PURPOSE OF REPORT

- 1.1 To obtain Portfolio Holder's consent to proceed with the variation of covenant on Owton Manor Social Club to allow the installation of telecoms equipment on the property.

2. BACKGROUND

- 2.1 Council sold the land shown hatched on the plan attached at **Appendix 1** in August 1957 to Owton Manor Social Club & Institute Limited and this was subject to the following restriction:

"Not to use the property hereby conveyed or any building to be constructed thereon for a purpose other than Social Club or Institute"

This covenant clearly restricts the use of the land and should anything other than a Social Club be desired, the Council would need to agree to either a variation or release of this covenant. It is usual for the beneficiary of the covenant (in this case the Council) to require monetary benefit in return for this.

- 2.2 The Council was approached by the agents acting on behalf of the Social Club who were in negotiations with O2 to erect a mobile phone mast on the building. O2 were looking for an alternative location for their phone mast which is currently located on the Access to Learning Centre at Brierton School. O2 had become aware of the proposed closure of the school which would result in this mast requiring relocation.
- 2.3 O2 have a lease of part of the roof at the Access to Learning Centre, which gives them security to remain at the site. Although the Council would have grounds to terminate the lease to allow the redevelopment of the Brierton site, compensation would be payable to O2 for this termination. The financial implications of this are explored within the attached confidential **Appendix 2**.

- 2.4 It should be noted that the Council has previously expressed a desire to withhold consent for telecommunications equipment to be erected on Council land, and although the land in question is not Council owned, the Council does have control over the use of the land through the restrictive covenant. That considered, should the Council withhold consent from the variation of the covenant, the owner of the Social Club could make an application to the Lands Tribunal for modification or discharge of the covenant. This would possibly prevent the Council controlling the variation of the covenant and would prejudice the financial benefit that the Council would receive from its variation.
- 2.5 In anticipation of the school closure, O2 submitted a planning application for the erection of a 6.5 meter tower at Owton Manor Social Club which was refused in October 2007 as follows:
1. *It is considered that the proposed lattice tower by reason of its siting, height and design would appear unduly large and intrusive to the detriment of the visual amenities of the occupiers of nearby housing and the area generally contrary to policies GEPI and PU8 of the adopted Hartlepool Local Plan 2006.*
 2. *In the opinion of the Local Planning Authority it is considered that the proposed mast by reason of its siting close to housing, in circumstances where there are significant public concerns and anxieties about the affects on human health of radio frequency radiation, could be detrimental to the well-being and amenities of the occupiers of that housing contrary to policies GEPI and PU8 of the adopted Hartlepool Local Plan 2006.*
- 2.6 O2 were informed that the Council did not consider further negotiation possible in light of this refusal, however the agents acting on behalf of the Social Club have expressed a desire to obtain a decision from Portfolio Holder on this matter.

3. FINANCIAL IMPLICATIONS

The financial implications of this proposal are contained within the attached confidential **Appendix 2. This item contains exempt information under Schedule 12A of the Local Government Act 1972, (as amended by the Local Government (Access to Information)(Variation) Order 2006) namely, Information relating to the financial or business affairs of any particular person (including the authority holding that information).**

4. RECOMMENDATIONS

- 4.1 That Portfolio Holder considers the variation of covenant subject to the terms proposed.

Location Plan



FINANCE AND EFFICIENCY PORTFOLIO

Report To Portfolio Holder

27th February 2008



Report of: Head of Procurement and Property Services

Subject: ADULT TRAINING CENTRE, WARREN ROAD,
HARTLEPOOL INDUSTRIAL ESTATE,
HARTLEPOOL

SUMMARY

1. PURPOSE OF REPORT

To obtain Portfolio Holder approval to a variation in the User Covenant and terms of the existing 99 year lease.

2. SUMMARY OF CONTENTS

The report contains the background to the proposed variations in the existing Lease of the premises and detailed negotiations that have taken place.

3. RELEVANCE TO PORTFOLIO MEMBER

Portfolio Holder has responsibility for the Council's Land and Property Management.

4. TYPE OF DECISION

Non-key.

5. DECISION MAKING ROUTE

Portfolio Holder only.

6. DECISION(S) REQUIRED

That Portfolio Holder approves the variation in the terms of the existing lease.

Report of: Head of Procurement and Property Services

Subject: ADULT TRAINING CENTRE, WARREN ROAD,
HARTLEPOOL INDUSTRIAL ESTATE,
HARTLEPOOL

1. PURPOSE OF REPORT

- 1.1 To obtain Portfolio Holder approval to a variation in the User Covenant and terms of the existing 99 year lease.

2. BACKGROUND

- 2.1 On the 19th October 1978 the then English Industrial Estates Corporation granted a 99 year building lease to the then Cleveland County Council for the purposes of the erection of an Adult Training Centre at Warren Road on the Hartlepool Industrial Estate. The original rental was the annual sum of £1250 which was reviewable at twenty year intervals throughout the 99 year term. This lease was transferred to Hartlepool Borough Council at the time of Local Government reorganisation and subsequently the Ground Rent was reviewed in accordance with the Ground Lease in 1998 to the annual sum of £7,400.
- 2.2 Since the demise of English Industrial Estates Corporation, the new Landlord in this matter is Landmaster Properties Limited, 115 Craven Park Road, London N15 6BL.
- 2.3 Within the existing Lease there is a restriction on the use to which the premises can be put, namely the industrial training of adults or the business of industrial manufacture and associated storage.
- 2.4 The NHS Trust of the Tees, Esk and Wear Valley propose to integrate a team with Hartlepool Borough Council to be located at Warren Road. The NHS Team under the commission of the Hartlepool PCT would comprise community nursing team personnel from allied health professionals currently based at Hart Lane. This will involve the usage of the premises, to the extent of their occupation, being utilised for office purposes and this raises the question of a prospective change of use within the Lease document.

3. FINANCIAL IMPLICATIONS

- 3.1 The proposed terms of this variation to the existing Lease are as follows and contained within Confidential Appendix 1.

This item contains exempt information under Schedule 12A of the Local Government Act 1972, (as amended by the Local Government (Access to Information)(Variation) Order 2006) namely, information relating to the financial or business affairs of any particular person (including the authority holding that information).

4. RECOMMENDATIONS

- 4.1 That Portfolio Holder approves the provisional terms proposed.