



Chief Executive's Department
Civic Centre
HARTLEPOOL

8 October, 2012

The Mayor (Stuart Drummond)

Councillors Ainslie, C Akers-Belcher, S Akers-Belcher, Beck, Brash, Cook, Cranney, Dawkins, Fisher, Fleet, Gibbon, Griffin, Hall, Hargreaves, Hill, Jackson, James, Lauderdale, A E Lilley, G Lilley, Loynes, Dr. Morris, Payne, Richardson, Robinson, Shields, Simmons, Sirs, Tempest, Thompson, Wells and Wilcox.

Madam or Sir,

You are hereby summoned to attend a meeting of the COUNCIL to be held on THURSDAY, 18 October, 2012 at 7.00 p.m. in the Civic Centre, Hartlepool to consider the subjects set out in the attached agenda.

Yours faithfully

N Bailey
Acting Chief Executive

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COUNCIL AGENDA



18 October 2012

at 7.00 p.m.

**in the Council Chamber,
Civic Centre, Hartlepool.**

1. To receive apologies from absent members.
2. To receive any declarations of interest from members.
3. To deal with any business required by statute to be done before any other business.
4. To receive questions from and provide answers to the public in relation to matters of which notice has been given under Rule 10.
5. To approve the minutes of the last meeting of the Council held on 13 September 2012 and the Special Meeting of Council held on 4 October 2012, as a correct record (copies attached).
6. Questions from Members of the Council on the minutes of the last meeting of the Council.
7. To answer questions of members of the Council under Council Procedure Rule 11;
 - (a) Questions to members of the Executive about recent decisions of the Executive (without notice)
 - (b) Questions to members of the Executive and Chairs of Committees and Forums, for which notice has been given.
 - (c) Questions to the appropriate members on Police and Fire Authority issues, for which notice has been given. Minutes of the meetings of the Cleveland Police Authority held on 7 August 2012 are attached.
8. To deal with any business required by statute to be done.
 - (a) Special Urgency Decisions – No special urgency decisions were taken in respect of the period July 2012-September 2012.

9. To receive any announcements from the Chair, the Mayor, members of the Cabinet or the head of the paid service.
10. To dispose of business (if any) remaining from the last meeting and to receive the report of any scrutiny forum or other committee to which such business was referred for consideration.
11. To receive reports from the Council's committees and working groups other than any overview and scrutiny committee and to receive questions and answers on any of those reports;

(a) Report of Appointments Panel

(b) Report of Constitution Committee

12. To consider any other business specified in the summons to the meeting, including consideration of reports of the overview and scrutiny committees for debate and to receive questions and answers on any of those items;
13. To consider reports from the Executive:-

(a) Proposals in relation to the Council's budget and policy framework

(b) Proposals for departures from the budget and policy framework

Empty Homes Scheme – Progress and Expansion including Outcome of HCA Empty Homes Cluster Fund Bid.

14. To consider any motions in the order in which notice has been received.

'In accordance with the resolution of this Council on 12 April 2012 to establish a specific Family Poverty Reserve from the final 2011/12 outturn that this Council resolves to make a payment from this reserve of £10,000 to be allocated to the Hartlepool Foodbank and authorise the Chief Executive to formalise the arrangements for the payment of this funding. This will endeavour to support Hartlepool families suffering exceptional hardship in this time of great need and economic crisis.'

Signed by:

Councillor C Akers-Belcher

Councillor K Cranney

Councillor J Ainslie

Councillor A Wilcox

Councillor S Akers-Belcher

15. To receive the Chief Executive's report and to pass such resolutions thereon as may be deemed necessary.

COUNCIL

MINUTES OF PROCEEDINGS

13 September 2012

The meeting commenced at 7.00 pm in the Civic Centre, Hartlepool

PRESENT:-

The Chairman (Councillor S Akers-Belcher) presiding:

The Mayor, Stuart Drummond

COUNCILLORS:

Ainslie	C Akers-Belcher	Beck
Brash	Cook	Cranney
Dawkins	Fisher	Fleet
Griffin	Hall	Hargreaves
Hill	Jackson	James
Lauderdale	A Lilley	G Lilley
Loynes	Dr. Morris	Payne
Richardson	Robinson	Shields
Simmons	Sirs	Tempest
Thompson	Wells	Wilcox

Officers: Nicola Bailey, Acting Chief Executive
Andrew Atkin, Assistant Chief Executive
Peter Devlin, Chief Solicitor
Sally Robinson, Assistant Director (Prevention, Safeguarding and Specialist Services)
Dave Stubbs, Director of Regeneration & Neighbourhoods
Louise Wallace, Director of Public Health
David Cosgrove and Amanda Whitaker, Democratic Services Team

48. APOLOGIES FOR ABSENT MEMBERS

Councillor Gibbon

49. DECLARATIONS OF INTEREST FROM MEMBERS

None

50. BUSINESS REQUIRED BY STATUTE TO BE DONE BEFORE ANY OTHER BUSINESS

None

51. PUBLIC QUESTION

- (i) Question from C Blakey to Regeneration and Neighbourhoods Portfolio Holder

“In light of topical debate around planning for housing developments, why did Hartlepool Borough Council not have checks and balances in place to ensure that houses are built for the residents (whether current or future) of Hartlepool rather than builders and in the experience of Middle Warren Housing Estate, what is HBC going to learn from the fact that residents are left to point out lack of parking, dangerous roads and controversial siting of play parks, resulting in huge delays in building of essentials such as a play park and rifts across what could be a fabulous new community in Hartlepool?”

The Mayor responded that Middle Warren, as a housing estate, had been sold by Cleveland County Council. It was highlighted that large scale housing developments within Hartlepool as with other places go through stringent consideration by a multitude of teams within the Council and third parties prior to any decision being made, in this instance the Middle Warren housing estate was being developed on a phased basis in accordance with the overall Masterplan for the area which was granted consent in 1997. All applications received were subject to public consultation to enable residents to have their say, and local knowledge provided by residents responses were taken into account during the determination of any application.

In terms of the delays to the implementation of the park with Middle Warren, the developer had submitted a planning application at the appropriate time required by virtue of the Masterplan. The Mayor considered that it was unfortunate that there had been delays in the park being progressed. However this had been due to the developer trying to improve the design to benefit the residents of the neighbouring Hartfields development, a revised planning application had been submitted and was currently being processed.

The Mayor concluded his response by expressing concern at the potential implications of a recent Government announcement of consultation in relation to the relaxation of permitted development rights.

Supplementary questions were asked at the meeting in relation to whether ‘lessons had been learnt by the Council’ and how much support would the Mayor give to the new community group which was being established. The Mayor responded that although he was not a member of the Planning Committee, he had received correspondence both for and against the siting of a play park. The Mayor expressed his support for a play park and advised that the

Developer had tried to appease as many people as possible and wanted to fulfil their obligations. The Mayor highlighted that the Planning Committee was a quasi judicial function and assumed that the Committee would consider any representations which were submitted.

Members debated issues which had been raised by the question including a debate which had taken place at the Planning Committee regarding the findings of the Updated Tees Valley Strategic Housing Market Assessment. Ward Members expressed their support of the concerns which had been expressed and responded to the issues which had been raised. Further background information was presented by the Chair of the Planning Committee who also reiterated the concerns which had been expressed by the Mayor in relation to the Government Announcement of consultation in relation to the relaxation of permitted development rights.

- (ii) Question from F Corbett to Finance and Corporate Services Portfolio Holder

“Can you inform me of the total mileage allowance paid to HBC staff in the last full year that figures are available & what is the actual figure per mile paid by HBC”

The Finance and Corporate Services Portfolio Holder advised that in 2011/12, the Council had paid total mileage costs of £453,161. The Council's mileage rate was based on the rates agreed at a national level for Council employers, which for 2011/12 was 52.2p for the first 8500 miles per year. For any mileage above 8500 per year the mileage rate reduced to 14.4p.

In response to supplementary questions, the Portfolio Holder advised that he would find out the percentage of Council staff who received a mileage allowance and respond to Mr Corbett by letter. The Portfolio Holder also agreed to give consideration to reducing the mileage rate to that rate approved by the Inland Revenue. Mr Corbett suggested that the savings achieved by the reduction in the mileage rate could be used to reinstate bus services.

- (iii) Question from D Riddle to Mayor

“Could the Mayor provide an update as to the progress of the retail revival strategy please?”

The Mayor responded by advising that a report on the Hartlepool Retail Revival Strategy had been submitted to his Regeneration and Neighbourhoods Portfolio meeting on 24th August and a further report would be submitted to his Portfolio meeting on 26th October. The Mayor also provided the background to the Strategy.

A supplementary question was raised in relation to the level of funding which had been received by Stockton (£38million) compared to Hartlepool (£100,000) with the views of the Mayor sought on which Strategy he considered would be most successful. In response, the Mayor highlighted that this Council had been unsuccessful in its 'Portas bid'. The Mayor acknowledged that, with the funding

which was available, it was not going to be possible to transform the shopping centre. However, the indoor market was being considered again together with business start ups. Concerns were expressed, by the Mayor, regarding the potential implications when existing shopping centre leases expired.

A further supplementary question sought information from the Mayor in relation to the percentage spent on physical infrastructure compared to intangibles which were less obvious such as spend on Consultants. In his response, the Mayor highlighted the excellent universities in the area who could potentially undertake some of the work. Consideration was being given also to improving indoor market signage and to car parking. The Mayor undertook to ensure that the limited funding was well spent and would make further information available publicly when that information was available.

Members debated issues arising from the question. Members expressed their support of any Strategy which improved the retail sector in Hartlepool. The potential role of students in supporting establishment of micro businesses was also highlighted together with commending the role of the Officers in reviewing the Council's procurement policy to support Hartlepool's businesses. Concerns relating to car parking issues in the town were also highlighted.

(iv) Question from S Moore to Mayor

"Mr Mayor, I was pleased to see a report from the Taxpayers Alliance earlier this month which commended this council for reducing the amount it spent on air travel over the past three years. Can you confirm if you, your cabinet, members & officers use information contained in reports from outside organisations like the TPA when working on budgets and looking for possible savings?"

The Mayor responded by highlighting the difficulties in using the type of reports referred to by the questioner, which related to spend already incurred, whilst setting a budget for the future. However, if information became available on budget management then it would be considered together with the outcome of the budget consultation which was undertaken.

A supplementary question referred to previous reports which had been published by the Taxpayers Alliance which stated that this Council paid £56,000 to two full time UNISON staff. The Mayor was asked if he considered it was fair for the Council to subsidise the Trade Union organisation. The Mayor responded that he was not aware of the background but would make enquiries and respond to the questioner. A further supplementary question sought an assurance that consideration would be given to only funding that element of trade union work that was required by law. The Mayor reiterated that the budget is considered closely and ultimately the budget was set by full Council.

During the discussion which followed, tribute was paid to the work undertaken by Trade Unions in supporting public sector employees.

52. MINUTES OF PROCEEDINGS

The Minutes of Proceedings of the Council held on the 2 August 2012, having been laid before the Council.

RESOLVED - That the minutes be confirmed.

The minutes were thereupon signed by the Chairman.

53. QUESTIONS FROM MEMBERS OF THE COUNCIL ON THE MINUTES OF THE PREVIOUS MEETING OF THE COUNCIL

None

54. QUESTIONS FROM MEMBERS OF THE COUNCIL

- (a) Questions to Members of the Executive about recent decisions of the Executive

None

- (b) Questions to Members of the Executive and Chairs of Committees and Forums, for which Notice has been given

None

- (c) Questions to the appropriate Members on Police and Fire Authority issues, for which notice has been given.

Minutes of the meetings of the Cleveland Police Authority held on 14 June 2012 and the meetings of the Cleveland Fire Authority held on 8 June 2012 and 22 June 2012 had been circulated.

55. BUSINESS REQUIRED BY STATUTE

- (i) Report on Special Urgency Decisions

It was reported that no special urgency decisions had been taken in respect of the period April 2012-June 2012.

56. ANNOUNCEMENTS

The Mayor announced that a Face the public event (Safer Hartlepool) was to be held at the College of Further Education on 18th September 2012.

57. TO DISPOSE OF BUSINESS (IF ANY) REMAINING FROM THE LAST MEETING AND TO RECEIVE THE REPORT OF ANY SCRUTINY FORUM OR OTHER COMMITTEE TO WHICH SUCH BUSINESS WAS REFERRED FOR CONSIDERATION.

None

58. TO RECEIVE REPORTS FROM THE COUNCIL'S COMMITTEES AND WORKING GROUPS

- (i) Report of Constitution Committee – Consultation on Code of Independence for Local Government

The Vice Chair of the Constitution Committee presented the report which set out the Political and Constitutional Reform Select Committee's consultation on a Code of Independence for Local Government. The Code was intended to formally state through legislation "the principles and mechanics of the relationship between central and local government".

The consultation had been initially considered by the Constitution Committee on 24th August, 2012. The Committee had recommended that this item should be placed before Council for a debate and such response to the Select Committee as Council deemed appropriate. This initiative had the support of the Local Government Association and comments had been invited on or before Friday 5th October, 2012. A model resolution as produced through the Local Government Association was set out within the report.

Following presentation of the report, concerns were expressed with the Code of Independence. Views were expressed that Successive Government's had eroded the financial viability of Local Authorities. It was highlighted that the Comprehensive Spending Review had had an impact on Hartlepool equivalent to a cut of £200 for every resident over a 3 year period. Hartlepool was now disproportionately disadvantaged by the current Central Government Grant Regime due to the current system failing to recognise our borough's high levels of deprivation. There was no dispute with the principles and mechanics of the relationship with central government being formally stated in legislation if and when the Government redresses the balance in grant allocation so as not to permanently disadvantage Hartlepool.

The main concern in the documentation related to Article 7 pertaining to Local Government Financial Integrity which stated "Equalisation will be conducted by an independent equalisation board, on an annual basis". The principle of autonomy and independence was accepted, as alignment between Central and Local Government financial processes were required to add certainty and consistency to financial planning.

It was considered that the proposed code of independence would ultimately mean a permanent change to the current settlement between Central and Local Government. At the present time, until equalisation was addressed, it was not considered to be acceptable. It would, in its current format, embed the

detrimental impact of the Comprehensive spending review. This permanence could deliberately deny those Local Authorities hardest hit, like Hartlepool, the ability to prosper and deprivation needed to be reinstated within Central Government grant allocation. It was further considered that concerns had been realised as Clause 4 of Article 7 rested on the assumption that the existing rules would be agreed for equalisation and the current mechanism for allocation would continue. If this continued it would affect long term ability to borrow and affect the Council's credit rating.

In terms of the indicative draft resolution which had been circulated, support was expressed in relation to the following:-

1. This Council recognises the stated aim of Governments to decentralise powers and increase local democratic accountability
2. Council also recognises there is an appetite for more opportunities for local decision- making and greater freedom from centralised control.
3. Council welcomes:
 - a) the joint campaign between the Local Government Association (LGA) and Political and Constitutional Reform Select Committee (PCRSC) to stimulate debate about the relationship between central and local government
 - b) the opportunity, through the Select Committee's inquiry on the prospects for codifying the relationship between central and local government, to comment on these issues.

Members spoke in support of the views which had been expressed.

It was agreed unanimously that a response should be submitted on behalf of the Council encapsulating the comments which had been made at the meeting.

59. TO CONSIDER ANY OTHER BUSINESS SPECIFIED IN THE SUMMONS OF THE MEETING

None

60. REPORT FROM THE EXECUTIVE

- (a) Proposals in relation to the Council's budget and policy framework

None

- (b) Proposal for Departure from the Budget and Policy Framework

None

61. MOTIONS ON NOTICE

None

62. CLEVELAND POLICE AND CRIME PANEL

The Acting Chief Executive reminded Members that the Police Reform and Social Responsibility Act, 2011, provided for each police area to have a Police and Crime Panel, with the specific function of scrutinising the actions and decisions of the Police and Crime Commissioner for the police area. The Panel was to consist of twelve elected councillors and two independent members, divided as follows;

Stockton on Tees – 4 members
Middlesbrough – 3 members
Redcar and Cleveland – 3 members
Hartlepool – 2 members

Council had previously been informed of representations as made to the Home Office to increase the representation of Hartlepool upon the Panel. The Home Office had asserted '*the best panels will be those that are agreed and established locally; Home Office intervention is intended to be a measure of last resort only*'. It would appear that if the Home Office were to intervene, seats would be allocated so far as was reasonably practicable, upon the 'balanced appointment objective' which would not lead to an '*equal split*' amongst the local authorities comprising the Cleveland Police force area.

It was noted that the 2011 Act at schedule 6 paragraph 33 placed a duty upon a local authority to nominate the elected mayor to be a member of the panel. On the basis of the political make up of the Cleveland police area and in order to achieve so far as reasonably possible, the 'balanced appointment objective' the other Council nomination would be from the Labour Group. Stockton Borough Council are the host authority for the Cleveland Police and Crime Panel and 'shadow' arrangements have already come into being with discussions upon panel arrangements including relevant terms of office, rules of procedure and it was highlighted that the panels would allow the use of substitute members, provided those Members have undergone appropriate training. Council was therefore requested to invite a nomination from the Labour Group and for each representative to the Panel to nominate a substitute to facilitate arrangements and the workings of the Panel.

RESOLVED – That the nomination of Councillor Richardson (substitute Cllr C Akers-Belcher) received from the Labour Group for appointment to the Cleveland Police and Crime Panel be approved and that it be noted that the Elected Mayor (substitute Councillor Hill) has also been duly nominated to the Panel.

63. ADDITIONAL COUNCIL MEETING

The Acting Chief Executive reported that the Government was implementing new arrangements which would come into effect for 2013/14 to replace the existing national Council Tax Benefit System with Local Council Tax Support schemes approved individual Authorities. Individual authorities needed to

approve their local schemes before 31st January. Therefore, an additional ordinary meeting of Council was required to approve the Local Council Tax Support Scheme for 2013/14.

RESOLVED – That the convening of an additional meeting of Council at 7.00pm on 24 January 2013 be approved.

64. JOB EVALUATION APPEALS

On 24th August, 2012, a report had been submitted to the Constitution Committee at the Committee's request, providing additional information in relation to the Job Evaluation Appeals process. Subsequently, a request had been made through the Committee for that information to be shared by Council. The Business Report therefore drew from that earlier report with minor supplementary up-dating.

Members were reminded that the Single Status Agreement which incorporated a revised pay and grading structure was implemented with effect from 1st April, 2007 although final agreement was not obtained until the following year. The National Job Evaluation (JE) Scheme comprised 13 factors, each with a different weighting and each factor had a number of levels which then equated to a particular number of JE points. Job Evaluations were undertaken by trained, experienced Job Analysts and the scheme was applied consistently thereby ensuring the robustness of the Council's pay and grading structure. Employees had the right to appeal against the outcome of Job Evaluation in respect of their posts. A significant number of appeals had been submitted and then determined by an Appeals Panel and ratified by the relevant Executive Member with responsibility for workforce matters and the appropriate governing body in relation to schools. It had been noted that employees also had the right to pursue an equal pay claim before an Employment Tribunal.

The National Agreement at Part 4 included the following guidance;

“The appeal will be heard by a joint panel at authority level. The panel will consist of representatives from the recognised Trade Unions and management and/or elected Members. An Independent Person may be appointed to chair the panel”.

It was noted that the National Agreement also indicated that any decision of the Panel should be considered as being final and that equality training was essential for all Union and employer representatives who were involved in the Job Evaluation process. On 17th March, 2008, Cabinet had considered representations received through the Trade Unions that “it is essential that the employees have trust in the appeals process and the Trade Unions welcome the acceptance of a “totally” Independent Chair for the Appeals Panel”. It was therefore determined as part of the Executive decision making, that the Appeals Panel would comprise an Independent Chair, Senior HR representation, together with senior Trade Union representation, all of whom had been trained in the Job Evaluation Scheme. The Appeals Panel had therefore operated since 1st July, 2008, with one management representative and one Trade Union official, with an Independent Chair, all of whom had been trained in the

use of the scheme. Once the remaining 5 appeals arising from the implementation of the Single Status Agreement/revised pay and grading structure had been fully addressed, the composition of the Appeals Panel would change to two management representatives and two Trade Union officials (with no Independent Chair) all of whom would have been trained in the use of the scheme. Exceptionally, where the Appeals Panel had a “failure to agree” the Regional Joint Secretaries would be requested to assist. If no agreement could subsequently be reached, the original match and pay band would apply. This approach was consistent with other Councils regionally.

Members were advised that the Trade Unions had previously commented as follows;

“The Trade Unions are confident that the current agreed process will resolve the majority of Job Evaluation appeals in accordance with the agreed Job Evaluation Scheme. It was the stated contention of HJTUC throughout the negotiations to maintain the independent element of a JE appeals process and in the event of a “failure to agree” this was achieved through the inclusion of referral to the Regional Joint Secretaries in accordance with the National Guidance and as inserted in Part 3 SSA (current process) and Part 2 SSA (future process). HJTUC are therefore satisfied to maintain the current process as stated within Part 2 and 3 of the agreed SSA”.

A further meeting had been held with Trade Union representatives on 6th September, 2012 wherein there was a reaffirmation of the Trade Union position, as mentioned above. Further, it was accepted that any suggested change should only come through full and proper consultation and where there was justification for the same. The Chief Solicitor’s advice was contained within the report of the Constitution Committee on 24th August, 2012 which noted that the current Appeals Panel operated in accordance with the terms of the National Agreement. The Chief Solicitor also made comment that any suggested change “*should be based on a clear rationale for doing so, at a suitable juncture and following appropriate consultation*”.

Members were asked to note the information contained within the report, the commentary provided through the Trade Unions and that of the Council’s Chief Solicitor. If Members wished to initiate any change to the Job Evaluation appeals process, then they were reminded that under the Council’s Constitution any “*changes to existing policies and procedures likely to have a significant impact on service provision or the organisation of the Council*” is the preserve of the Council’s Executive. In addition, it was highlighted that the Council could be exposed to significant risk in the absence of a clear justification for any change, adequate reasoning behind such a change, and supported through full and meaningful consultation.

During the discussion which followed presentation of the report, Members discussed issues relating to the background to the exclusion of Members in the composition of the Appeals Panel. Views were expressed that Member involvement in the Panel was necessary to provide a greater safeguard to staff and reference was made to the terms of a new national Agreement. The Chief

Solicitor reiterated comments made by the Mayor regarding it being the responsibility of the Executive to consider any changes to existing policies and procedures likely to have a significant impact on service provision or the organisation of the Council. Concerns were expressed also in relation to changing procedures at this late stage in the process.

It was moved and seconded:-

‘That the issue of Member involvement in Job Evaluation appeals be referred back to the Constitution Committee for further consideration and for a recommendation to be made to Council’.

In accordance with Council Procedure Rule 17.4 of the Constitution a recorded vote was taken:-

Those in favour:

Councillors Ainslie, C Akers-Belcher, S Akers-Belcher, Beck, Brash, Cook, Cranney, Dawkins, Fisher, Fleet, Griffin, Hall, Hargreaves, Jackson, James, Loynes, Morris, Payne, Richardson, Robinson, Shields, Simmons, Sirs, Tempest, Wells and Wilcox.

Those against:

The Mayor, Stuart Drummond, Councillor Hill, Lauderdale, A Lilley, G Lilley and Thompson

Those abstaining:

None

The vote was carried.

65. COUNCILLOR TURNER RESIGNATION

The Acting Chief Executive reminded Members of the recent resignation of Councillor Mike Turner. Arrangements were in place for the resulting by-election.

The following vacancies arose as a consequence of the resignation:-

Member Audit Committee
Vice-Chair Audit Committee
Member Regeneration and Planning Services Scrutiny Forum

Members expressed their concern at the financial implications for the Council arising from the by-election having to be held within weeks of the Referendum/Police Commissioner election, as a result of a request by two electors. Information sought in relation to the costs arising from the by-election

was not available at the meeting. It was agreed that information relating to the by-election costs be circulated to all Members of the Council.

RESOLVED – (i) That the Chair of Council write to Mike Turner on behalf of Council thanking him for his service.
(ii) That the Committee/Forum vacancies be considered further following the by-election.

66. COUNCIL MEETING – CHANGE OF DATE

Further to minute 65, Members were reminded that the date of the by-election in the Seaton Ward is 25th October 2012. The date of the next Ordinary meeting of Council was also scheduled for 25th October.

Following consultation with the Chair, Council was requested to approve a change in the date of the Council meeting from 25th October to 18th October at 7p.m.

RESOLVED – That the date of the Council meeting be changed from 25th October 2012 to 18th October 2012.

The meeting concluded at 8.40 p.m.

CHAIR

SPECIAL COUNCIL

MINUTES OF PROCEEDINGS

4 October 2012

The meeting commenced at 7.00 pm in the Civic Centre, Hartlepool

PRESENT:-

The Chairman (Councillor S Akers-Belcher) presiding:

COUNCILLORS:

Ainslie	C Akers-Belcher	Beck
Brash	Cook	Cranney
Dawkins	Fleet	Gibbon
Griffin	Hall	Jackson
James	Lauderdale	Loynes
Richardson	Robinson	Shields
Simmons	Sirs	Thompson
Wells	Wilcox	

Officers:

Nicola Bailey, Acting Chief Executive
Andrew Atkin, Assistant Chief Executive
Peter Devlin, Chief Solicitor
Chris Little, Chief Finance Officer
Sally Robinson, Assistant Director (Prevention, Safeguarding and Specialist Services)
Dave Stubbs, , Director of Regeneration & Neighbourhoods
Louise Wallace, Director of Public Health
Amanda Whitaker, Democratic Services Team

67. APOLOGIES FOR ABSENT MEMBERS

The Mayor, Stuart Drummond and Councillors Hargreaves, G Lilley, Morris, Payne and Tempest

68. DECLARATIONS OF INTEREST FROM MEMBERS

None

69. BUSINESS REQUIRED BY STATUTE TO BE DONE BEFORE ANY OTHER BUSINESS

None

70. HONORARY ALDERMAN

Motion made by the Chairman, Councillor S Akers-Belcher and seconded by Councillor James:-.

“That this Council, in appreciation and recognition of the eminent service rendered to the Borough of Hartlepool by Arthur Preece, and in pursuance of Section 249(5) of the Local Government Act, 1972, do hereby admit the said Arthur Preece to be Honorary Alderman of the Borough of Hartlepool.”

Councillor Richardson addressed the Council in proposing Arthur Preece.

Councillor Wells addressed the Council in seconding Arthur Preece

Motion put and unanimously agreed.

The Chairman congratulated Alderman Preece on his honour.

Alderman Preece accepted the title of Honorary Alderman and signed the Roll of Honorary Aldermen.

Alderman Preece addressed the Council in suitable terms.

The Chairman concluded the meeting and invited Members, Officials and Guests to partake of light refreshment.

The meeting concluded at 7.15 p.m.

CHAIR

CLEVELAND POLICE AUTHORITY EXECUTIVE

The meeting of Cleveland Police Authority Executive was held on Tuesday 7 August 2012 in the Members' Conference Room at Police Headquarters.

PRESENT: Mayor Stuart Drummond (Chair), Councillor Ray Goddard, Councillor Terry Laing, Councillor Ron Lowes, Councillor Sean Pryce, Councillor Carl Richardson, Councillor Norma Stephenson and Councillor Bernie Taylor. Miss Pam Andrews-Mawer, Mr Chris Coombs, Mr Ted Cox JP, Mr Geoff Fell, Mr Peter Hadfield and Mr Aslam Hanif (Vice Chair).

OFFICIALS: Mr Stuart Pudney, Mr Michael Porter, Mr Len Miller, Miss Jenny Yates and Miss Rachelle Kipling.

Mrs Jacqui Cheer, Mr Sean White, Ms Maria Hopper and Miss Kate Rowntree.

APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillor Chris Abbott and Mr Mike McGrory JP.

DECLARATIONS OF INTERESTS

Mr Peter Hadfield declared an interest in item number 10 as he was recently appointed to take part in a misconduct hearing.

There were no further declarations of interest.

MINUTES OF THE PREVIOUS MEETING – POLICE AUTHORITY EXECUTIVE ANNUAL GENERAL MEETING HELD ON 14 JUNE 2012

An amendment was made to minute 26 order number 2. It currently read prudency... this was replaced with prudent avoidance.

The minutes were accepted as a true record of the meeting.

CHARGING FOR NON-POLICE PERSONNEL VETTING (NPPV) – THIRD PARTY CONTRACTORS ONLY

The Chief Constable presented the report detailing the introduction of charging for a police vetting service, for third party contractors only.

The Force Vetting Officer informed Members that the costing being introduced would include new contracts only, so in the future would be as and when a new contract was awarded.

ORDERED that:

1. The Authority agreed the charging for Non-Police Personnel Vetting (NPPV) to third party contractors as set out in the report.

ESTABLISHMENT OF AN AUDIT COMMITTEE

The Treasurer informed members that the purpose of the report was

to update on the progress to establish an Audit Committee, to be in place post election of a Police and Crime Commissioner (PCC), to which the PCC and Chief Constable would report on audit and governance matters, as required by the Financial Management Code of Practice (FMCP).

Members were informed that this report had been considered and approved by the Transition Programme Board on 24 July 2012.

Members asked if it was possible for the current Audit Panel arrangements to remain.

The Treasurer informed Members that it would not be possible as Members need to be independent of the Police and Crime Panel and local councils.

The Chief Executive added that the recommendations within the report allowed for any current Audit Panel Member to apply and be put on a long list for selection by the Police and Crime Commissioner once elected.

ORDERED that:

The Authority endorsed the proposals set out in the paper for the establishment of an Audit Committee, accepting that the ultimate decision will rest with the Police & Crime Commissioner.

AMENDMENT TO STANDING ORDERS – SUBSTITUTE MEMBERS

The Chief Executive presented the report to Members informing them that Standing Orders did not provide for circumstances where a member may act in a substitute capacity, when another member is unable to attend a meeting.

Members commented that this amendment was imperative and stipulated that it must be up to the individual, to decide and agree on the substitute.

ORDERED that:

1. the Authority's Standing Order No. 7 be amended by the addition of the following paragraph:

'7.4 – If a Member of a Panel is unable to attend a meeting or any part of a meeting they can nominate another Member to act as their substitute. Subject to that other Member agreeing, the substitute should be declared and minuted at the start of the meeting where a substitute becomes necessary.'

Councillor Ron Lowes entered the meeting.

APPOINTMENT OF 'INDEPENDENT' MEMBERS TO SIT ON MISCONDUCT HEARINGS

The Chief Executive presented the report in order to appoint additional people to the list of independent people available to sit on misconduct hearings in accordance with regulations 25-27 be agreed;

ORDERED that:

1. the additional Members be appointed to the list of independent people available to sit on misconduct hearings from the existing membership of the Authority's Standards Committee and;
- 2 the Chief Executive (in consultation with the Chairman) be authorized to appoint additional people to the list of independent people available to sit on misconduct hearings from the lists of other Police Authorities if necessary.

ACPO CARS AND CAR ALLOWANCES

The Chief Executive presented the report to provide members with proposed changes to the terms of providing Authority purchased cars to the ACPO team within Cleveland and to also provide some clarity around the responsibility for the costs associated with these vehicles.

Members asked if the recommendations within the report are set by ACPO or the Authority.

The Chief Executive informed Members that parts of the recommendations were based on ACPO Guidance and these recommendations would be reviewed once the Police and Crime Commissioner was elected.

The Chief Executive explained that in relation to the recommendation that vehicles be changed after either 4 years or 100,000 miles, further work was needed on this to ensure that keeping vehicles for longer represented value for money in view of potentially increased repairs and maintainable costs. He therefore invited members to consider this recommendation as 'in principle' subject to further work. He explained that as none of the vehicles are due for changing in the next few months, the final decision on this could safely be left for the PCC.

Members queried if there were any tax implications for the Officers concerned.

The Chief Executive informed Members that the ACPO vehicles are not comparable with company cars as they are classed as Operational Vehicles.

Members commented on the requirement to make a log of all private/business mileage. The Chief Constable highlighted that this is not an issue and something which should be completed.

ORDERED that:

1. with immediate effect, the fixed rate charge for private

mileage for ACPO Officers, in Police Authority purchased vehicles is set at the rate recommended by HMRC, and updated annually in line with this rate be approved;

2. the Authority will pay for all maintenance and replacement of parts for the ACPO Vehicles, although general maintenance (i.e. valet and cleaning) will be the responsibility of the officer except where the vehicle is being used for operational purposes (e.g. Royal Visit) be approved;
3. in cases relating to ACPO Officers, the payments and type of vehicle is subject to approval by the Chief Constable be approved;
4. Authority owned ACPO vehicles have a log of all private/business mileage, by ensuring this log is maintained in line with the definition detailed at 3.10 of the report ensures the correct tax treatment of the vehicles can be assessed as 'benefit in kind' be approved and;
5. In principal although subject to further information, unless specifically approved by the Authority any vehicle provided to an ACPO Officer by the Police Authority can only be changed after either 4 years or 100,000 miles (which ever come sooner), and that the Authority is made aware of the decision to replace the vehicle, together with details of the proposed replacement, before any commitments are made be approved.

HOME OFFICE SPECIAL GRANT

The Treasurer presented the report to Members to provide an update on the application and approval for Special Grant to cover the costs of the on-going criminal investigation that is currently being undertaken by Warwickshire Police.

Members sought assurance that the grant received would be returned to the general fund.

This assurance was given.

ORDERED that:

1. the award of the grant from the Home Office for the full costs incurred during 2011/12, on Operation Sacristy, of £1,616k and an agreement in principle from the Home Office to fund the costs during 2012/13 be noted;
2. that £1,410k from the grant be returned to the general fund and;
3. that the remaining £206k from the grant, is added to the Authority's Transition Earmarked Reserve.

AMENDMENTS TO THE MEMBERS' ALLOWANCE SCHEME

Peter Hadfield left the meeting and took no further part in this

agenda item.

The Chief Executive presented the report to provide for allowances for Police Authority Members who sit on lengthy Misconduct Panels.

Members queried whether this was a role expected of Members or if it was over and above what Members should be involved with.

The Chief Executive informed Members that upcoming hearings could potentially last weeks/ months so a lot of Members time could be required.

Members discussed the significant amount of responsibility a member would be facing in making decisions as apart of a misconduct hearing, with the hearing itself only being a small part of the task. Reading time would be considerable.

The Chairman highlighted that this item could be referred to the Standards Panel for a decision, as members' allowances was apart of the Standards Committee's remit.

ORDERED that:

1. the paper on Members Allowance Scheme be deferred to the Standards Panel for a decision and that the Authority would adopt whatever that committee decided.

CHIEF CONSTABLES APPOINTMENT

Mr Peter Hadfield returned to the meeting.

The Chief Executive gave a verbal update in relation to preparatory work in relation to the Chief Constable appointment.

The current Chief Constables contract expires on 31 March 2012. He explained that as approval had already been given to one contract extension, a further extension would not be approved by the Home Office. It was explained that if the contract was not extended then it is required that a 6 month notice be served.

The Home Office had advised that no advert can be placed for a new Chief Constable until the Police and Crime Commissioner (PCC) is in Office as the PCC must contribute to the advertisement.

Members asked for clarification that not extending the current Chief Constables contract had no connection to the current on-going investigations. The Chief Executive informed Members that it had nothing at all do with the current investigations and is a routine process following Home Office Guidance.

ORDERED that:

1. Mr Price's appointment as Chief Constable be ended when his current contract expires on 31st march 2013 and that he be served six month notice in accordance with Police Regulations and Home Office guidance.

Report of: Chief Executive Appointment Panel

Subject: CHIEF EXECUTIVE AND HEAD OF PAID SERVICE –
PROPOSED APPOINTMENT

1. Purpose of report

- 1.1 To inform Council of the Appointment Panel's proposed appointment to the post of Chief Executive and Head of Paid Service and to request Council's approval of this appointment.

2. Background

- 2.1 At its meeting on the 2 August 2012, Council established an Appointment Panel for the Chief Executive and Head of Paid Service post. The Panel was appointed in accordance with the Council's Constitution and, as provided for in the Constitution and the relevant statutory instruments, has been responsible for discharging all the functions of the appointment process
- 2.2 The Panel has met on a number of occasions. The Panel determined the job description, person specification and recruitment process. Following the advertising of the post, the process has involved:
- ◆ Shortlisting;
 - ◆ Stakeholder Panels
 - ◆ Interview.
- 2.3 Following the interview of shortlisted candidate, which took place on 25th September 2012, the Appointment Panel agreed unanimously to the appointment of Dave Stubbs, who is currently the Council's Director of Regeneration & Neighbourhoods. There has been no objection from the Executive.
- 2.4 The Panel was appointed by the Council to discharge the functions of recruitment and appointment. Before the appointment can be made, there is a statutory requirement for the full Council to approve the appointment. The approval comes at the end of the recruitment process, which has involved the selection of a single candidate. It is not the role of the full Council at this stage to conduct a review of the decisions taken by the Appointment Panel in the discharge of their delegated powers nor to substitute its own view for that of the Panel as to matters such as experience or qualifications. The Council may only approve or fail to approve the appointment of the Panel's proposed appointee. The grounds on which the Council may decide not to approve the

appointment are limited. If the Council decides that the appointee is not a fit and proper person then it may decide not to approve the appointment. Deciding whether someone is or is not a fit and proper person does not involve reviewing his or her qualifications or experience, for example. The merits of the application already have been dealt with by the Appointment Panel. The considerations are, rather, the overall standing and integrity of the proposed appointee, whether there are any obvious bars to appointment (such as conflict of interest or a criminal record) and whether the appointee is, in general terms, of sufficient competence and ability to hold the post. The Appointment Panel considers that Dave Stubbs is suitable for the office of Chief Executive and Head of Paid Service.

3. Recommendation of the Appointment Panel

- 3.1 The Appointment Panel wishes to appoint Dave Stubbs as the Council's Chief Executive and Head of Paid Service and recommends that Council approves his appointment.

COUNCIL

18th October 2012



Report of: Constitution Committee

Subject: BUSINESS REPORT

1. COUNCIL PROCEDURE RULE 17 (VOTING)

- 1.1 For the Borough Council and other 'principal authorities', the actual method of voting is not prescribed by statute. In the case of Parish and Community Councils formal voting is by way of a "show of hands" unless Standing Orders/Procedure Rules provide otherwise. There has always been a convention that where appropriate, a certain proportion of Council could demand the taking of a recorded vote and this was accommodated within the Modular Constitution, as widely adopted by authorities following the introduction of the Local Government Act, 2000. This Council in their own Procedure Rules have similarly adopted the principle of majority vote (Procedure Rule 17.1 refers) and where there is an equality of votes then the Chair of Council shall have a second or casting vote. In addition, (Procedure Rule 17.2 refers) *"there will be no restriction on how the Chair chooses to exercise a casting vote"*.
- 1.2 In their discussions on the 24th August, 2012, the Constitution Committee agreed that certain matters, did not necessarily require a recorded vote. Similarly, unless there was a statutory requirement, appointments could conceivably proceed on a 'show of hands'. Further, largely procedural matters of Council business could proceed by way of affirmation through an absence of dissent, at the discretion of the Chair. Proposed amendments to Rule 17 are therefore set out below for the consideration of Council and the existing text of this procedure rule is to be found below in italics.

EXISTING RULE 17 VOTING

17.1 Majority

Unless the Council's Constitution provides otherwise, any matter will be decided by a simple majority of those Members voting and present in the room at the time the question was put.

17.2 Chair's casting vote

If there are equal numbers of votes for and against, the Chair will have a second or casting vote. There will be no restriction on how the Chair chooses to exercise a casting vote.

17.3 Ballot

A ballot shall be taken, if the Council decides, before the vote is taken on any question. The Chair will announce the numerical result of the ballot immediately the result is known.

17.4 Recorded Vote

Unless 17.3 applies, the Chair shall ensure that recorded votes are taken. The names of the Members of the Council voting for and against the motion or amendment, or abstaining from voting will be taken down in writing and entered into the minutes.

17.5 Voting on appointments

i) In a case where a single position is to be filled, the matter shall be determined according to the number of votes cast for each person nominated. If there are more than two people nominated for any position and the majority of votes cast is not in favour of one person, then the name of the person with the least number of votes will be taken off the list and a new vote taken. The process will continue until there is a majority of votes for one person.

ii) In a case where there is more than one identical position to be filled, if there are more nominations than the number of positions to be filled, the Council shall determine to apply either one of the following processes:-

(a) that each appointments be dealt with separately, in which case rule 17.6(i) shall apply,

or

(b) that the appointment shall be dealt with together, in which case the matter shall be determined by ballot, each member being entitled to vote for the same number of nominees as there are appointments to be made. At the conclusion of the ballot, the nominees shall be ranked according to the total votes cast in their favour, there being appointed such number of the highest ranking nominees as equal the number of the appointments to be made.

1.3 **PROPOSED AMENDMENTS TO RULE 17**

17. VOTING**17.1 Majority [as now]****17.2 Chair's casting vote [as now]**

New (reinstated and revised) clause 17.3 'Show of Hands'

17.3 Show of hands

'Unless 17.5 applies, the Chair will take a vote by a show of hands, or if there is no dissent, by the affirmation of the meeting'. The Chair shall confirm, in the absence of dissent, that this is the unanimous decision of Council.

Re-numbered clause 17.4 Ballot.

17.4 Ballot [text as now]

17.5 Recorded Vote [revised clause]

For Council decisions, other than where the Chair proceeds with the agreement of the meeting through a Show of Hands under Rule 17.3, *the Chair shall ensure that recorded votes are taken.* The Proper Officer of the Council shall take the vote by calling the names of Members and recording whether they voted for or against the motion or amendment thereto, or did not vote. The minutes will show whether a Member voted for or against the motion or any amendment or abstained from voting.

Revised and re-numbered Rule 17.6.

17.6 Voting on Appointments

‘Those entitled to vote shall each vote for only one person. If there is not a majority of those voting in favour of one person, the name of the person having the least number of votes shall be struck off the list and a fresh vote shall be taken, and so on until a majority of votes is given in favour of one person.’

RECOMMENDATIONS

That Council considers the amendments to Council Procedure Rule 17.

On being proposed and seconded, these amendments would stand adjourned to the next ordinary meeting of Council under Procedure Rule 24.2.

2. PROPOSED CHANGES TO THE CONTRACT PROCEDURE RULES (CPR's)

2.1 PURPOSE OF THE REPORT

- 2.1.1 To seek Council endorsement of proposed changes to the Contract Procedure Rules (CPR's) following consideration by the Constitution Committee on 4th October 2012.

2.2 BACKGROUND

- 2.2.1 There have been a number of recent changes, constitutionally, statutorily and in relation to new technology, which have impacted on the Council's procurement processes and practices and which have necessitated a review of the Council's Contract Procedure Rules (CPR's). Following this review it has become apparent that a number of changes are required to ensure that the CPR's accurately reflect these new and amended requirements.

- 2.2.2 To be more specific, details of these recent changes are described below:

- i) Removal of the Contract Scrutiny Committee and the creation of a Sub-Committee of the Audit Committee
- ii) Introduction of the Public Services (Social Value) Act 2012
- iii) A variety of changes in the use of technology in procurement processes
- iv) The implementation of the "Right to Challenge" element of the Localism Act.

- 2.2.3 The Audit Committee at its meeting on 20th July 2012 considered a report outlining the potential changes and endorsed the proposals for onward submission to the Constitution Committee. There were also a number of procurement procedural issues raised at the meeting that the Chair felt could be clarified together with the Contract Procedure Rule amendments. These were considered by the Constitution Committee at its meeting on 4th October 2012.

- 2.2.4 The proposed changes are detailed in **Appendix 1** (underlined) and summarised in the following sections.

2.3 INTRODUCTION OF THE AUDIT SUB-COMMITTEE

- 2.3.1 The role and remit of the Audit Sub-Committee has been agreed by the Audit Committee at its 14 June 2012 meeting. The Sub-Committee is made up of three Members and has the responsibility of:

- i) Receiving and examining tender lists
- ii) Opening and recording tenders

- iii) Periodically reviewing its effectiveness and reporting its findings to the Audit Committee

2.3.2 The former Contract Scrutiny Committee, is referred to on a significant number of occasions in the CPR's and as a result, all of these references require correcting in the document.

2.3.3 In addition to correcting the above invalid references, a number of elements have been added to the CPR's which relate to the implementation of e-procurement. Whilst the practicalities of these are described later in this report, there are a number of issues where the Audit Sub-Committee has a direct role to play in the e-procurement process. These are described in the following paragraphs:

- i) **Opening of e-tenders** – It is proposed that a change be made to the process of opening tenders to accommodate the new Sub-Committee and the corporate adoption of e-procurement processes.

The proposed opening process entails e-tenders being opened in the presence of the following:

A representative of the Corporate Procurement Team
A representative of the Service area involved in the procurement
The Chair of the Audit Sub-Committee or a nominee of the Chair, at the Chair's discretion

This is a similar process to that being operated by the vast majority of public authorities.

Following this opening it is proposed that a report detailing the outcome of the tender opening be compiled and presented to the Audit Sub-Committee for formal receipt and recording in line with its remit.

- ii) **Opening of written tenders** – Although now in the minority, there are some occasions where an e-tender is not a suitable process and a traditional non-electronic process is required.

In such circumstances, it is proposed that the Audit Sub-Committee take responsibility for the manual opening process (supported by Council officers) in line with its remit.

- iii) **Management of e-auctions** – An E-auction is an electronic procurement process which seeks to maximise value for money through creating an 'event' or 'auction' lasting a period of time at which Bidders are encouraged to submit increasingly low prices in order to win 'lots'. Due to the dynamic nature of this process, it is potentially problematic to apply the e-tender opening process (described at i) above, given the demands this can make on Audit Sub-Committee Members' time.

In order to address this, the following process is proposed:

- The Audit Sub-Committee will be advised of the e-auction event dates and times and arrangements made to accommodate any or all Members of the Sub-Committee at the live auction event.
- At an Audit Sub-Committee meeting in advance of the e-auction event, a report will be presented to the Sub-Committee which explains the structure of the e-auction event and the evaluation criteria which will be implemented.
- Following the e-auction event, a summary report will be compiled and presented at the next meeting of the Audit Sub-Committee to ensure the Sub-Committee formally receive and record the outcome of the e auction process.

2.4 INTRODUCTION OF THE PUBLIC SERVICES (SOCIAL VALUE) ACT 2012 AND THE LOCALISM ACT 2011 – COMMUNITY RIGHT TO CHALLENGE

2.4.1 The Public Services (Social Value) Act

This Act places a number of statutory obligations on the Council, in relation to certain elements of its procurement practices.

The Act applies to all contracts for services and framework agreements to which the Public Contracts Regulations 2006 ('the Regulations') apply, but not call-offs under those frameworks. In real terms this means that the Act only applies to services contracts with a value in excess of the current EU Public Procurement thresholds (currently £173,934 excl. VAT).

The Act does not apply to below threshold contracts or any works or supplies contracts. However, it is likely that 'mixed' contracts involving services will be subject to similar analysis as is currently undertaken in terms of the dominant value test.

As the Act covered service contracts as defined in the Regulations the duty appears to extend to Part B service contracts since these service

contracts are covered by the Regulations albeit the requirements for the procurement of such contracts are less onerous.

The Act also includes an amendment to section 17 of the Local Government Act 1988 (exclusion of non-commercial considerations in the case of local and other public authority contracts) which basically enables the Council to consider non-commercial matters when awarding business, provided this is done in pursuit of the duties imposed by the Public Services (Social Value) Act 2012.

2.4.2 The obligations placed on the Council in respect of the procurement activities identified above are that Council's must consider the following

when they 'propose to procure or make arrangement for procuring services:

- How what is being proposed to be procured might improve the economic, social and environmental wellbeing of the relevant area (and this is the Authority's own area (or combined areas if it is a joint procurement) in which it 'primarily exercised its functions')
- How, in conducting the procurement process, it might act with a view to securing that improvement (although the Act makes it clear, in order to remain inline with EU law, that anything under this limb must be relevant and proportionate in respect of the proposed contract);
- Whether they need to undertake any consultation about the two limbs of the duty as set out above.

2.4.3 Unfortunately there is currently no universal definition of 'social value' but Social Enterprise UK defines it as follows:

'It involves looking beyond the price of each individual contract and looking at what the collective benefit to a community is when a public body chooses to award contract. Social value asks the question: 'if £1 is spent on the delivery of services, can that same £1 be used, to also produce a wider benefit to the community.'

In other words, what are the additional benefits to the community, be they social, economic or environmental, which can come from this procurement process over and above the direct purchasing of the services?

In their 'Public Services (Social Value) 2012 – a brief guide', Social Enterprise UK provide a case study by way of an example of compliance with the Act. In this example, the London Borough of Waltham included a question in one of their tenders where they asked bidders to demonstrate how their operational model could contribute to the efficiencies and give added value to the service. The response to this question had a value of 10% of the available marks. This question gave bidders the space to set out the additional social impact of their approach, thereby allowing them to score highly on that section and satisfying the requirements of the Act.

This is a straightforward example and similar to questions the Corporate Procurement Team include in some of their tenders already. On that basis, compliance with the Act should not be unduly difficult.

2.4.4 In terms of the CPR's it is proposed that a new section be included which outlines the Council's approach to addressing the requirements of the Act. This proposed section would include the following:

- i) Reference to the Council's Key Social Values, as described in the Community Strategy

- ii) Confirmation that the Council will consider the issues outlined in the Act (see 2.4.2)
- iii) Confirmation that, where appropriate, procurement processes will include the facility to score added 'Social Value' as part of the evaluation criteria.

2.4.5 Localism Act 2011 – Community Right to Challenge

This Act brings with it a whole raft of legislation, but the proposed CPR changes in this document relate solely to the Community Right to Challenge part of the Act.

Briefly, this element of the Localism Act enables a 'relevant body' to make an expression of interest to a relevant authority (including the Council) to take over the running of relevant services. Relevant bodies as set out in the statutory guidance include voluntary and community bodies, charities, parish councils, two or more staff of the authority concerned and any other person or body specified by the Secretary of State by regulations.

The following proposed amendments are also contained in a report to Cabinet covering the introduction of the Community Right to Challenge legislation and the actions the Council needs to take to address these.

It is proposed that a new paragraph be included in the introduction of the CPR's under the heading '**Procurement Exercises undertaken as a result of a successful challenge under the Localism Act 2011**' which makes it clear that the CPR's will come into effect once a successful challenge has been made. The paragraph would also go on to emphasise the need for the Council to secure best value and to incorporate the requirements of the Public Services (Social Value) Act 2012 in any Localism related procurement activities.

Furthermore, reference would be made to the Council ensuring that evaluation and qualification criteria would not disadvantage the voluntary and third sector in competing for opportunities to run Council services.

Finally, reference would be made to the need for the Council to consider existing contractual obligations when timetabling procurement activity.

In addition to the above, it is proposed that an amendment be made to the paragraph which deals with '**The rules and an in-house provider**' to indicate that the Council's right to bring a service in-house as opposed to procuring it through a competitive procedure does not take precedence over our new obligation to competitively source a third party provider in the event of a successful challenge.

The final proposed 'Localism' related change to the CPR's relates to the '**Criteria for selection of Price/Performance and Partnering Contracts**'. It is proposed that an additional consideration point is

added which introduces the issue of the Council pursuing its agenda in relation to the 3rd and Voluntary sectors when deciding its contracting strategy.

2.5 CHANGES IN THE USE OF TECHNOLOGY AND OTHER PROCEDURES IN PROCUREMENT PROCESSES

2.5.1 There are a number of additional proposed changes to the CPR's which revolve around changes in the use of technology.

Details of these changes and proposed amendments are provided below:

2.5.2 The role of Officers – The Chief Officer/Officer Team

It is proposed that an additional responsibility be added to this section of the CPR's, namely:

- To open electronic tenders

The above is not currently included and given the Council's move to electronic procurement it would be appropriate to make such a change and links with the change proposed in Paragraph 2.3.3 (i) of this report.

2.5.3 Public Notice provisions

It is proposed that the requirement for 28 days public notice be amended to 14 days. The rationale for this request is:

- Electronic communications and the wholesale movement of the Council to e-procurement has enabled a faster procurement process (EU procurement timescales are reduced when procurement is undertaken electronically),
- Increased availability of opportunity information to suppliers and;
- Increased speed in responding to opportunities.

In addition to these changes, there is a central government drive to reduce the time taken in procurement activities and, as we have the technology to support this, we should consider reducing our timescales in a similar manner to the EU procurement regulations (described above).

2.5.4 Reference to the Government Opportunities Portal – Supply2.gov.uk

The above mentioned Government Portal has ceased to exist. As all tenders are now advertised across the North East via the NEPO Portal there is already significant publicity given to our contract opportunities.

It is proposed that all references to 'Supply2.gov.uk' be removed from the CPR's.

2.5.5 British Standards

It is proposed that references to 'British standards' be widened, in order to accommodate organisations which have different accreditations or adopted other equivalent international standards.

2.5.6 Selected Lists

It is proposed that the minimum size of a select list should be four 'persons' where practicable. Similarly, it is proposed that a minimum of four 'persons' where practicable are invited to quote in relation to work covered by a select list as opposed to the current three.

The rationale for these proposed changes is that due to the introduction of the Quick Quotes electronic quotation gathering system, the process of quotation gathering has been improved and it is now easier for officers to generate greater competition when securing quotes.

Greater competition should provide improved pricing for the Council.

In addition, the involvement of more suppliers in select list quotations will encourage suppliers to take part in our select list arrangements, on the basis that they will have a greater opportunity to win business once on the list.

2.5.7 Bribery Act 2010

It is proposed to change the reference to the Prevention of Corruption Acts 1889 to 1916 to the Bribery Act 2012 in line with changes in legislation.

2.6 CLARIFICATION OF PROCUREMENT PROCEDURES

2.6.1 Audit Committee identified a number of issues they and the Constitution Committee would want considering in their "Governance" role

2.6.2 The information requested was: -

1. *Explanation of, and how, the CPRs deal with a single bidder becoming a "preferred" bidder*

2.6.3 When inviting bids the CPR's require that the documented 'Public Notice Provisions' are complied with.

2.6.4 Following the placement of the necessary advertisements and completion of the period in which we await responses to the advertisements the CPR's require that 'not less than four persons' are invited to tender, however, 'if fewer than four persons have applied', all of those applicants should be invited to tender, provided they are considered suitable. This could be a single bidder.

2.6.5 The term “preferred bidder” is generally defined in contracts and is therefore the common term used to describe the contractor/developer that goes forward to carry out further work on a project. This is often, as in BSF and the Millhouse Masterplan on the basis that the “preferred bidder” must produce an approved delivery plan, usually prior to a financial close on the project, after which they would become the “appointed” developer/contractor rather than the “preferred bidder”. Even if there were only one bidder on a project (eg Millhouse) they would still be called the preferred bidder once asked to progress options which would be subject to approval. If there is no ultimate approval after option appraisal/negotiations then the bidder could then be rejected (ie would no longer be the preferred bidder).

2. *Explanation of PQQ process.*

2.6.6 The PQQ process is most visible when the Council undertakes a two stage procurement process. Such a process consists of the issue of a PQQ, followed by a shortlisting process, with the shortlisted applicants being issued with tender documents for them to complete and return.

2.6.7 Use of a PQQ can also occur during a single stage tender process. In such circumstances the tender documents are issued to bidders with the tender documents incorporating PQQ ‘type’ questions. On receipt of the tender the PQQ is evaluated and should the bidder not have passed the PQQ test the remaining elements of their tender would not be scored. The Council’s PQQ has been refined over recent years in line with reviews undertaken internally, regionally and in conjunction with organisations such as on the North East Chamber of Commerce.

Tenders

2.6.8 Corporate Procurement carry out all tender activities for the Council (that is for all contracts with a value over £60k for goods and services and £100k for works). With all of these tenders one of the processes described above would be used (unless we were ‘calling off’ goods/services/works from a predetermined framework agreement or using a Council select list).

2.6.9 There has been a central government guidance (which does not apply to Local Government – although we will be working towards it which advises all central government departments to avoid using PQQ’s for any procurement below £100k.

2.6.10 Whilst this may seem sensible it is important to consider the environment in which this requirement is intended to apply. Central Government departmental budgets are far larger than the majority of Local Authorities therefore the requirement that PQQ checks need not be carried out on contracts with a value below £100k probably affects a far smaller %age of that department’s spend than would be the case for a Local Authority. Another shortcoming of this particular Central Government requirement is that it is a very blunt instrument and

doesn't take account of the criticality or strategic significance of a particular contract, something which is not always reflected in its value.

- 2.6.11 It is important that the content of PQQs is reviewed on a continuous basis to ensure they are fair and equitable but also safeguard risks to the Council. As described below few PQQs are issued for below tender threshold works and services (i.e. below £100k and £60k)

Quotations

- 2.6.12 Quotations (using the Council's Quick Quotes system) are required for all contracts with a value of £2000 up to the appropriate tender level. The minimum number of quotations required is 3 (where 3 suppliers are available).
- 2.6.13 Clearly there is a wide gap between £2000 and £60,000. There is no specific requirement for Departmental buyers to use a PQQ at any level of quotation and it is left up to Departments to decide whether such a mechanism is required for a particular procurement exercise.
- 2.6.14 As alluded to above, where a contract is for a critical service where it is essential that we do everything we can to ensure continuity of supply (e.g. Social Care type contracts), Departments may well feel justified in asking PQQ type questions to establish the financial stability and operational abilities of bidding organisations.

3. *Explanation of price/quality split in contracts.*

- 2.6.15 There are a variety of issues which have to be taken into account when considering the application of a price/quality formula for the evaluation of tenders/quotations.

The CPR's are silent on the issue of price/quality splits for quotations, however they do describe a number of requirements in relation to tenders, e.g. advertising requirements etc.

- 2.6.16 The logic behind the introduction of a price/quality split is based on the need to evaluate offers on the basis of more than just price.
- 2.6.17 The assessment of price is essentially straightforward, provided a true picture of costs for each bid can be developed, quality, however is far more subjective and covers the whole range of non-financial aspects of a bid. Some of the elements which come under the banner of 'quality' are listed below:

- Local economic and social benefits
- Aesthetic & functional characteristics
- Environmental characteristics
- After sales service
- Technical support, references and track record
- Lead times
- Power consumption

- Quality of staff delivering service

2.6.18 In developing a contract award criteria it is vital that the client department understand what it is they wish to achieve and what is important to them in terms of decision making. One of the benefits of clients jointly developing award criteria with the corporate procurement team is that a mixture of expertise and objectivity are combined, resulting in a workable solution which makes sense to the client and the supply base and which works when it comes to evaluating offers.

2.6.19 Only rarely is evaluation criteria based solely on price. This would really only work for the procurement of commoditised, off-the-shelf type products where the only differentiator would be price.

2.6.20 Development of the evaluation criteria forms part of the process of developing a tender strategy and its accompanying documentation. As part of its approach to tendering the Council's evaluation criteria is included in the tender documentation and serves to advise bidders of which bid attributes are important to the Council and which are less so.

4. *Use of sub-contractors.*

2.6.21 The Council's standard terms and conditions for services contain a clause which relates to Contractor's permitted use of sub-contracting which reads:

'Subject to any express provision of this Contract, the Contractor shall not without the prior written consent of the Council, assign all or any benefit, right or interest under this Contract or sub-contract the provision of the Services.

The Council shall be entitled to:

Assign, novate or dispose of its rights and obligations under this Contract either in whole or part to any contracting authority (as defined in the Public Contracts Regulations 2006); or

Transfer, assign or novate its rights and obligations where required by law.

The Contractor shall remain responsible and liable for the acts and omissions of any other members of a consortium arrangement, sub-contractors, servants, agents and Employees as though they were its own.'

2.6.22 This clause provides us with the necessary power to control any activities current contractors may wish to undertake with regard to sub-contracting services they currently deliver to the Council.

2.6.23 In terms of controlling sub-contracting activities for forthcoming contracts, we are able to incorporate a requirement in our tender documentation for bidders to identify key subcontractors and the nature

and value of work they would be engaged to deliver on behalf of the main contractor.

2.6.24 This facility gives us an early sight of possible sub-contractor issues, before entering into any contractual arrangement.

5. *“Dealing with “unrealistically low” bids”*

2.6.25 Procurement guidance to officers includes the following:-

“Unrealistically high or low tenders should be challenged, as they may be due to errors or misunderstandings etc. Challenging such tenders does not automatically exclude them from the process – the tender may include innovation which has resulted in a vastly different price compared with others received.”

2.6.26 If it is suspected that there are unrealistic bids there are procedures in place to reject those bids.

6. *Details of the decision making process for officers in relation to identifying the appropriate procurement route.*

2.6.27 The diagram on the following sheet provides details of the various considerations officers make when determining the appropriate procurement route for their requirements.

Hartlepool Borough Council Procurement Route Map			
Consult the Contracts Register held on the Intranet and refer to the Council's Contract Procedure Rules.			
Does the Council have an in house provider?	Yes	The In House Provision Procedure	Consult the Contracts Register on the HBC intranet and search on the HBC In House providers page. If an internal supplier does exist contact them to obtain a quotation. For Regeneration and Neighbourhoods orders raise an order on the Integra System. For other Departments provide the relevant in house team with the budget cost codes so that they can raise an internal recharge. Then monitor and record the performance. If no provider exists on the in house providers page please return to the procurement route map.
No			
Is the procurement via a strategic partnership or an existing central or collaborative contract	Yes	The Procurement Unit Procedures	Consult the Contracts Register on the HBC intranet and search on the Contracts List to see if a suitable contract already exists. Contact the relevant supplier or the responsible officer to provide a quotation and then place an order on the Integra system. Then monitor and record the performance. If no provider exists on the contracts register please return to the procurement route map.
No			
Does the procurement involve specialist professional works/services or caring service to children or vulnerable persons?	Yes	The Exceptions Procedure	The exceptions procedure should only be used when the person or contractor is uniquely qualified to offer the services required or when it would be impractical to make the appointment using competitive quotations or tenders, e.g. where there are few potential suppliers or if the contract is for the provision of caring services to children or vulnerable persons. Select suitable potential providers, make reasonable enquiries to determine best value then undertake the procurement placing an order on the Integra system. Then monitor and record the performance. Exceptions should be recorded and reported in line with the Council's Contract Procedure Rules.
No			
Is the total cost below £2K?	Yes	The Informal Procedure	For purchases under £2K reasonable enquiries should be made to determine that the price is fair. Select your potential suppliers and obtain quotations where possible. The electronic procurement system - Quick Quotes can be used to procure quotations if required. Evaluate the quotations then raise an order on the Integra System. Then monitor and record the performance.
No			
For: a) works from £2K and up to £100K or b) goods or services from £2K and up to £60K	Yes	The Quotations Procedure	For Goods and Services between £2K - £60K and for Works between £2K - £100K at least three written quotes should be obtained (Wherever possible using suppliers from Hartlepool). The electronic procurement system - Quick Quotes should be used for this process. Once the quotations have been obtained evaluate them and raise an order on the Integra system. Then monitor and record the performance.
No			
For: a) works over £100K or b) goods or services over £60K	Yes	The Formal Tender Procedure	For Goods and Services between £60K and £173,934 and Works between £100K and £4,348,350 the Corporate Procurement Team will advise and assist in the preparation of your tender documentation then advertise the tender on the HBC website and also on the electronic procurement system on the NEPO Portal. All tenders will be opened in front of the Audit Sub-Committee. The information is evaluated and the contract is awarded. Then the contract will be monitored and the performance will be recorded.
No			
For: a) works over £4,348,350 or b) goods or services over £173,934	Yes	EU Procedure	For Goods and Services over £173,934 and Works over £4,348,350 the Corporate Procurement Team will advise and assist in the preparation of your tender documentation. They will then then advertise the OJEU notice. Then they will advertise the tender on the HBC website and also on the electronic procurement system on the NEPO Portal. All tenders will be opened in front of the Audit Sub-Committee. The information is evaluated and the contract is awarded. The contract will be monitored and the performance will be recorded.

2.7 RECOMMENDATIONS

- 2.7.1 That Council agrees the proposed changes to the Contract Procedure Rules.

Draft amended Contract Procedure Rules

CONTENTS

Rules

Introduction	29
Part A – Scope of Contract Procedure Rules	34
1. Application of Contract Procedure Rules	
Part B – Selected Tenderers Lists	35
2. Compilation of Selected Tenderers Lists	
Part C – Informal / Quotations Procedures	36
3. Informal Procedure - Contracts under £2,000	
4. Formal Quotations Procedure - Works Contracts £2,000 - £100,000	
Goods, Materials or Services Contracts £2,000 - £60,000	
(In-House bid contracts £2,000 - £100,000).	
Part D – Best Price Procedures	37
5. Works Contracts over £100,000, Goods, Materials or Services Contracts over £60,000, (In-House bid contracts over £100,000).	
6. Public Notice provisions	
7. Selected tenderers provisions	
8. Acceptance of tender	
Part E – Price/Performance Procedures.....	39
10. Price/Performance Contracts Provisions	
Part F – Partnering Contracts Procedures.....	40
11. Partnering Contracts Provisions	
Part G – General Provisions	41
12. Opening of Tenders	
13. Tenders to be returned in sealed envelopes	
14. Agreed Marking Mechanism	
15. Contracts to be in writing	
16. Liquidated Damages and Performance Bonds	
17. Other remedies for breach	
18. British Standards	
19. Prevention of Corruption	

- 20. Vetting and Signature of contracts
- 21. Tenderers withdrawal
- 22. Post contract variations and negotiations
- 23. Nominated sub-contractors

Part H – Glossary 48

- 24. Interpretation

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, buyer of goods/services to be selected on basis of combination of price and benefits to Hartlepool residents
- Partnering – contract includes:
 - establishment of partnering team
 - pricing policy
 - open-book policy
 - savings/benefits sharing formula.

Procurement Exercises undertaken as a result of a successful challenge under the Localism Act 2011

Once a decision has been made to procure a service following acceptance of a challenge submitted under the 'Community Right to Challenge' legislation, the Council's Contract Procedure Rules come into effect.

As with all other procurement activities undertaken by the Council, the procurement procedure will be selected by assessing the value of the contract to be awarded – as described later in these rules.

Given the possible nature of the services subject to challenge, care will need to be taken to ensure that evaluation criteria are utilised which reflect the Council's obligation to secure Best Value and meet the requirements laid down in the Public Services (Social Value) Act 2012, i.e. to consider how the

procurement can promote or improve the social, economic or environmental well-being of the authority's area.

In addition, care will be taken to ensure that Third Sector and Voluntary & Community Sector organizations are not excluded from bidding for services as a result of the Council incorporating requirements which are not proportional to the value of the service and any associated risks relating to public safety, service delivery, service continuity etc.

In addition to the above, any planned procurement activity will take into account any pre-existing contractual obligations the Council may have. This may result in decisions being required on whether to extend or terminate existing contract.

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), the Council's Procurement Unit, or is a contract designated as the Council's preferred channel, such goods and services will be purchased through that contract unless the Chief Officer, following consultation with the Head of Procurement, Assistant Director (Resources), Regeneration and Neighbourhoods Department considers a special exemption can be made. Goods or services for which the Council has accepted a tender submitted to NEPO or the Council's Procurement Unit or, where they can be secured through a contract which has been designated as the Council's preferred channel, are outside the scope of the Contract Procedure Rules and will be obtained from the relevant supplier in accordance with the applicable procedures.

Select Lists

Where goods, services or works are to be acquired of a nature in respect of which a select list has been established or adopted by the Council, such goods, services or works will be purchased through that arrangement unless the Chief Officer, following consultation with the Head of Procurement, Assistant Director (Resources), Regeneration and Neighbourhoods Department considers a special exemption can be made. Goods or services for which the Council has accepted a tender submitted via a Select list are outside the scope of the Contract Procedure Rules and will be obtained from the relevant supplier in accordance with the procedures defined for using the Select List.

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, Assistant Director (Resources), Regeneration and Neighbourhoods Department 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 - provided that the service is not subject to a challenge under the 'Community Right to Challenge' legislation.

Should such a challenge exist, contracts will not be awarded until the outcome, either successful or unsuccessful of the challenge has been ascertained.

. 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 these informal/quotation/tender 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

- In the event of the contract arising as a result of a successful challenge under 'Community Right to Challenge' legislation the Council will consider its obligations and stated preferences in relation to delivery of services and the opportunities the contract may provide to support and develop the 3rd and Voluntary sectors in the locality.

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 provided 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 Audit Committee (through a Sub-Committee)

In order to ensure probity and transparency in the award of contracts, the Audit Committee 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 Committee 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
- To open electronic tenders

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 a sub-Committee of the Council's Audit Committee 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 Council's 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, Assistant Director (Resources), Regeneration and Neighbourhoods, is subject to these Rules.

E-tenders will be opened in the presence of the following:

- A representative of the Corporate Procurement Team
- A representative of the Service area involved in the procurement
- The chair of the Audit Committee Sub-Committee or a nominee of the chair, at the chair's discretion

Following the opening a report detailing the outcome of the tender opening will be compiled and presented to Audit Committee Sub-Committee.

The Public Services (Social Value) Act 2012

The Public Services (Social Value) Act places a number of statutory obligations on the Council, in relation to certain elements of its procurement practices.

The Act applies to all contracts for services and framework agreements to which the Public Contracts Regulations 2006 ('the Regulations') apply, but not call-offs under those frameworks. In real terms this means that the Act only applies to services contracts with a value in excess of the current EU Public Procurement thresholds (currently £173,934 excl. VAT).

The Act does not apply to below threshold contracts or any works or supplies contracts. However, it is likely that 'mixed' contracts involving services will be subject to similar analysis as is currently undertaken in terms of the dominant value test.

As the Act covered service contracts as defined in the Regulations the duty appears to extend to Part B service contracts since these service contracts are covered by the Regulations albeit the requirements for the procurement of such contracts are less onerous.

The Act also includes an amendment to section 17 of the Local Government Act 1988 (exclusion of non-commercial considerations in the case of local and other public authority contracts) which basically enables the Council to consider non-commercial matters when awarding business, provided this is done in pursuit of the duties imposed by the Public Services (Social Value) Act 2012.

The Council confirms that it will consider the following when proposing to procure or make arrangements for procuring services and will ensure that the

Council's Key Social Values, as described in the Community Strategy, are taken into account:

- How what is being proposed to be procured might improve the economic, social and environmental wellbeing of the relevant area (and this is the Authority's own area (or combined areas if it is a joint procurement) in which it 'primarily exercised its functions')
- How, in conducting the procurement process, it might act with a view to securing that improvement (although the Act makes it clear, in order to remain inline with EU law, that anything under this limb much be relevant and proportionate in respect of the proposed contract):
- Whether they need to undertake any consultation about the two limbs of the duty as set out above.

Where appropriate, tender documentation will include a reference to the Act and will provide the opportunity for bidders to propose the delivery of 'Social Value' as part of their submission with such proposals being considered and scored as part of the tender evaluation process.

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 Audit Committee 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 Audit Committee 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 Commissioning and 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 Construction line procedure formulated by or on behalf of the Department of Business, Innovation and Skills.
- ii) The list shall include a minimum of four persons, wherever practicable two of which should be local to Hartlepool wherever possible 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 Health and Safety and Well Being Manager or Chief Executive's nominee is satisfied that they have adequate Health and Safety arrangements and the Chief Finance 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,
 - 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 Audit Committee.

PART C - INFORMAL / QUOTATION PROCEDURES

NOTE: All quotations referred to in sections 3 and 4 below are to be sought from pre-determined frameworks, where such arrangements exist. Where such arrangements do not exist, a minimum of two local suppliers (where available) must be invited to submit a quotation.

3 Informal Procedure - Contracts under £2,000

For a contract for less than £2,000, reasonable enquiries shall be made to determine that the price is fair and reasonable.

4 Formal Quotations Procedure – Works contracts £2,000 - £100,000 Goods materials or Services Contracts £2,000 - £60,000 (In-house bid contracts £2,000 - £100,000)

In respect of contracts:

- ~ for the execution of work over £2,000 and up to £100,000 (for In-house bid contracts see Introduction to these Contract Procedure Rules): or
- for the supply of goods materials or services over £2000 and up to £60,000 (£100,000 for In-house bid contracts)

at least three documented quotations shall wherever possible be obtained. All quotations are to be secured using the Council's prescribed system and process of quotation gathering, specific details of which are provided in the Council document 'Officer's Guide to Procurement'.

PART D - BEST PRICE PROCEDURES

5 Works contracts over £100,000 Goods materials or Services Contracts over £60,000 (In-house bid contracts over £100,000)

- i) Except for contracts described in Rule 5(ii), no contracts which exceed £100,000 in value or amount for the execution of any work, or £60,000 (£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 Rule6).
- ii) Rule 5(i) does not apply to contracts which have been determined should be let under the Selected Tenderer provisions (see Rule7) 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.

6 Public Notice provisions

- i) At least fourteen days public notice shall be given
 - in one or more local newspapers circulating in the district, and/or
 - on the procurement pages of the Council's website, and/or
 - on the Council's chosen procurement portal

and

- also, wherever the value or amount of the contract exceeds £100,000 in the case of execution of any works or exceeds £60,000 in the case of supply of goods, materials or services, and where deemed appropriate, in one or more newspapers or journals circulating among such persons as undertake such contracts,

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.

- 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.

7. 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.

8 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 approval of the relevant Executive Member and the reason for acceptance being recorded and notified to the Audit Committee at their next available meeting.

PART E - PRICE/PERFORMANCE CONTRACTS

9. 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 public notice requesting expressions of interest from contractors must given in accordance with the Public Notice provisions (see Rule 6).
- 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 6 ii) and shall compile a list of those contractors for examination by the Audit Committee.
- iii) Contractors invited to submit tenders will be required to provide method statements relevant to the contract.
- iv) Not fewer than 4 of the contractor's former clients will be requested to complete a Referee's Questionnaire 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 13) 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 which shall be submitted to the Audit Committee 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 Audit Committee to which the Price/performance Score Matrix has been submitted.

PART F - PARTNERING CONTRACTS

10. 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 public notice requesting expressions of interest from contractors must given in accordance with the Public Notice provisions (see Rule 6).
- 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 Rule7 ii) and shall compile a list of those contractors for examination by the Audit Committee.
- 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.
- 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 Audit Committee 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

11. Opening of tenders

- i) **Tenders must be issued with a Friday return day and a submission deadline of 12 noon.**

Written tenders shall be opened at one time and only in the presence of: -

- the Audit Sub-Committee; and
- the Chief Executive or an official of the Council designated by him/her.

- ii) Electronic tenders shall be opened at one time and only in the presence of: -

- A representative of the Corporate Procurement Team
- A representative of the Service area involved in the procurement
- The chair of the Audit Committee Sub-Committee or a nominee of the chair, at the chair's discretion

- iii) Paragraph (i) and (ii) of this Order shall not apply to tenders obtained for 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, Assistant Director (Resources), Regeneration and Neighbourhoods Department and the relevant Head of Service or their nominated Officers.

- iv) Paragraph (i) and (ii) of this Order shall not apply to tenders which are received through the execution of an e-auction. In such an event, the following will take place:
 - a) The Chair of the Audit Committee Sub-Committee will be advised of the e-auction event dates and times and arrangements made to accommodate any or all members of the Sub-Committee at the live auction event.
 - b) At an Audit Committee Sub-Committee meeting in advance of the e-auction event, a report will be presented to the Sub-Committee which explains the structure of the e-auction event and the evaluation criteria which will be implemented.
 - c) Following the e-auction event, a summary report will be compiled and presented at the next meeting of the Audit Committee Sub-Committee to ensure the Sub-Committee are informed of the outcome of the e-auction process.

12 Tenders to be returned in sealed envelopes (except in the event of the Council's approved e-procurement system being used)

- 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 Rule12(ii) applies) shall be circulated to the Contract Scrutiny Committee or shall be tabled by the Chief Executive at the Audit Committee meeting at which they are under consideration;
 - (b) No information shall be included in such schedule or given to the Committee by which any tenderer may be identified.

13. 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 Head of Audit and Governance, 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.

14 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, shall be the subject of a Council purchase order or quotation or other formal contract and shall specify

- (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 5) the contract must be the subject of a formal written contract signed in accordance with Rule 20.

15 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.

16 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.

17 British Standards –

Where an appropriate British or International Standards Specification or British or International 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.

18 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 Bribery Act 2010 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 under mentioned 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 Vetting and Signature of contracts

Contract Vetting

- i) Contracts which are subject to the requirements of Part D – BEST PRICE PROCEDURES are to be referred to the Corporate Procurement Unit for vetting.
- ii) The Corporate Procurement Unit must refer all contracts which are subject to the requirements of Part D – BEST PRICE PROCEDURES and which incorporate additional terms and conditions to those contained in the Council's approved standard contractual documentation to the Council's Legal Services Department for vetting.

Contract Signature

- 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 Finance Officer or
 - executed under the Council's seal (to be affixed in the presence of the Chief Solicitor (or in his/her absence, some other person authorised by him/her)).

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 Finance 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 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

Finance 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 9) nor within the context of a project undertaken under the Partnering Contracts provisions (Rule 10).

- 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 Audit Committee.
- 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 Audit Committee 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 Audit Committee.
- 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 paragraphs (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 Audit Committee and the Chief Executive and the Chief Finance 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

“Public Services (Social Value) Act 2012” is an Act which places a number of statutory obligations on the Council, in relation to certain elements of its procurement practices, specifically to consider:

- How what is being proposed to be procured might improve the economic, social and environmental wellbeing of the relevant area (and this is the Authority's own area (or combined areas if it is a joint procurement) in which it 'primarily exercised its functions')
- How, in conducting the procurement process, it might act with a view to securing that improvement (although the Act makes it clear , in order to remain inline with EU law, that anything under this limb much be relevant and proportionate in respect of the proposed contract);
- Whether they need to undertake any consultation about the two limbs of the duty as set out above.

“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.



Report of: The Executive

**Subject: EMPTY HOMES SCHEME – PROGRESS AND
EXPANSION INCLUDING OUTCOME OF HCA
EMPTY HOMES CLUSTER FUND BID**

1. PURPOSE OF REPORT

To enable Council to approve the proposed expansion of the Empty Property Purchasing Scheme.

2. BACKGROUND

- 2.1 A detailed business case was previously developed for the Empty Property Purchasing Scheme and approved by Cabinet on 19th March 2012 and full Council on 22nd March 2012. A further report recommending the expansion of the scheme, following the success of attracting additional funding from the Homes and Communities Agency (HCA), was presented to Cabinet for approval on the 4th October. This report sets out the detailed proposals which need to be considered and approved by Council.
- 2.2 The scheme is a key element of the Council's Empty Homes Strategy which involves the acquisition and refurbishment of long term empty (6 months or more) private sector properties by agreement. The properties will remain in the Council's ownership, let to tenants at an affordable rent (80% of market rent) and managed on the Councils behalf by Housing Hartlepool.

3. BUSINESS CASE – APPROVED MARCH 2012

- 3.1 The development of the approved business case recognised that this type of scheme cannot be developed without some form of subsidy as rent levels are not sufficient to cover annual loan repayments. The 2010/11 Homes and Communities Agency (HCA) grant provided the subsidy for the previous scheme completed by the Council at Gladys Worthy Court, Golden Meadows and Charles Street. As HCA grant was not available when the current

business case was being developed an alternative source of subsidy finance needed to be identified.

3.2 The February 2012 Medium Term Financial Strategy Report (MTFS) identified the opportunity to develop an affordable homes strategy using capital construction and interest rate savings generated from the new build scheme of 82 houses at Gladys Worthy Court, Golden Meadows and Charles Street. In particular, from the ongoing benefits of lower borrowing costs achieved for this scheme from effective treasury management, which are much lower than forecast in the business case. This has secured an ongoing saving of £60,000 from 2012/13 which can be used to finance further borrowing of £1,115,000. In addition, there was a one-off saving of £200,000 in 2011/12 on this project. These savings can fund a subsidy injection of £1,315,000 (which was slightly higher than the £1.2m forecast reported in February 2012) for the acquisition and renovation of additional properties.

3.3 On this basis a detailed business case was developed for the project approved in February 2012 which is known as 'Project 1'. The business case covered the following issues:

- Capital costs of purchasing and refurbishing properties, as detailed in paragraph 4.4;
- Annual loan repayment costs;
- Whole life repairs and maintenance costs over 40 years;
- Management and maintenance costs;
- The levels of annual rental income and potential voids;

3.4 Purchasing and refurbishment costs

The target of 48 properties was based on an average acquisition and renovation cost of £55,000. In practice the cost of individual properties will vary, therefore the project will be managed to achieve this outcome plus or minus 2 properties.

It is expected that those properties with a higher renovation cost will have a lower purchase value. The aim will be to achieve an average total cost of £55,000. This is therefore a key factor in the decision making of which properties are tackled.

The first phase of the project will be limited to units funded from the initial subsidy of £1,315,000 with a target of 24 properties +/- 2 properties.

3.5 The business case demonstrated that the initial capital investment of £1,315,000 will in itself generate an operating surplus from rental income which can be used to fund a further £1,324,000 of investment, providing a total capital budget of £2,639,000. The majority of this expenditure, £2,439,000, will be funded using Prudential borrowing. It is estimated this is sufficient to fund around 48 properties

- 3.6 In order to manage the significant financial risks of this new type of scheme it was agreed that 'Project 1' would be completed in two phases of 24 properties in each phase. The first phase will be financed from the initial subsidised capital investment of £1,315,000 and the second phase from the rent income generated, as summarised in the following table.

	Total
<u>Phase 1</u>	
One-off saving from HCA New Build Scheme	200,000
Borrowing subsidised by HCA New Build Scheme	1,115,000
<u>Phase 2</u>	
Borrowing from net rental income	1,315,000
Total Borrowing	2,430,000
Total Scheme Value	2,630,000
Percentage of subsidy required	50%

- 3.7 This phased approach was designed to ensure the assumptions built into the business case are achievable and the overall project can be delivered within the available resources. This is essential to avoid any increased costs falling on the General Fund budget. The planning assumptions included in the business case include capital costs of acquiring and refurbishing homes, the level of rental income, maintenance and management costs, actual borrowing costs and potential voids and bad debt levels. A prudent view of these has been taken, consistent with the self financing model used by Authorities with a Housing Revenue Account.

4. PROGRESS TO DATE

- 4.1 The Business Case approved in March 2012 anticipated reviewing Phase 1 of this project after 24 houses had been completed.
- 4.2 At the time of preparing this report 47 properties have had valuations of which 17 are the process of being acquired and 14 offers are awaiting a decision from the owner. The average estimated total cost of these properties being acquired and refurbished is £52,000, which is within the business case target of £55,000. The refurbishments works are now underway on the first 3 properties.
- 4.3 Since approval of the original scheme in March, the Council has been successful in securing additional Homes and Communities Agency (HCA funding) of £2.695m. To access this funding the Council needs to provide match funding. The full scheme approved in March 2012 (detailed in paragraph 5.5) will provide this match funding and enable a total of 100 houses to be provided, compared to the original proposal of 48.

- 4.4 Owing to HCA funding conditions and expectations the Council will be expected to achieve an output of 100 properties by March 2014. This is a challenging deadline.

5. ASSESSMENT OF BUSINESS CASE AND RISK CONSIDERATIONS

- 5.1 In order to meet the HCA March 2014 deadline the Council needs to review the initial plans for delivering the Business Case approved in March 2012. As a result of the HCA requirements and timescale it will not now be possible to provide a full review of the Phase 1 project based on the final completion of the first 24 properties.
- 5.2 Officers have therefore reassessed the initial planning assumptions for the Business Case approved in March 2012.

Review of March 2012 Planning assumptions

- 5.3 The planning assumptions detailed in paragraph 2.3 have been reviewed and are still considered to be robust. This review reflects experience of property valuations completed to date and the cost estimates of renovating individual properties.
- 5.4 This analysis reaffirms the assumptions of the original business case at an average cost per property of £55,000. However, there is a potential risk that this might not be achieved for a scheme expanded to 100 properties, within the newly required timescale. It is therefore recommended that an additional £150,000 be approved to provide a contingency to meet the target number of 100 properties within the deadline and allow for the acquisition of some particular problem properties to address the needs of the Housing Strategy. This contingency increases the average per property from £55,000 to £56,400. The contingency would equate to around 2.7% of the proposed budget for the expanded scheme. This amount can be funded from additional rental income, as detailed in the next paragraph.

Additional Rental income

- 5.5 The proposed expansion of the scheme using the HCA grant will create additional rental income which can be used to support additional prudential borrowing. It is proposed that some of this borrowing is used to increase the overall budget to address the following specific issues:
- The inclusion of a budget contingency detailed in the previous paragraph;
 - The HCA funding requires that the Council aim to achieve a target of 100 properties. However the funding identified to date would only provide for 97 properties. The budget therefore needs to be increased by £165,000, based on an average of £55,000 cost per property.

- 5.6 After reflecting the above additional requirements there will still be uncommitted rental income from expanding the scheme using HCA funding. If this income is not needed to meet increased costs of this scheme this will provide a subsidy for a further phase of the Empty Home schemes, which will require a detailed business case to be developed and approved by the Council. This potential additional rental income cannot be committed until the current scheme is nearing financial completion and we know there are no unfunded financial risks.

Risk Assessment

- 5.7 The main risk from expanding the scheme before a formal review of the first phase of 24 properties has been completed is the risk that the costs of buying and renovating properties exceed the forecasts included in the Business Case. Based on work undertaken to date this is assessed as low risk.
- 5.8 This risk can also be managed using the additional uncommitted rental income from expanding the scheme using the HCA grant, which would support additional Prudential Borrowing if required.
- 5.9 Officers will continue to monitor the scheme closely to ensure that any deviations from the assumptions of the business case are identified.

6. SECTION 17 OF THE CRIME AND DISORDER ACT 1998 CONSIDERATIONS

- 6.1 If the Council acquires more properties then the issue of crime reduction is in part being met.

7. CONCLUSION

- 7.1 The Council has been successful in its bid for HCA funding to expand the Empty Homes Scheme approved in March 2012. To access this funding the Council needs to provide match funding using the original Business Case approved in March 2012, which will provide an overall scheme delivering 100 properties, compared to the Council's initial local scheme of 48 properties.
- 7.2 In order to access the HCA funding the Council needs to complete these properties by March 2014. Therefore, to ensure this timescale can be achieved the planned review of the original business case cannot be completed after the completion of 24 units.
- 7.3 This report therefore assessed the implications and risks of expanding the scheme using the HCA grant funding and recommends that this can be achieved without increasing risk to the General Fund.

8. PROPOSALS

8.1 It is proposed that Council:

- i) Approves the revised business case and risk assessment detailed in the report;
- ii) Approves the proposal to use the scheme approved in March 2012 to match fund the Homes and Communities Agency grant and to approve a total budget of £5.640m consisting of:
 - The original approved funding of £2.630 identified as part of the Council's original self financed scheme, of which £1.315m has already been approved;
 - HCA funding of £2.695m;
 - An additional amount of £0.165m to fund the additional 3 properties in order to meet the overall target of 100 properties
 - A contingency of £0.150m
- iii) Approve the additional amounts detailed in (ii) of £0.165m and £0.150m using Prudential Borrowing, to be funded from additional rental income generated from expanding the scheme using the HCA grant;
- iv) Notes that a separate report for using the remaining Prudential Borrowing enabled by the additional rent income from expanding the scheme using HCA funding will be submitted when this scheme is complete.
- v) Approves the amendment to Capital Programme and Prudential Borrowing limits arising from the approval of (ii) and (iii).

9. CONTACT OFFICERS

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COUNCIL
18 October 2012



Report of: Acting Chief Executive

Subject: BUSINESS REPORT

1. APPOINTMENTS PANEL – DIRECTOR OF REGENERATION AND NEIGHBOURHOODS

Subject to the decision of Council in respect of the Appointment of the next Chief Executive, considered elsewhere on this report Council is requested, to approve the establishment of an Appointments Panel for the above post. This post will have been considered by Monitoring of Vacancies and Thaw Panel in advance of this meeting and a verbal update will be given at the meeting.

In line with the Officer Employment Procedure Rules, as set out in the Constitution, the Panel will consist of eight members, as follows:-

The Chair of the Council (Labour)
The Mayor (Independent)

Plus the following Members:

4 Labour
1 Conservative
1 Putting Hartlepool First

In addition, as identified in the Officer Employment Procedure Rules, Council is also requested to reflect the gender balance of the Council when nominating to the Panel. It is suggested therefore that Council's nominations to the Panel, include female Councillors to the Panel.

Council is requested to approve the establishment of the Appointments Panel and nominate members accordingly.

In addition Council are requested to consider the appointment of this panel for the remainder of the Municipal year for any other Chief Officer posts which become vacant.

2. PROPER OFFICER FUNCTIONS

Members previously agreed the cover arrangements for the Acting Chief Executive in her substantive role of Director of Child and Adult Services. The arrangements

identified additional responsibilities to the current substantive roles of the Assistant Director (Adults) and the Assistant Director (Prevention, Safeguarding and Specialist Services). The additional responsibilities included Proper Officer statutory functions for Adult Social Care (DASS) and for Children's Services (DCS), and also included wider corporate responsibilities for the Council.

Members are now requested, subject to confirmation earlier in the meeting of the appointment of the Chief Executive to continue these arrangements until the permanent appointment of a Director of Child & Adult Services or other arrangement through the People Services Tri-borough Collaboration project.

The current statutory responsibilities attached to the Director of Regeneration and Neighbourhoods post will be exercised by the Chief Executive until a permanent replacement is appointed.

3. STATE OF THE BOROUGH DEBATE

The Council's Constitution provides for the Elected Mayor to call a State of the Borough Debate 'in October of each year on a date and at a place to be agreed with the Chair'. The form of debate allows for 'an overview of the current issues affecting the Borough' and public questioning and participation is also a feature of this event. On 8th October the publication of the Notice of the Referendum in Hartlepool was published along with the Notice of Election for the Police and Crime Commissioner for the Cleveland Police Area. Guidance has already been issued by the Chief Solicitor to coincide with the conduct of the Referendum and the Election on aspects of political neutrality by staff, together with restrictions on publicity and generally upon use of Council resources at a time of 'heightened sensitivity' characterised during the period of a Referendum and/or Election. Accordingly, the Chief Solicitor has advised that it would be inappropriate to hold the State of the Borough Debate, until the conclusion of the Referendum and Election. Council is therefore requested to note this advice and allow the Elected Mayor in unison with the Chair of Council to organise the State of the Borough Debate as soon as is reasonably practicable after the conclusion of the Referendum and the Police and Crime Commissioner Election.