

## **Meeting of the Audit and Standards Committee**

**Monday, 25<sup>th</sup> September, 2023 at 6.00pm  
in Committee Room 3  
at the Council House, Priory Road, Dudley**

### **Agenda - Public Session (Meeting open to the public and press)**

1. Apologies for absence.
2. To report the appointment of any substitute members serving for this meeting of the Committee.
3. To receive any declarations of interest under the Members' Code of Conduct.
4. To confirm and sign the minutes of the meeting held on 17<sup>th</sup> July, 2023 as a correct record (Pages 5 - 16)
5. [Review of Programme, Project and Contract Management \(Pages 17 – 27\)](#)
6. [Whistleblowing Policy \(Pages 28 – 59\)](#)
7. [Treasury Management \(Pages 60 – 69\)](#)
8. [Update to the Contract Standing Orders in the Council's Constitution \(Pages 70 – 101\)](#)
9. To consider any questions from Members to the Chair where two clear days notice has been given to the Monitoring Officer (Council Procedure Rule 11.8).

10. Resolution to exclude the public and press

Chair to move:

“That the public and press be excluded from the meeting for the following item of business on the grounds that it involves the likely disclosure of exempt information under Part I of Schedule 12A to the Local Government Act 1972, as amended, for the reasons stated on the agenda.”

Under the provisions of Part I of Schedule 12A to the Local Government Act 1972, the Monitoring Officer has decided that there will be no advance disclosure of the following report because the public interest in disclosing the information is outweighed by the public interest in maintaining the exemption from disclosure.

**Agenda - Private Session**  
**(Meeting not open to the public and press)**

11. [Exemptions and Waivers from the requirement for a competitive procurement process \(Pages 102 – 123\)](#)

(The report contains exempt information relating to the financial or business affairs of any particular person (including the authority holding that information))



**Chief Executive**

**Dated: 15<sup>th</sup> September, 2023**

**Distribution:**

**Members of the Audit and Standards Committee:**

Councillor A Lees (Chair)

Councillor D Borley (Vice-Chair)

Councillors S Ali, T Creed, J Cowell, M Evans, J Foster, S Henley and W Little

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**Minutes of the Audit and Standards Committee**  
**Monday 17<sup>th</sup> July, 2023 at 6.00pm**  
**In Committee Room 3, The Council House, Dudley**

**Present:**

Councillor A Lees (Chair)

Councillor D Borley (Vice-Chair)

Councillors S Ali, T Creed, J Cowell, M Evans, J Foster, S Keasey and W Little.

**Officers:**

I Newman (Director of Finance and Legal Services), G Harrison (Head of Audit and Risk Management Services), and K Taylor (Senior Democratic Services Officer).

**Officers in Attendance via Microsoft Teams:**

M Farooq (Monitoring Officer and Lead for Law and Governance), A Taylor (Senior Principal Auditor) and M Landy (Principal Auditor).

**Also in Attendance:**

A Smith and M Stocks – External Auditors (Grant Thornton) and T Tobin – External Auditor (Grant Thornton) (via Microsoft Teams) and R Cooper (Head of Financial Services) for agenda item no. 5 only.

1. **Comments of the Chair**

The Chair welcomed new Members to the Audit and Standards Committee and in doing so provided an overview of the role and responsibility of the Committee.

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2. **Apology for Absence**

There were no apologies submitted for this meeting of the Committee.

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### 3. **Appointment of Substitute Member**

There were no substitute Members appointed for this meeting of the Committee.

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### 4. **Declarations of Interest**

No Member made a declaration of interest in accordance with the Member's Code of Conduct.

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### 5. **Minutes**

Councillor S Ali shared concerns that no further report had been submitted to the Committee following consideration of the findings of an internal audit report in relation to the Council's attendance at the MIPIM Conference at a previous meeting held in November 2022. Councillor Ali also referred to the role undertaken by the Leader and relevant Cabinet Members. The Committee had previously recommended that findings in relation to any individual or individuals be investigated under appropriate procedures including interviews with members. However no further information had been received.

In responding to comments made, the Chair referred to the extensive discussions undertaken during the previous municipal year with regard to the Council's attendance at MIPIM, and emphasised that the Committee had resolved that the recommendations set out in the internal audit report presented to the Committee in November, 2022 be endorsed.

The Chair further reported that a report and update on actions and/or any further processes or steps considered to be appropriate, as requested by the Committee, would be submitted to the next meeting of the Audit and Standards Committee in September, 2023.

In referring to the meeting held on 30<sup>th</sup> June, 2022, Councillor S Ali reported that an update had not been received following the Committee's recommendation to the Chief Executive to give further detailed consideration to the External Auditor's recommendation concerning the position of the Monitoring Officer.

In referring to Minute No. 68 – Annual Fraud Report and resolution number 3, the Director of Finance and Legal Services advised that following further investigation and subsequent discussions with the Chair, it had been agreed that a letter to the West Midlands Police and Crime Commissioner

in relation to the prosecution case discussed during the meeting was not necessary.

## **Resolved**

That the minutes of the meeting held on 20<sup>th</sup> April, 2023, be approved as a correct record and signed.

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### **6. External Audit Grant Thornton Annual Audit Plan 2022-23 and Annual Risk Assessment 2022-23**

The Committee considered a report of the Director of Finance and Legal Services on the External Auditor's Annual Audit Plan 2022-23 and Annual Risk Assessment 2022-23.

Members welcomed A Smith to his first meeting of the Audit and Standards Committee, noting that M Stocks would be handing over responsibility for the audit.

In presenting a summary of the report submitted, A Smith outlined the scope of the audit in accordance with the Code and International Standards on Auditing and forming and expressing an opinion on the Council's financial statements. Risks requiring special audit consideration and procedures to address the likelihood of a material financial statement error had been identified as valuation of property, plant and equipment; valuation of the net pension liability and management override of controls. It had been determined that the planning materiality to the Council would amount to £11.3m.

Members were advised of the two auditing standards that had been significantly updated during 2023, relating to ISA 315 (identifying and assessing the risks of material misstatement) and ISA 240 (the auditor's responsibilities relating to fraud in an audit of financial statements).

It was noted that the findings of the Value for Money risk assessment for both 2021-22 and 22-23 financial years would be presented to the next meeting of the Committee scheduled to be held in September, 2023.

Reference was made to the 2020/21 Annual Auditor's Report to Cabinet on 27<sup>th</sup> June, 2022, highlighting that urgent action was needed to reduce the Council's significant reliance on use of reserves and introduce tight scrutiny of additional spending proposals. It was noted that the Council had assumed the use of reserves in 2021/22 to balance its budget but that the Council had been able to deliver an outturn significantly better than budgeted which therefore avoided the drawdown on reserves. However, following use of reserves during 2022/23, the Council's General Fund reserve as at 31<sup>st</sup> March, 2023 had reduced significantly from £28.5m to £21.8m.

It was further noted that the approved budget for 2023-24 relied on the use of reserves totalling £4.2m, further reducing the general fund reserve to £17m. A budget setting report was submitted by the Chief Executive and Director of Finance and Legal Services to Full Council in March, 2023 highlighting a number of risks to the budget including pay awards and shortfall in business rates.

Following a further report to the Cabinet in July, 2023, where proposals to reverse savings decisions were approved, the External Auditors were minded, at present, to consider that this represented a significant weakness in the Councils financial sustainability and governance, in particular as the Council had been unable to remain within its budget less than three months after the budget had been agreed.

M Stocks further emphasised the concerns raised with regard to the Council's financial sustainability and suggested that consideration may need to be given to implementing auditor powers, including statutory recommendations and related actions such as Public Interest reports, should the use of reserves continue. However, it was hoped that significant improvements may prevent this course of action.

Arising from the presentation of the report, Members asked questions, made comments and responses were provided where necessary as follows:-

- a) The Chair informed Members that an e-mail had been sent to the Leader, Deputy Leader and Cabinet Member for Finance, Legal and Human Resources on behalf of the Chair and Vice-Chair highlighting concerns with the issues raised within the Annual Auditor's Report.



- b) In responding to a request by the Chair, M Stocks agreed to provide further information on the External Auditor's powers used in areas including Nottingham City Council and the London Borough of Croydon. Although M Stocks emphasised that Dudley was not in the position whereby powers would be implemented at this stage, it was the responsibility of the External Auditors to share their concerns and findings in relation to the financial sustainability and encourage the Council to identify solutions.
- c) Councillor J Foster referred to the recommendations of the report as outlined in paragraph 2 and suggested that in view of the serious nature of the information presented and concerns raised by the External Auditors, that the Committee be minded to recommend further action as appropriate.
- d) In responding to a question raised by Councillor J Foster, the Chair confirmed that he had not yet received a response to his e-mail highlighting concerns regarding the financial sustainability of the Council.
- e) Councillor S Ali supported the comments made by Councillor J Foster and considered that an appropriate response should be made by the Committee highlighting concerns raised in relation to the key matters presented by the External Auditor. It was suggested that the Committee had raised issues in relation to the financial sustainability and governance for a number of years, however it was evident that these had not been addressed. Councillor Ali further raised concern that in view of the low reserves and forecasted general fund balance for 2023-24 being £14m, that any additional spending would prevent the Council from setting a balanced budget.
- f) Although the reversal on savings decisions in relation to Libraries were welcomed, Councillor S Ali echoed concerns raised by the External Auditors, in that the 2023/24 budget had only been approved three months prior, and suggested that the relevant Cabinet Member should have considered the impact to the Budget prior to approval in March, 2023. Further concerns were also raised in relation to Governance and press statements having been released in advance of formal decisions.

- g) Councillor S Ali, on behalf of the Opposition Group, emphasised the Groups aspirations for improving the financial sustainability and governance for the Council and prevent the need for further action by External Auditors, however there was some possibility of the situation escalating to that point and suggested that accountability and responsibility was needed by the Leader and Cabinet Member for Finance, Legal and Human Resources.
- h) In responding to a question raised by Councillor M Evans in relation to earmarked reserves and the appropriate level of reserves required, A Smith confirmed that the earmarked reserves had been assessed as relatively limited at £27.3m and being held for a clear purpose, and that the concerns raised related to the low forecasted general fund reserve, which were lower in comparison to other similar sized authorities. The need for the Council to rebuild the reserves was emphasised.

The Director of Finance and Legal Services confirmed that as of 31<sup>st</sup> March, 2022, the combination of the Council's General Fund and unringfenced earmarked reserves as a proportion of net revenue spend was 19%. The average for all Metropolitan Councils at the same date was 55%.

- i) In responding to a question raised by Councillor J Cowell as to whether discussions had been held with the Leader and Cabinet Members in response to the concerns raised, the Director of Finance and Legal Services confirmed that discussions had taken place. He referred to the Cabinet report presented on 6<sup>th</sup> July, 2023, that set out the implications of decisions and recommended the Cabinet to consider, in the light of the Council's financial position, whether to recommend to Council to amend the budget as reported. He confirmed that he had verbally explained to Cabinet members why the recommendations were worded in this way.
- j) Councillor S Ali raised further concern that issues had been reported to Members by officers but that it had not appeared to have elicited an appropriate response and requested clarification by the External Auditors as to what an adequate response would have been considered appropriate.

In responding, A Smith suggested that the refusal of the proposed reversal of savings decisions presented to the Cabinet on 6<sup>th</sup> July, 2023 would have been considered an appropriate response.

- k) In responding to a suggestion made by M Stocks that the Council should aim to have reserves of approximately £60m, Councillor D Borley considered this to be unachievable given that the reserves had generally been between £20m and £25m previously. The Director of Finance and Legal clarified that he assumed that the External Auditors were referring to the combination of General Fund and unringfenced earmarked reserves that stood at around £49m at 31<sup>st</sup> March 2023.
- l) Councillor S Keasey sought clarification as to the measures needed to improve the current situation and whether front line services would be affected.

In responding, the Director of Finance and Legal Services referred to the Council's position as a low taxing authority and that as a consequence the spending powers were lower than an authority with an average council tax. It was acknowledged that difficult decisions including those affecting front line services would need to be undertaken. He advised that it was important to return to the practice of considering the budget annually.

Following further discussion, the Chair agreed to formulate recommendations arising from concerns raised and comments made to the Leader, Deputy Leader and Cabinet Member for Finance, Legal and Human Resources, in consultation with the Vice-Chair and officers, on behalf of the Committee. Members were requested to submit any recommendations or comments via e-mail to the Chair.

### **Resolved**

- (1) That the report on the External Auditor's Annual Audit Plan 2022-23 and Annual Risk Assessment 2022-23, be noted.
- (2) That the Chair be requested to formulate recommendations, arising from concerns raised and comments made, to the Leader, Deputy Leader and Cabinet Member for Finance and Legal, in consultation with the Vice-Chair and officers, on behalf of the Committee.

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## **7. Re-appointment of the Standards Sub-Committee**

A report of the Monitoring Officer was submitted on the re-appointment of the Standards Sub-Committee.

The Monitoring Officer provided an overview of the role of the Sub-Committee, as set out in the report, and that for a number of years, the Sub-Committee had comprised of three members, the Chair, the Vice-Chair and one other Member from the opposing party.

Arising from the presentation of the report, Members asked questions, made comments and responses were provided where necessary as follows:-

- a) Councillor J Foster queried whether three members were sufficient and challenged that the Sub-Committee and the Audit and Standards Committee were not diversely represented and suggested that equality implications had not been adequately considered.

In responding, the Monitoring Officer acknowledged comments made however confirmed that the existing arrangements for the Sub-Committee were approved by Full Council on 18<sup>th</sup> May, 2023. It was suggested, however, that the composition of the Standards Sub-Committee was a matter for the Committee to consider. It was confirmed that the members nominated to the Sub-Committee should be a serving member of the Audit and Standards Committee.

- b) In responding to comments raised by Councillor J Foster in relation to the three Independent Persons appointed by Full Council for a four-year term, the Monitoring Officer confirmed that an advertisement had been published in the Express and Star Newspaper seeking expressions of interest for the voluntary position, with three successful applications received and subsequently appointed. The Monitoring Officer undertook to consider comments made for future arrangements.

In responding, Councillor J Foster suggested that a financial incentive be considered to attract a larger demographic audience.

- c) Some Members agreed with Councillor J Foster's suggestion in increasing the number of Members appointed to the Standards Sub-Committee to five, whilst some Members considered that the existing arrangements had been satisfactory and working well with no issues or complaints raised.
- d) Councillor J Cowell acknowledged all comments made, however considered that there may be an opportunity to develop experience and knowledge of the process to other Members.

- e) It was confirmed that the quorum for a Standards Sub-Committee comprising five members would be three members.

## **Resolved**

That the Standards Sub-Committee be re-appointed for 2023/2024 with its existing Terms of Reference and that the membership be extended to five members comprising of the Chair (Councillor A Lees), the Vice-Chair (Councillor D Borley), Councillor J Cowell, Councillor J Foster and Councillor W Little.

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### **8. Committee Work Plan 2023-24**

A report of the Director of Finance and Legal Services was submitted on a schedule of proposed items to represent a work plan for the Committee for the 2023/2024 Municipal Year, which was attached as Appendix A to the report submitted.

## **Resolved**

That the information contained in the report and the schedule of agenda items to form the Work Programme of the Committee in the 2023/2024 Municipal Year, as detailed in Appendix A to the report, be noted and approved.

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### **9. Audit and Risk Management Services Annual Performance Report 2022-23**

A report of the Director of Finance and Legal Services was submitted on the performance of Audit and Risk Management Services for the financial year ending 31<sup>st</sup> March, 2023.

The Head of Audit and Risk Management Services presented the report, and in doing so confirmed that by the end of March, 2023, 93% of the Audit Plan had been completed, and outstanding work was being finalised. Forty-two areas of activity had been reviewed, and in addition, it was reported that three honorary audits, forty-two School Financial Value Standard assessment reviews and one multi-academy trust audit had also been completed. The audit work carried out had resulted in 466 actions and the priority classification of the actions as Critical, High, Medium, or Advisory were noted, together with the number of actions unimplemented from the previous year.

The table set out in paragraph 8 of the report, detailed a summary of the assurance ratings, and it was noted that 63% of audits had received a 'minimal' or 'limited' rating during 2022/2023.

A summary of the audits completed, and the assurance ratings given were outlined in Appendix A, with Appendix B detailing the audits that had been cancelled during the year and additional audits that had been added to the plan. Appendix C provided a summary of actions required by Directorates.

Reference was made of the nine-week target in producing and issuing the draft audit report from the start date of the audit, and it was noted that during 2022/2023, Audit and Risk Management Services achieved 89%, being above last year's performance but below the target set of 90%. It was acknowledged that some delays had occurred as a result of some large and complex audits that had been undertaken during the year.

Members were advised that the Audit and Risk Management Services had completed two additional significant investigations, requested by the Director of Finance and Legal Services and the Director of Housing and Communities respectively, which required significant resources from senior members of the team, which further impacted upon targets and other responsibilities.

It was noted that 86% of Managers had provided their initial response within the four-week target of the date of the draft report, compared to 94% the previous year. Audit and Risk Management Services currently have a target of issuing the final audit report within six weeks of the date of the draft report, which required the support and co-operation of Directors. It was noted however that during 2022-23, 50% of final reports had been issued within the six-week target, compared to 67% the previous year. It was acknowledged that the performance figures had been disappointing, despite the regular reminders to the managers of the target and support was available if needed.

Paragraph 19 of the report submitted detailed the 'minimal' assurance reports issued and the follow up reviews that had been undertaken.

The Head of Audit and Risk Management Services referred to the difficulties in achieving the income target, in particular that this had been missed by approximately £46,000, which had been covered by the current Principal Auditor vacancy.

The Head of Audit and Risk Management Services advised that the Chartered Institute of Public Finance and Accountancy (CIPFA) suggested that Members should evaluate their skills and knowledge on a regular basis and a questionnaire had been attached at Appendix D for this purpose. Members were advised that there may be a benefit to all Members updating the assessment which would then be used to identify any training needs.

In concluding, the Head of Audit and Risk Management Services then presented his annual opinion, in that based on the work undertaken, reasonable assurance could be provided on the Council's framework of governance, risk management and internal control. The main concerns to be reported to the Committee related to the self-referral to the Regulator of Social Housing, outcomes of the Ofsted inspection on the quality of services for children in Dudley and issues identified with the Council's approach to managing programmes, projects and contracts.

Arising from the presentation of the report, Members asked questions, made comments and responses were provided where necessary as follows:-

- a) In responding to a question raised by Councillor J Cowell, the Head of Audit and Risk Management Services confirmed that the assurance ratings outlined in paragraph 8 of the report submitted did include school audits, however school audits were not included in the graph shown in paragraph 9.
- b) Councillor J Cowell raised concerns of the low level of substantial assurance ratings for 2022-23, and sought assurances that there were sufficient staff and resources available within the Audit and Risk Management Services to undertake the significant amount of work planned.

In responding, the Head of Audit and Risk Management Services assured Members that although additional resources would be welcomed there was sufficient capacity for him to deliver his annual opinion.

- c) In responding to a question raised by Councillor J Foster in relation to the Principal Auditor vacancy and whether a market supplement could be considered, the Head of Audit and Risk Management Services referred to the challenges faced in the recruitment of the position.

- d) Reference was made to the income target of approximately £70,000, given to Audit and Risk Management Services which had resulted in the Team undertaking some consultancy work in order to meet the target set. Councillor J Foster raised concerns that the focus on achieving this target detracted from undertaking work in priority areas and the potential financial risk by not carrying out planned audits.

The Director of Finance and Legal Services referred to the complex nature of this situation and difficulties in identifying additional resources for Team, and acknowledged that the historical Income target should be removed with more focus given to core audit work. It was reported that a budget bid would be developed for consideration during the budget consultation in November, 2023.

Following concerns raised in relation to the reduced performance of 50% in issuing final reports within six weeks of the date of the draft report, the Committee recommended that the Chief Executive be requested to remind Directors of their required support and co-operation needed in this area to help improve performance going forward.

### **Resolved**

- (1) That the information contained in the report and Appendices to the report submitted, and comments made by Members as stated above, be noted.
- (2) That Members be requested to complete the questionnaire attached as Appendix D to the report submitted, and forward to the Head of Audit and Risk Management Services.
- (3) That the Chief Executive be requested to write to Directors emphasising their required support and co-operation needed in relation to issuing final audit report within six weeks of the date of the draft report.

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## **10. Questions Under Council Procedure Rule 11.8**

There were no questions to the Chair pursuant to Council Procedure Rule 11.8.

The meeting ended at 7.28pm

CHAIR



## **Meeting of the Audit and Standards Committee – 25<sup>th</sup> September 2023**

### **Report of the Chief Executive**

### **Review of Programme, Project and Contract Management**

#### **Purpose of the Report**

1. To report progress with the improvement of programme, project and contract management.

#### **Recommendations**

2. That the committee note and comment on the actions set out in this report.

#### **Background**

3. This committee on 23<sup>rd</sup> January 2023 approved changes to the Annual Governance Statement to reflect issues arising from an audit investigation that was reported to this committee on 23<sup>rd</sup> November 2022. The investigation highlighted failings in programme, project and contract management as follows:
  - Lack of clear roles and responsibilities e.g. having a designated project or contract manager.
  - Lack of understanding of the contract in place.
  - Payments not made in accordance with Financial Regulations and in line with the agreed contract.
  - Procurement not undertaken in accordance with Contract Standing Orders.
  - Lack of effective governance over projects (project plans, project reporting, project risks and issues, designated Senior Responsible Officer).
  - Decisions not undertaken in accordance with the council's constitution.

- Project budgets not managed in accordance with Financial Regulations.
  - Poor records management.
  - Legal advice not obtained where appropriate.
4. Management recognise that these issues were and are wider than the events considered in the November 2022 audit report. We also recognise that improving standards of programme, project and contract management is an ongoing process. It relies on being prepared to identify errors, learn from them, change processes where appropriate and promote better practice going forward. Appendix 1 sets out an action plan addressing the specific issues listed above. Although a Lead Officer is listed for each action, it is the responsibility of all managers to contribute to improvements in practice. The events considered by the audit investigation go back to 2019 and as such some of the actions listed in the plan pre-date November 2022.

### **Finance**

5. This committee on 23<sup>rd</sup> November 2022 resolved that the appropriate director review the current capacity within internal audit to consider whether this is appropriate. This work is currently being undertaken and any request for additional resources will be submitted to Cabinet and Council through the annual budget process.

### **Law**

6. The Accounts and Audit Regulations 2015 require that the council conduct a review at least once a year of the effectiveness of its system of internal control and produce an Annual Governance Statement (AGS).

### **Risk Management**

7. The issues set out in this report are recognised in the Council's Risk Register.

### **Equality Impact**

8. There are no direct equality implications.

### **Human Resources/Organisational Development**

9. The establishment of Internal Audit is being reviewed.

## **Commercial/Procurement**

10. Other reports on this agenda [check whether we split the agenda] relate to proposed amendments to Standing Orders and Exemptions from the requirement for a competitive procurement process. Where Exemptions or Waivers are granted, consideration is given to any lessons learned and/or guidance required to ensure better compliance with Standing Orders in future.

## **Environment/Climate Change**

11. There are no direct environment or climate change implications.

## **Council Priorities and Projects**

12. Effective management of programmes, projects and contracts contribute to the delivery of the Council's priorities and form part of the Future Council programme and Process theme.

A handwritten signature in blue ink, appearing to read 'K O'Keefe', with a long horizontal stroke extending to the right.

**Kevin O'Keefe**  
**Chief Executive**

### **Contact Officers:**

Iain Newman, Director of Finance & Legal Services and Section 151 Officer  
Luisa Fulci, Director of Digital, Customer and Commercial Services

## **Appendix 1 - Action Plan**

<b>Objective</b>	<b>Actions</b>	<b>Timescales</b>	<b>Outputs</b>	<b>Lead Officer</b>
Lack of effective governance over projects (project plans, project reporting, project risks and issues, designated Senior Responsible Officer).	<ul style="list-style-type: none"> <li>• Rollout and embed the Project Management Framework and Toolkit</li> <li>• Rollout and embed the Project Portal (Verto365)</li> <li>• Provide project assurance and a check and challenge function for project leads on the development of PIDS and business cases</li> </ul>	Phased rollout programme starting from June 2023 starting with Regeneration & Ent	Framework: <ul style="list-style-type: none"> <li>• Framework signed off by the Chief Executive in May 2023 and formally launched at newly formed Project Management Network event ('Agents for Change') on 29<sup>th</sup> June.</li> <li>• CPMO introduced the Framework and the Portal to all DMTs during July and August.</li> <li>• Provides standardised way of working, defines expectations of those working on projects.</li> <li>• Improved governance and adherence to regulatory and statutory obligations on projects</li> </ul>	Head of Chief Executives Office

Objective	Actions	Timescales	Outputs	Lead Officer
Lack of effective governance over projects (project plans, project reporting, project risks and issues, designated Senior Responsible Officer).	<ul style="list-style-type: none"> <li>Rollout and embed the Project Management Framework and Toolkit</li> <li>Rollout and embed the Project Portal (Verto365)</li> <li>Provide project assurance and a check and challenge function for project leads on the development of PIDS and business cases</li> </ul>	Phased rollout programme starting from June 2023 starting with Regeneration & Ent	<b>Toolkit and Training:</b> <ul style="list-style-type: none"> <li>Templates for PIDs, business cases, risks, EIA's, comms plans (live)</li> <li>Package of mandatory templates, guidance, training videos and support sessions for project leads (live)</li> <li>Overview sessions on the Framework and Portal delivered to Regen &amp; Enterprise colleagues and 1:1 session's now being held to support staff in the use of the Project Portal.</li> <li>Training for Digital and Customer Services Project Managers and key officers in Environment Directorate scheduled for September.</li> </ul>	Head of Chief Executives Office
			<b>Portal:</b> <ul style="list-style-type: none"> <li>Centralised location for all project information and documentation</li> <li>Realtime oversight of project activity (ongoing)</li> <li>End to end management of projects from concept to business as usual</li> </ul>	
			<b>Reporting:</b> <ul style="list-style-type: none"> <li>Major Project Status Report produced by CPMO on a six-weekly basis since January 2023. This includes exception reporting and obstacles to project delivery.</li> <li>Report currently being developed further to meet the requirements of the Corporate Programme Board (new).</li> <li>Escalations to risk, budget and delivery reported to the board</li> </ul>	
			Project reviews/deep dives:	

Objective	Actions	Timescales	Outputs	Lead Officer
			<ul style="list-style-type: none"> <li>Provide further quality assurance by the appraisal of in-flight projects to enable effective governance (ongoing)</li> </ul>	
Lack of clear roles and responsibilities e.g. having a designated project manager.	<ul style="list-style-type: none"> <li>Rollout and embed the Project Management Framework and Toolkit</li> <li>Outline project, programme and change management roles &amp; responsibilities for new starters as part of corporate inductions</li> <li>Outline project, programme and change management roles &amp; responsibilities for current managers as part of Dudley Manager</li> <li>Outline project, programme and change management roles &amp; responsibilities for aspiring managers as part of leadership development programmes</li> <li>Defining the 'corporate portfolio' of projects and programmes</li> </ul>	Framework and toolkit launched July 2023	<p>Framework:</p> <ul style="list-style-type: none"> <li>Launched in May 2023 the framework provides a standardised way of working, defines the expectations of those working on projects and their roles and responsibilities</li> </ul> <p>Training:</p> <ul style="list-style-type: none"> <li>CPMO have provided outline project management training to managers taking part in the current leadership development programme cohort – this will continue for future cohorts</li> <li>CPMO confirmed as a partner on the corporate Annual Training Programme and a 12-month programme of</li> <li>Project Management Training is currently being developed alongside People &amp; Inclusion colleagues which will available to all staff for the 2024 calendar year. The programme will include inhouse training delivered by CPMO as well as accredited training delivered by an external provider.</li> <li>Project and Performance Management form part of the core elements of the Corporate Induction programme</li> <li>Project Management basics forms part of the Dudley Manager framework</li> </ul>	Head of Chief Executives Office

Objective	Actions	Timescales	Outputs	Lead Officer
			<ul style="list-style-type: none"> <li>• Directorate by directorate framework and portal rollout Corporate Portfolio</li> <li>• Maintained baseline of Projects and Programmes in Council, with designated Project Sponsor and Project Manager</li> </ul>	
Decisions not undertaken in accordance with the council's constitution.	To commission an external review of the constitution To deliver training on the decision-making process at a future date	During 2023/24	Officers understand what their decision-making delegations are	Lead for Law and Governance
Procurement not undertaken in accordance with Contract Standing Orders.	The Head of Procurement to report all Exemptions and Waivers to the CSO to A&SC	Complete	<ul style="list-style-type: none"> <li>• The Head of Procurement took the first annual paper in March 2023 giving A&amp;SC oversight of all non-compliance. Following papers will include the Waivers and rationale for the Exemptions.</li> <li>• The Head of Procurement is also working closely with Directors to look at alternatives, where possible, to any Waivers.</li> </ul>	Director for DCC

Objective	Actions	Timescales	Outputs	Lead Officer
	Updated CSO to be produced	Sept 23	<ul style="list-style-type: none"> <li>The Head of Procurement to revise the CSO which will seek to update and simplify the existing provisions making them easier to understand. A full review will take place in late 2024 following the release of the new Procurement Bill. The Head of Procurement has additionally introduced a new Exemption form to aid Council Officers in determining the correct procedure.</li> <li>This is further supported by the Procurement Code that simplifies the CSO.</li> </ul>	
	Procurement training delivered to c.150 staff in 22/23 and a recording available on connect	Complete	Guidance on the key aspects of the CSO is available to Council Officers. Further training will be provided that will encompass the key compliance points as part of the Contract Management roll out. However, we do not currently have a way to determine who has completed the training, or the level of retention and understanding. Neither is this training mandatory or to be completed on a regular basis.	
Procurement not undertaken in accordance with Contract Standing Orders.	Revised Procurement policies, processes and information available on connect	Sept 23	Many of the policies and processes have already been updated by the Procurement team. However, these will require ongoing maintenance to ensure they are kept up-to-date. These will aid compliance as the information required will be accurate and readily available.	Director for DCC



Objective	Actions	Timescales	Outputs	Lead Officer
Lack of understanding of the contract in place.	Contract Management policies and processes being developed.	Q3 roll out	<ul style="list-style-type: none"> <li>Contract managers will have the key contract information drawn out into a standardised form ensuring the key contract points are readily available.</li> <li>Furthermore, the Procurement team are looking to introduce a new e-tendering and contract management system which will aid Contract managers in managing their contracts.</li> </ul>	Director for DCC
Lack of clear roles and responsibilities e.g. having a designated contract manager.	Identify contract managers for each contract	Complete	Each contract added to the e-tendering system has a designated contract manager.	Director for DCC
	Contract Management policies and processes being developed.	Q3 roll out	Contract managers will have clearly defined responsibilities according to the contract categorisation.	
Payments not made in accordance with Financial Regulations and in line with the agreed contract.	Revised Financial Regulations, reflecting organisational changes and modern ways of working, approved by Audit and Standards Committee.	December 2021	Officers understand their responsibility to manage within budgets set in line with the Council's Constitution.	Director of Finance and Legal
Project budgets not managed in accordance with Financial Regulations.	The Project Management Framework and Toolkit support compliance with Financial Regulations. The Framework details a One Council Approach to Project Management and specifically references that for all major projects, a representative from Finance must be included within the project governance structure. The Framework states that	Phased roll out of framework from June 2023 starting in Regen & Ent	Officers understand that project governance processes do not override the requirements of Financial Regulations and this is detailed in the Framework, Portal and Toolkit and will be further communicated in the financial project management training.	Director of Finance and Legal

Objective	Actions	Timescales	Outputs	Lead Officer
	<p>projects can only be funded from budgets approved by Cabinet and Council.</p> <p>The Portal also directs Project Managers to the financial regulations and the financial rag status of projects is a key part of the governance reports.</p> <p>A project financial management training course is being developed that will sit within the project management training programme and will launch in January 2024.</p>			
Poor records management.	<p>The Project Management Framework and Toolkit support compliance with good records management practices.</p> <p>The Framework details the process for Information Management including Collection, storage, curation, dissemination, archiving and destruction.</p> <p>The framework requires and provides version-controlled documentation, standard</p>	July 2023	<ul style="list-style-type: none"> <li>Project management records are complete, accessible and retained for an appropriate period of time.</li> </ul>	Director of Finance and Legal

Objective	Actions	Timescales	Outputs	Lead Officer
	documentation templates and centralised storage facilities.			
Legal advice not obtained where appropriate.	Procurement to review all new contracts and seek legal advice where appropriate as part of the procurement process.	Complete	<ul style="list-style-type: none"> <li>Due to the nature of procurement work, the Procurement Team are in a unique position where they are able to identify when legal advice is required and to ensure it is obtained.</li> </ul>	Lead for Law and Governance

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**Meeting of the Audit and Standards Committee – 25<sup>th</sup> September 2023**

**Report of the Monitoring Officer**

**Whistleblowing Policy**

**Purpose of Report**

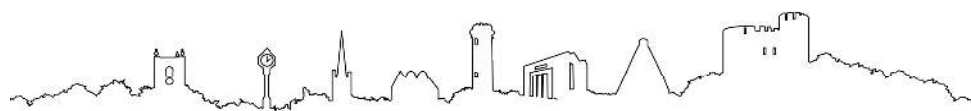
1. To approve the recent revision of the Council's Whistleblowing Policy and to monitor the operation of the Policy.

**Recommendation**

2. It is recommended that the Committee note and approve the recent revision of the Whistleblowing Policy and note its operation to date.

**Background**

3. Within its terms of reference the Audit and Standards Committee is responsible for advising the Council on its Whistleblowing reporting policy and monitoring its operation.
4. The Policy was first introduced in July 1999 and was last updated and approved by Audit and Standards Committee at its meeting on 30<sup>th</sup> June 2022. A copy of the fully refreshed, updated draft policy is attached. See Appendix A. The policy has been circulated to HR and Audit colleagues, Union Representatives and Directorates by way of a consultation and all comments received have been taken into consideration.
5. In my capacity as Monitoring Officer I regularly monitor the Policy by surveying each Directorate and asking a number of standard questions. The latest survey was undertaken during August 2023 and the results are set out below.



**Are you aware of any use of the Policy by your staff and, if so, please supply appropriate details?**

6. There have been two anonymous whistleblowing referrals about the same issue received since the policy was reviewed in 2022. The issue was referred to the Directorate of Finance and Legal and the concerns were investigated, no breach identified and the relevant team were updated by email.

**How are your staff reminded of the existence of the policy e.g. newsletters and briefings?**

7. Generally Directorates make use of briefings, emails, Newsletters, Corporate Communications, management meetings, posters on noticeboards, annual reminders and the induction process. Once the revised policy is approved awareness reminders will be communicated corporately, uploaded to the Business News area of Connect/Sharepoint and uploaded to Revolution for Schools.
8. Directorates will place copies of the Whistleblowing poster in prominent work areas.

**Finance**

9. There are no financial implications arising from this report.

**Law**

10. The relevant legislation is contained in the Public Interest Disclosure Act 1998 which affords statutory protection for whistle-blowers.

**Risk Management**

11. The Whistleblowing Report and Policy does not create any risks for the Council, but by having a Whistleblowing Policy it does help for potentially serious issues to be identified and addressed.

**Equality Impact**

12. This report takes into account the Council's policy on equality and diversity.

## **Human Resources/Organisational Development**

13. This policy has been circulated and consulted upon with Human Resources/Organisational Development.

## **Commercial/Procurement**

14. There are no commercial/procurement considerations associated with this report.

## **Council Priorities and Projects**

15. The Whistleblowing Policy forms part of the Council's overall governance arrangements. Effective governance is essential to underpin the successful delivery of key Council priorities including the Borough Vision, Council Plan and Future Council Programme.



Mohammed Farooq  
Monitoring Officer

Contact Officer: Mohammed Farooq  
Telephone: 01384 815301  
Email: [mohammed.farooq@dudley.gov.uk](mailto:mohammed.farooq@dudley.gov.uk)

## **List of Background Papers**

Various emails from Directorates

# **DUDLEY METROPOLITAN BOROUGH COUNCIL**

## **WHISTLEBLOWING POLICY**

Dudley Council is committed to ensuring that it and those people working for it comply with the highest standards of openness, honesty, integrity and accountability

This Policy will come into effect from 1st October 2023 and will be reviewed on an annual basis.

# Worried that something may be going seriously wrong in your workplace?



-  Fraud
-  Health & Safety
-  Pollution
-  Price Fixing
-  Legality
-  Abuse in Care

## Not sure who you can talk to?

Under our Whistleblowing Policy, you can talk in confidence to Mohammed Farooq, Monitoring Officer on 01384 815301 or via emailing at [mohammed.farooq@dudley.gov.uk](mailto:mohammed.farooq@dudley.gov.uk)

You can also raise your concern via the dedicated whistleblowing hotline number: 01384 814242 and by e-mail: [hotline@dudley.gov.uk](mailto:hotline@dudley.gov.uk)

You can also get independent, confidential advice from the charity Protect on 02031172520 or at [www.protect-advice.org.uk](http://www.protect-advice.org.uk)



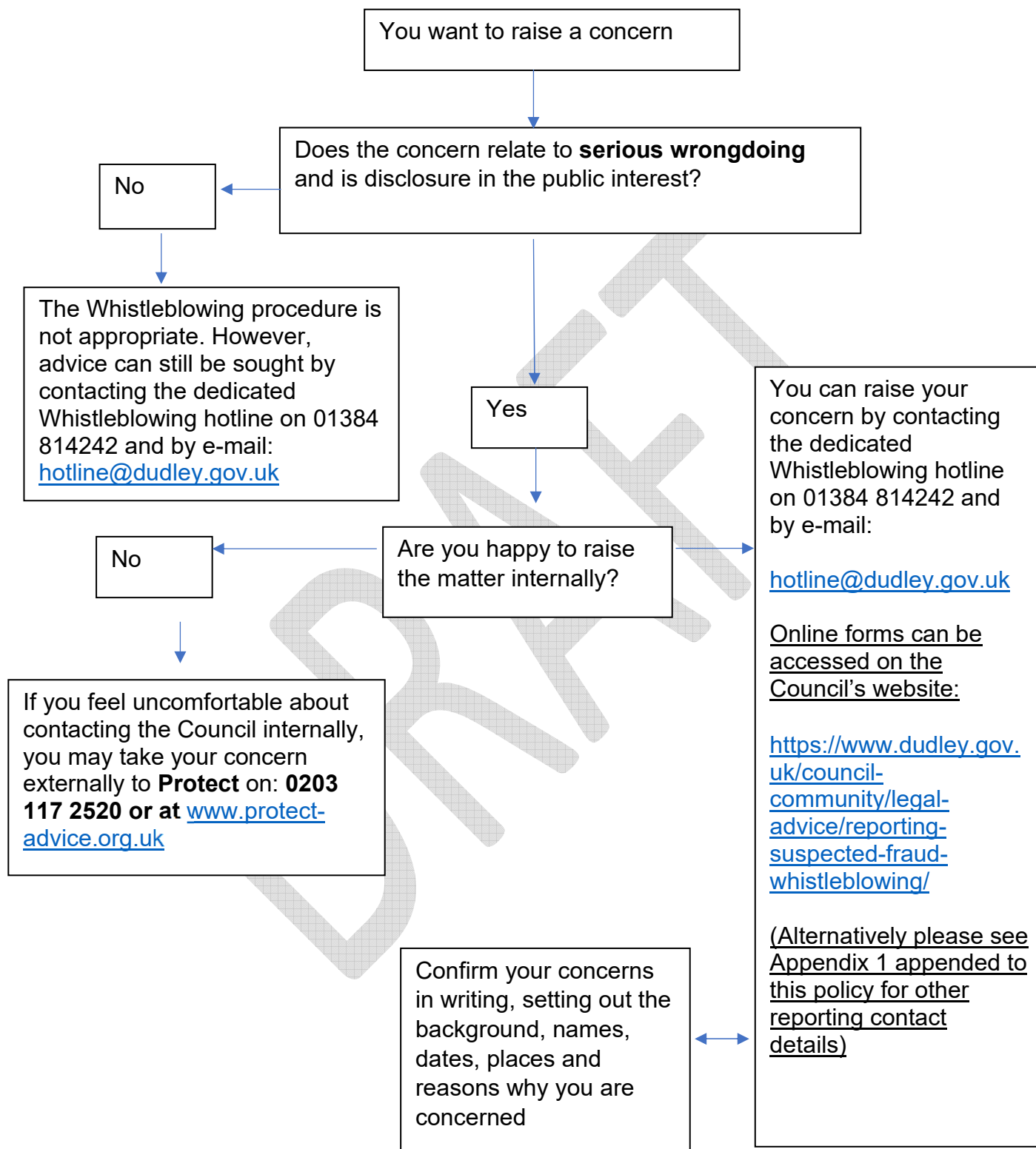
## **CONTENTS**

- 1 What is Whistleblowing?
- 2 Raising Concerns
- 3 What are the aims of the Policy and when does it apply?
- 4 Protecting the Whistleblower
- 5 What the Council will do
- 6 The Responsible Officer
- 7 How the matter can be taken further
- 8 Review of the Policy
- 9 Corporate recording and monitoring

## **Appendices**

- Appendix 1 Who to contact
- Appendix 2 Public Interest Disclosure Act 1998
- Appendix 3 Whistleblowing for those employed or working in various educational establishments
- Appendix 4 Confidentiality and Anonymity
- Appendix 5 The Nolan Principles

## Whistleblowing Flowchart



# Whistleblowing policy (confidential reporting)

## 1. What is Whistleblowing?

The term 'Whistleblowing' has a specific legal definition – i.e a disclosure or allegation of serious wrongdoing made by an employee, and a wider public definition, i.e. any disclosure or allegation of serious wrongdoing made by anyone.

The aim of this policy is to allow employees and others who have serious concerns about any aspect of the Council's work to come forward and voice concerns of suspected misconduct, illegal acts or failure to act within the Council.

Employees are often the first to realise there may be something seriously wrong within the Council. 'Whistleblowing' is viewed by the Council as a positive act that can make a valuable contribution to the Council's efficiency, statutory compliance and long-term success; it is not disloyal to colleagues or the Council to speak up.

The Council is committed to ensuring that it and the people working for it comply with the highest standards of openness, honesty, integrity and accountability.

If you are considering raising a concern, you should read this policy first as it explains:

- the types of issues that can be raised.
- how the person raising a concern will be protected from victimisation and harassment.
- how to raise a concern.
- what the Council will do.

## 2. Raising Concerns

### 2.1. Who should you raise your concern with?

If you suspect serious wrongdoing within the Council, including schools if they are part of the Council, you can raise your concern by contacting the dedicated Whistleblowing hotline on: 01384 814242 and by e-mail:

[hotline@dudley.gov.uk](mailto:hotline@dudley.gov.uk)

Online forms can be accessed on the Council's website:

<https://www.dudley.gov.uk/council-community/legal-advice/reporting-suspected-fraud-whistleblowing/>

### 2.2. How to raise a concern

If you feel uncomfortable making contact via the dedicated Whistleblowing hotline telephone number or email address, you can contact the:

- Monitoring Officer,
- Chief Executive,
- Director of Finance and Legal Services (Section 151 Officer),
- Head of Audit and Risk Management Services.

For contact details see Appendix 1.

If you feel uncomfortable about contacting the Council internally, you may take your concern externally to **Protect** on: **0203 117 2520** or at

[www.protect-advice.org.uk](http://www.protect-advice.org.uk)

Protect will offer free, independent and confidential advice.

The earlier you express your concern, the easier it is to take action. You will need to provide the following information:

- the nature of your concern and why you believe it to be true.
- the background and history of the concern (giving relevant dates).

Although you are not expected to prove beyond doubt the truth of your suspicion, you will need to demonstrate that you have a genuine concern relating to suspected wrongdoing or malpractice within the Council and that there are reasonable grounds for your concerns.

You may wish to discuss your concern with a colleague first and you may find it easier to raise the matter if there are two (or more) of you who have had the same experience or concerns.

You may invite your trade union, professional association representative, or a friend to be present for support during any meetings or interviews in connection with concerns you have raised.

### **3. What are the aims of the policy and when does it apply?**

#### **3.1. Aims of the policy**

The policy is designed to ensure that you can raise concerns about wrongdoing or malpractice within the Council without fear of victimisation, subsequent discrimination, disadvantage or dismissal.

This policy aims to:

- encourage you to feel confident in raising serious concerns at the earliest opportunity and to question and act upon concerns about practice.
- provide avenues for you to raise those concerns and receive feedback on any action taken.
- ensure that you receive a response to your concerns and that you are aware of how to pursue them if you are not satisfied.
- reassure you that you will be protected from possible reprisals or victimisation if you have made any disclosure in good faith.

#### **3.2. Scope of the policy**

This policy is intended to allow anyone who becomes aware of any wrongdoing in the Council to report their concerns at the earliest opportunity so that there can be an investigation within the Council rather than overlooking a problem or 'blowing the whistle' outside the authority.

The 'Whistleblowing' policy is not intended to replace existing procedures.

- or for raising or reconsidering matters that come under existing internal procedures.
- if your concern relates to your own treatment as an employee, you should raise it under the existing grievance or harassment procedures.
- it is not for allegations that fall within the scope of specific procedures (for example child or vulnerable adult protection dealt with by Dudley Safeguarding Board), unless there is good reason to believe those procedures are not being followed.
- if a client has a concern about the services they receive, it should be raised as a complaint to the Council.
- complaints of misconduct by Councillors are dealt with under a separate procedure (for further information contact the Council's Monitoring Officer).

The policy makes it clear that you can do so without fear of victimisation, subsequent discrimination or disadvantage.

### **3.3. Who can raise a concern under this policy?**

This policy applies to all:

- employees of Dudley Metropolitan Borough Council
- employees of contractors working for the Council, for example, agency staff, builders and drivers
- employees of suppliers

- those providing services under a contract or other agreement with the Council in their own premises, for example care homes
- community and voluntary controlled schools where the Council is the legal employer\*
- volunteers working with the Council

\*those employees working in or assisting Academies, Voluntary Aided Schools, Foundation Schools and Free Schools where the Council is not the employer will have an alternative 'whistleblowing' procedure outside the Council because of the special relationship that exists with the schools' governing bodies. Please see Appendix 3 for further information.

### **3.4. What should be reported?**

Any serious concerns that you have about service provision, the conduct of officers or others acting or purporting to act on behalf of the Council should be reported if they:

- make you feel uncomfortable in terms of known standards.
- are not in keeping with the Council's constitution or policies for example the Council's Standing Orders or Financial Regulations.
- fall below established standards of practice,
- amounts to improper behaviour.

These might relate to, but are not limited to:

- any criminal activity including incitement to commit a criminal act.
- disclosures related to miscarriage of justice,
- All discrimination including, but not limited to, racial, sexual or disability,
- health and safety of the public and employees,
- damage to property,

- damage to the environment,
- unauthorised use of public funds or other assets (including gross waste or mismanagement of funds),
- Possible fraud and corruption,
- abuse of powers of authority or guardianship,
- failure to comply with professional standards, Council policies or codes of practice/conduct,
- sexual, emotional or physical abuse or neglect of colleagues or clients,
- safeguarding children and vulnerable adults,
- any other form of improper action or conduct, for example breaches of the regulations requiring school governors *to act with integrity, objectivity and honesty and in the best interests of the school* (Appendix 3),
- breaches of the *Nolan Principles of Conduct Underpinning Public Life* (Appendix 5),
- any other unethical conduct,
- deliberately concealing any of the above.

This list is not exclusive.

## **4. Protecting the Whistleblower**

### **4.1. Your legal rights**

This policy has been written to take account of the Employments Rights Act 1996, the Public Interest Disclosure Act 1998, and the Enterprise and Regulatory Reform Act 2013.

PIDA protects workers making disclosures about certain matters of concern when those disclosures are made in accordance with the Act's provisions and the public interest.



The Act makes it unlawful for the Council to dismiss anyone or allow them to be victimised on the basis that they have made an appropriate lawful disclosure in accordance with the Act. See Appendix 2 for further details.

#### **4.2. Harassment or Victimisation**

The Council is committed to good practice, high standards, and to supporting you as an employee. It is recognised that the decision to report a concern can be a difficult one to make. If you honestly and reasonably believe what you are saying is true, you should have nothing to fear because you will be doing your duty to your employer, your colleagues, and those for whom you are providing a service.

The Council will not tolerate any harassment or victimisation of a 'whistleblower' (including informal pressures) and will take appropriate action to protect you when you raise a concern in good faith. The Council will treat this as a serious disciplinary offence which will be dealt with under the disciplinary rules and procedure.

An employee has the right to complain of victimisation as a result of any whistleblowing to an employment tribunal.

Any employee who victimises a whistleblower could:

- be subject to an internal council investigation and potential disciplinary action, including potential dismissal.
- face a civil claim personally, as the affected whistleblower could be entitled to directly issue a legal claim against the culprit.

#### **4.3. Support to you**

Throughout this process:

- you will be given full support of senior management,
- your concerns will be taken seriously,
- the Council will do all it can to help you throughout the investigation.

If appropriate, the Council will consider temporarily re-deploying you for the period of the investigation.

For those who are not Council employees, the Council will endeavour to provide appropriate advice and support wherever possible.

#### **4.4. Confidentiality**

All concerns will be treated in confidence and every effort will be made not to reveal your identity if that is your wish. If disciplinary or other procedures follow the investigation, it may not be possible to take action as a result of your disclosure without your help, so you may be asked to come forward as a witness. If you agree to this, you will be offered advice and support (see appendix 4).

#### **4.5. Anonymous Allegations**

This policy encourages you to put your name to your allegation whenever possible. If you do not tell us who you are it will be much more difficult for us to protect your position or to give you feedback. Concerns expressed anonymously are much less powerful but they may be considered at the discretion of the Council. In exercising that discretion, the factors to be considered will include:

- the seriousness of the issue raised,
- the credibility of the concern,
- the likelihood of confirming the allegation from other sources.

#### **4.6. Untrue Allegations**

If you make an allegation in good faith and reasonably believe it to be true, but it is not confirmed by the investigation, the Council will recognise your concern and there is no further action. However, if your allegation is

frivolous, malicious or made for personal gain, appropriate action that could include disciplinary proceedings could be taken.

## **5. What the Council will do**

The Council will respond to your concerns as quickly as possible. Do not forget that testing your concerns is not the same as accepting or rejecting them.

The overriding principle for the Council will be public interest. In order to be fair to all employees, including those who may be mistakenly or wrongly accused, initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take.

Details that will need to be asked of you are listed below but are not exhaustive:

Name ..... (unless they wish to be anonymous)

Contact details..... (unless they wish to be anonymous)

Who has committed the alleged serious wrongdoing?

What is the nature of the alleged serious wrongdoing and when/what date did it occur?

Is the person making a disclosure employed by DMBC?

Does that person work in a school (if so which one)?

Is the person a service user or member of the public?

The investigation may need to be carried out under terms of strict confidentiality i.e. by not informing the subject of the complaint until (or if) it becomes necessary to do so. In certain cases, however, such as allegations of ill treatment of others, suspension from work may have to be

considered immediately. Protection of others is paramount in all cases. Where appropriate, the matters raised may:

- be investigated by management, internal audit or via the disciplinary or grievance process.
- be referred to the Police.
- be referred to the external auditor.
- be referred and put through established child protection or abuse procedures.
- form part of an independent inquiry.

Within 10 working days of a concern being raised, the person investigating your concern will write to you;

- acknowledging that the concern has been received.
- indicating how the Council proposes to deal with the matter.
- supplying you with information on staff support mechanisms.
- telling you whether further investigations will take place and if not, why not.

The amount of contact between you and the officers considering the issues will depend on the nature of the matters raised, the potential difficulties involved, and the clarity of your information. It is likely that you will be interviewed to ensure that your disclosure is fully understood.

Any meeting can be arranged away from your workplace, if you wish, and a union or professional association representative or friend may accompany you in support.

The Council will do what it can to minimise any difficulties that you may experience as a result of raising a concern. For instance, if you are asked to give evidence in criminal or disciplinary proceedings, the Council will arrange for you to receive appropriate advice and support.

You need to be assured that your disclosure has been properly addressed. Unless there are any legal reasons why this cannot be done, you will be kept informed of the progress and outcome of any investigation.

The Monitoring Officer will be notified of all whistleblowing referrals.

## **6. The Responsible Officer**

The Monitoring Officer has overall responsibility for the maintenance and operation of this policy and will report to the Audit and Standards Committee. If your concern is about the Chief Executive, it should be raised with the Leader of the Council who will decide how the investigation will proceed.

## **7. How the matter can be taken further**

This policy is intended to provide you with an avenue within the Council to raise concerns. The Council hopes you will be satisfied with any action taken. If you are not, and you feel it is right to take the matter outside the Council, the following are the Council's prescribed contacts:

- your trade union
- the police
- the ombudsman
- other relevant bodies prescribed by legislation (the Monitoring Officer will be able to advise who you can contact)
- the External Auditor (Grant Thornton UK LLP)

If you raise concerns **outside** the Council, you should ensure that it is one of these prescribed contacts. A public disclosure to anyone else could take you outside the protection of the Public Interest Disclosure Act (see Annex 2) and this policy.

You should not disclose information that is confidential to the Council to anyone else, such as a client or contractor of the Council, except to those included in the list prescribed contacts.

## **8. Review of the policy**

The Council's Audit and Standards Committee will review the policy annually.

The Monitoring Officer will produce an annual report for that Committee. The report will include a summary of the concerns raised, to which directorate they relate to, the post to which the concerns related (if not confidential), and any lessons learned. The report will not include any employee names. The aim of this is to ensure that:

- the Council and/or the relevant directorate learns from mistakes and does not repeat them.
- there is a consistency of approach across the directorates.

The annual reports will be available for inspection by internal and external audit, after removing any confidential details.

## **9. Corporate recording and monitoring**

The Council is legally required to maintain a list of concerns raised by employees made under the Public Interest Disclosure Act. Inclusion in this list does not amount to acceptance that the communication amounts to a Protected Disclosure and any subsequent decision that the matter falls outside the Act will be added to the record on the list.

The Council will also record all disclosures of serious wrongdoing made by members of the public.

On conclusion of an investigation, the Monitoring Officer will be provided with a copy of the final report.

The Council will record details of all complaints made under this policy, anonymising the identity of the whistleblower. The Council will use this information for the purposes of identifying areas of concern, which may indicate further action is required, and where appropriate, share this information with other appropriate regulatory bodies. The types of information recorded may include:

- the date the concern was raised
- the nature of the concern and/or the risk/s highlighted
- who the concern was initially raised with
- whether confidentiality was requested
- the approach adopted
- the outcome, in terms of whether the concern was founded or unfounded
- whether feedback was given to the member of the public, contractor, employer, worker raising the concern and whether the worker was satisfied with the outcome and if not, why not; and
- the date the case was closed.

Both lists are maintained in accordance with the Data Protection Act 2018 (DPA).

A report on the number of concerns will be published annually. This report will not include any information identifying any whistleblower.

Kevin O'Keefe

**Chief Executive**

**Date: XXXX**

DRAFT



## Appendix 1

email, telephone or write to any of the following senior officers:

Officer	Tel N°	E-Mail
<b>Kevin O’Keefe</b> Chief Executive	<b>01384 815200</b>	<b><u><a href="mailto:kevin.okeefe@dudley.gov.uk">kevin.okeefe@dudley.gov.uk</a></u></b>
<b>Iain Newman</b> Director for Finance & Legal	<b>01384 814802</b>	<b><u><a href="mailto:iain.newman@dudley.gov.uk">iain.newman@dudley.gov.uk</a></u></b>
<b>Mohammed Farooq</b> Lead for Law & Governance and Monitoring Officer	<b>01384 815301</b>	<b><u><a href="mailto:mohammed.farooq@dudley.gov.uk">mohammed.farooq@dudley.gov.uk</a></u></b>
<b>Graham Harrison</b> Head of Audit and Risk Management Services	<b>01384 815105</b>	<b><u><a href="mailto:graham.harrison@dudley.gov.uk">graham.harrison@dudley.gov.uk</a></u></b>

All of the above Senior Officers can be contacted by post at:

**Dudley Metropolitan Borough Council  
The Council House  
Priory Road  
Dudley  
West Midlands  
DY1 1HF**

## Appendix 2

### **Disclosures made by Dudley Council employees, Trade Unions, Agency Staff, and any other individuals working for the Council.**

#### **The Public Interest Disclosure Act 1998 (PIDA)**

PIDA is designed to encourage and enable employees (which includes Agency Staff and any other individual working for the Council) to raise any concerns about any suspected serious wrongdoing, an illegal act or a dangerous situation within the Council.

This is called making a “Protected Disclosure” under the Act, and when it is made in the public interest and in accordance with this policy, an employee is legally protected from harassment or victimisation as a result of the disclosure.

The person making the disclosure does not have to be directly or personally affected by the serious wrongdoing, but the disclosure must be made in the public interest.

PIDA will protect any employee or worker making a Protected Disclosure; irrespective of whether or not the disclosure relates to information gained in the course of their employment (e.g. a protected disclosure made by an employee acting as a service user would still fall under the PIDA protection).

If an employee does not feel comfortable making a disclosure to the Council, they may be entitled to make a disclosure to other prescribed persons.

If you are unsure whether or how to use this Policy, you may seek free confidential help from the independent charity, Protect — 02031172520 [www.protect-advice.org.uk](http://www.protect-advice.org.uk)

**Protect** will also be able to help if you feel that it would be inappropriate to speak to any of the officers referred to above.

If you are employed by the Council, you may wish to consider discussing your concern with a fellow worker or your current recognised trade union representative first, and you may find it easier to raise the matter if there are two (or more) of you who have had the same experience or concerns. **You may invite those parties to be present during any meetings or interviews in connection with the concerns you have raised.**

Council employees are also entitled to make a Protected Disclosure through their manager, if they feel confident in approaching their manager to report a concern or allegation of serious wrongdoing that falls under this policy. If doing so, you must be explicit that the disclosure is being made under this policy. The manager must follow the obligation of confidentiality, but must, as

soon as possible after receiving the Protected Disclosure, log the disclosure and then confirm to the employee concerned, in writing or email, that this matter has been recorded.

In the event that an employee does not feel comfortable in making a disclosure to the Council, they are entitled to also make a Protected Disclosure to a number of other organisations. For further information as to whom, other than the Council, a protected disclosure can be made, see:

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/360648/bis-14-1077-blowing-the-whistle-to-a-prescribed-person-the-prescribed-persons-list-v4.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/360648/bis-14-1077-blowing-the-whistle-to-a-prescribed-person-the-prescribed-persons-list-v4.pdf)

If you do take the matter outside the Council, you should ensure that you do not disclose confidential information and you should check with one of the contact points listed in Appendix 1 to ensure that you are not doing so.

### **Whistleblowing by Members of the Public**

Unlike disclosures by employees, the Public Interest Disclosure Act 1998 does not cover disclosures by members of the public.

However, the Council considers that any disclosures or allegations made by members of the public in respect of serious wrongdoing should be handled in the same way as disclosures made by employees.

Once a disclosure from a member of the public has been received by the Council, it will be handled in the same way as a disclosure made by an employee under the Public Interest Disclosure Act 1998.

## **Appendix 3**

### **Individuals employed or working in Schools**

Community and Voluntary Controlled schools where the Council is the legal employer have formally adopted the Council's Whistleblowing Policy.

Otherwise, individuals employed in schools are normally expected to raise their concerns within the school initially, using existing policies where they are appropriate.

Where the employee working in a school considers one or more incidents amount to a safeguarding incident, they should make a referral under the Schools Safeguarding policy. However, if the employee has good reason to believe that:

- a. the complaint or whistleblowing will not be managed properly within the school, or
- b. that they will be exposed to victimisation as a result of the complaint; or
- c. the concern is about another school or another service provided by Dudley Council;

then the employee may make the complaint directly to Dudley Council. People who make a complaint to Dudley Council about the school in which they work should set out why they feel unable to make the complaint directly to the school.

This policy requires the Headteacher or Chair of Governors in a community or voluntary controlled primary, secondary or special, voluntary controlled or maintained nursery school to respond to a disclosure in the same way as Dudley Council would respond. The Headteacher or Chair of Governors, as the case may be, is expected to seek advice as necessary from the Council and their HR provider.

The headteacher must notify the Monitoring Officer that a referral has been received and provide the final report.

### **Foundation and Voluntary-Aided Schools**

In foundation and voluntary-aided schools that are also maintained (i.e. funded) by the Council, the governing body, not the Council, is the employer. It is therefore the responsibility of the governing body to adopt a whistleblowing policy.

In a foundation or voluntary-aided school, it is for the governing body to decide how, within its policy, employees and workers may make a qualifying disclosure which they do not feel able to share with the Headteacher or Chair of Governors. For example, a church school may wish to have discussions with the appropriate Diocesan Authority.

Where a concern is sent to the Council in respect of foundation or voluntary-aided schools, they will only be able to deal with those concerns in line with any legal obligations on the Council.

**The Council's ability to investigate disclosures of serious wrongdoing made against a foundation or voluntary-aided school is considerably less than disclosures made against schools falling under the Council's whistleblowing scheme, and as such, the Council has limited legal powers to investigate a disclosure made in respect of foundation and/or voluntary aided schools except for certain types of allegations where there are statutory responsibilities of the Council, including but not limited to Safeguarding, Special Educational Needs and/or financial mismanagement allegation.**

**Employees who have major concerns about other schools or about Council services outside the school where they work; should report those concerns directly to the Council under this policy, as a member of the public.**

### **Academies/Sixth Form Colleges/Free Schools**

The Council does not maintain academies, sixth form colleges and/or free schools and these institutions need to adopt their own procedures, If concerns are raised that relate to the functions of the Council they will be dealt with under the Policy.

The Council has no legal powers to investigate a disclosure made in respect of academies, sixth form colleges, further education establishments and/or free schools (except for disclosures made in respect of safeguarding issues and Special Educational Needs). Upon receipt of such concerns, the Council will refer the disclosure to the Education and Skills Funding Agency (ESFA), (the Government Agency that has oversight of academy, sixth form colleges, further education establishments and free schools), and to whom complaints/whistleblowing disclosures in respect of academies, sixth form colleges, further education establishments and free schools should be made. However, the Council may disclose information about the disclosure, without disclosing the identity of the whistleblower, without the whistleblower's consent, where the allegations raised are sufficiently serious enough to warrant it.

**In respect of disclosures of serious wrongdoing relating to safeguarding children or vulnerable adults, and/or Special Educational Needs the Council has a legal obligation to investigate, and will do so, irrespective of the status of the school.**

**Dudley Council will work with the Education and Skills Funding Agency (ESFA) and the Department for Education to review the outcome of any complaint referred to them.**

**It is recommended that where the academy/free school receives a Protected Disclosure by an employee, they seek advice from their appropriate professional advisor(s).**

**If they are unable to obtain such advice, they can approach the Charity, Protect (02031172520) [www.protect-advice.org.uk](http://www.protect-advice.org.uk), which may be able to assist.**

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## **Appendix 4**

### **Confidentiality and Anonymity**

Although PIDA does not refer to the confidentiality of concerns raised in a qualifying disclosure, there is a widespread assumption that such a disclosure will be treated in confidence as a means of preventing victimisation. Dudley Council will seek to avoid disclosing information identifying any whistleblower, even if the Council considers that the disclosure, by the whistleblower, falls outside the scope of a qualifying disclosure. However, there are situations where, due to the circumstances of the alleged serious wrongdoing, it is impossible to avoid disclosing information identifying any whistleblower. In these circumstances, Dudley Council will consult with the whistleblower prior to the disclosure taking place and offer support.

There may also be situations where the Council may be obliged to disclose information, such as where there are legal proceedings following on from the investigation of the whistleblowing investigation. This may require the disclosure of witness statements or correspondence, and there is even the possibility that the whistleblower may be expected to give evidence at any hearing. In these circumstances, the Council should discuss the implications for the whistleblower if they proceed with the disclosure, and where appropriate, discuss appropriate support arrangements.

Dudley Council may also be required to disclose the identity of the whistleblower to third parties where there needs to be investigations e.g. where the allegations relate to serious criminal offences where the Council considers that the Police should investigate.

Anonymous complaints will be considered but, depending on the information given and the credibility of the evidence, there may not be enough information for a proper investigation without the investigator being able to make further contact. Whistleblowers are encouraged to put their name to the complaint and request confidentiality if necessary.

Dudley Council, as a public authority, is subject to the Freedom of Information Act. This means that there is a presumption that Dudley Council discloses any information it holds, unless that information falls under one or more exemptions and, in most cases, that the application of that exemption is in the public interest.



The Freedom of Information Act contains exemptions that may be applicable to permit the withholding of information identifying the whistleblower, including:

- s40 Personal Data
- s41 Information which if disclosed would give rise to an actionable breach of confidence

If the Council receives a request for information identifying a whistleblower, it will contact the whistleblower to seek their views in respect of the disclosure or withholding of the information requested and, wherever possible, it will seek to comply with those views.

The Council is mindful, in reconciling the legal obligation to disclose information it holds under the Freedom of Information Act 2000, of its legal obligations under:

- the Public Interest Disclosure Act 1998 to avoid the discrimination or victimisation of employees; and
- the Health and Safety at Work etc. Act 1974, to protect the health and safety (including mental health) of employees.

## Appendix 5

### The Nolan Principles of Conduct Underpinning Public Life

1. **Selflessness** – Holders of public office should act solely in terms of the public interest.
2. **Integrity** – Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.
3. **Objectivity** – Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.
4. **Accountability** – Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.
5. **Openness** – Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.
6. **Honesty** – Holders of public office should be truthful.

- 7. Leadership** – Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.
- 8. Holders of public office** are defined in law. They include local government Councillors, school governors and clerks to school governing bodies. They also include certain senior local government officers required to be appointed by law.

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**Meeting of the Audit and Standards Committee – 25<sup>th</sup> September 2023**

**Report of the Director of Finance and Legal Services**

**Treasury Management**

**Purpose**

1. To outline treasury activity during the financial year 2022/23 and in the current financial year up to the end of July 2023.

**Recommendations**

2. It is recommended that the Audit and Standards Committee:
  - comments and notes the treasury activities outlined in this report;
  - refers all of the above to full Council for noting at its meeting on 16<sup>th</sup> October.

**Background**

3. The Treasury Management strategy for 2023/24 has been underpinned by the adoption of the Chartered Institute of Public Finance and Accountancy's (CIPFA) Treasury Management in the Public Services Code of Practice (2021 edition).
4. Treasury Management entails the management of the Council's cash flows, its borrowings and investments, the management of the associated risks and the pursuit of the optimum performance or return consistent with those risks.
5. The Council undertakes treasury management activity on its own behalf and as administering authority for the West Midlands Debt Administration

Fund (WMDAF). We are responsible for administering capital funding of approximately £730m on our own account and another £61m on behalf of other West Midlands councils in respect of the WMDAF. The treasury function is governed by the Council's Treasury Policy Statement and Treasury Management Practices.

6. The Council have recently changed bank accounts from HSBC to Lloyds, the transition requires significant work from accountancy and services and this is ongoing. The project has gone smoothly to date with minimal impact on the business.

#### Treasury activity in 2022/23 on the Dudley fund

7. Our treasury activities were undertaken in the context of the Treasury Strategy Statement 2022/23 approved by Audit and Standards Committee and Full Council in February 2022. The Strategy Statement stated:

*“The primary factor in determining whether we undertake new long-term borrowing will be cash flow need. We will seek to minimise the time between borrowing and anticipated cash flow need, subject to the need to maintain day to day liquidity”.*

8. In 2022/23 our investments averaged £20.6 million (with significant day to day variation as a result of cash flow). The average return on these investments was 2.33%. All investments were placed with institutions that satisfied the criteria for creditworthiness set out in the Treasury Strategy Statement 2022/23. Our investment activity for 2022/23 is set out in more detail in Appendix 1.
9. The average value of long-term borrowings in 2022/23 was £588.3 million. The average rate of interest on these borrowings was 3.75%. The loans were due to mature on dates ranging from 2023 to 2073. In 2022/23 we took out 11 long-term loans with the shortest having a duration of 2 years and the longest had a duration of 50 years.
10. Due to cash flow requirements in 2022/23, it was necessary to undertake short-term borrowing on 1 occasion. The value of this loan was £8.0m at a rate of 1.00% for a duration of 1 day.

#### Treasury activity in 2022/23 on the WMDAF

11. It was necessary to undertake short-term borrowing on 4 occasions for cashflow purposes for the WMDAF, at an average value of £2.63m at an average rate of 2.36% for an average duration of 150 days. Four

investments were made in 2022/23 for the WMDAF at an average value of £4.25m at an average rate of 2.55% for an average duration of 10 days.

### Performance comparisons 2022/23

12. Our treasury management advisors Link Asset Services have compared our treasury performance with their other clients using borrowing and investment data at financial year end. The results are summarised in the table below:

### Performance Benchmarking

	<b>Dudley</b>	<b>Client Average</b>
<b>Gross Borrowing (£M)</b>	552.3	258.9
<b>Investments (£M)</b>	11.0	77.4
<b>Net Borrowing (£M)</b>	541.3	181.5
<b>Gross average borrowing rate</b> (the cost of borrowing, ignoring the return on investments)	3.90%	3.61%
<b>Investment return rate</b> (the return on investments, ignoring the cost of borrowing)	3.70%	3.17%
<b>Net average borrowing rate</b> (a combination of the above, representing the cost of borrowing net of the return on investments)	3.90%	3.80%

13. The data above is based on a snapshot of treasury portfolios as at 31 March 2023 and includes long and short term borrowing and investments.
14. It should be remembered that treasury performance measurement is not an exact science. These statistics represent the cumulative effect of decisions dating back over many years and the performance of other local authorities may have been achieved in circumstances different from our own.

### Prudential indicators 2022/23

15. The 2021 Prudential Code for Capital Finance in Local Authorities sets out a framework for the consideration and approval of capital spending plans. In so doing, it requires the Council to set a number of prudential

indicators, some of which concern matters of treasury management. Appendix 2 outlines those indicators for 2022/23.

### Treasury activity 2023/24 to July

16. Treasury activities in the current year have been undertaken in the context of the Treasury Strategy Statement 2023/24 approved by Audit and Standards Committee and Council in February of this year. In that document we anticipated that long term borrowing would be required in the next 12 months due to cash flow need.
17. Our investments up to the end of July have averaged £34.9 million (with significant day to day variation as a result of cash flow). The average return on these investments was 4.22%. All investments were placed with institutions that satisfied the criteria for creditworthiness set out in the Treasury Strategy Statement 2023/24. Our investment activity for 2023/24 is set out in more detail in Appendix 3.
18. The Monetary Policy Committee has increased the Bank of England base rate four times since the last report to this Committee (the previously reported rate was 4.00% as voted for in February 2023 and the latest rate change was agreed in August 2023 which put the rate to 5.25%). This is in response to inflationary pressures. Our treasury advisors, Link Treasury Services, expect the rate to rise once more in 2023 before coming down in the next financial year (with the first drop in September 2024 to 4.75%).
19. The average value of long-term borrowings up to the end of July has been £622.0 million. The average rate of interest on Dudley's loans is 3.84%. The maturity dates for the loans range from the current year to 2073. To the end of July no new loans have been taken out in 2023/24. There has been no short-term borrowing in 2023/24 in the period to the end of July 2023.
20. We are monitoring interest rates and cash flow closely and anticipate that some new long term borrowing may be required before the end of the current financial year. It is likely that this borrowing will be at higher rates than have been experienced in recent years and therefore our average rate of borrowing will increase and this will need to be reflected as a pressure in setting budgets.
21. On the WMDAF one loan has been arranged in 2023-24 up to the end of July at a value of £14m at a rate of 5.88% for a duration of 237 days. We have made 2 investments on the WMDAF to the end of July in 2023/24; one with a value of £13.5 million at a rate of 5.175% for a duration of 55

days and the other with a value of £0.5 million at a rate of 5.115% for a duration of 28 days.

## **Finance**

22. Forecasts of performance against budget for treasury management activities are highly sensitive to movements in cash flow and interest rates.

## **Law**

23. These matters are governed by Part IV of the Local Government and Housing Act 1989 and Section 111 of the Local Government Act 1972, which empowers the Council to do anything which is calculated to facilitate or is conducive or incidental to the discharge of its various statutory functions.

## **Risk Management**

24. Treasury Management, by its nature entails the management of financial risks, specifically credit risk for investments which is mitigated by limiting acceptable counterparties to those of the highest credit quality and imposing counterparty limits for non-government institutions; and interest rate risk which is mitigated by prudential indicators detailed in Appendix 2.

## **Equality Impact**

25. The treasury management activities considered in this report have no direct impact on issues of equality.

## **Human Resources/Organisational Development**

26. There are no Human Resources/Organisational Development implications associated with this report.

## **Commercial/Procurement**

27. The over-riding purpose of the Council's Investment Strategy is day to day cash management and not income generation. The strategy prioritises security and liquidity of cash investments over yield. Once those are met, we aim to secure the maximum yield from our investments held with the small number of counterparties that meet the strict criteria laid out in our Annual Investment Strategy.



## **Council Priorities and Projects**

28. Treasury Management supports the Council's capital investment priorities as set out in the approved Capital Strategy.



Iain Newman

**Director of Finance and Legal Services**

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### **Appendices**

Appendix 1 – Investment Activity 2022/23

Appendix 2 – Prudential indicators relating to treasury management 2022/23

Appendix 3 - Investment Activity 2023/24 to July

### **List of Background Papers**

Treasury Policy Statement, Treasury Management Practices and Schedules to the Treasury Management Practices.

**Investment Activity 2022/23**

<b>Counterparty name</b>	<b>Number of investments</b>	<b>Average value £ million</b>	<b>Average rate %</b>	<b>Average duration (days)</b>
Debt Management Office	244	13.92	2.29	9
Bank of Scotland	N/A	0.04	0.12	Call Account
HSBC Call Account	N/A	2.76	0.11	Call Account
HSBC 31 Day Notice	N/A	0.02	2.22	Deposit Account
Santander Call Account	N/A	3.55	0.89	Call Account
Santander 35 Day Notice	N/A	0.02	1.53	Deposit Account
Barclays Call Account	N/A	0.25	0.31	Call Account

### **Prudential indicators relating to treasury management 2022/23**

#### **External Borrowing**

These indicators are intended to ensure that levels of external borrowing are affordable, prudent and sustainable. The authorised limit for external debt is a statutory limit (section 3 of the Local Government Act 2003) that should not be breached under any circumstances. The operational boundary is a lower threshold allowing for a prudent but not worst case scenario for cash flow.

	<b>£m</b>
Authorised limit for external borrowing	951
Operational boundary for external borrowing	837
Outturn - actual external borrowing	680

#### **Interest rate exposures and maturity structure of borrowing and investments**

These indicators allow the Council to manage the extent to which it is exposed to changes in interest rates.

#### **Dudley MBC**

	<b>Indicator</b>	<b>Outturn</b>
Upper limit for fixed interest rate exposure	100%	100%
Upper limit for variable rate exposure	10%	0%
Upper limit of principal maturing in any one year for sums invested for over 364 days	£10m	Nil
Maturity structure of fixed rate borrowing:-		
under 12 months	0-15%	4.4%
12 months and within 24 months	0-15%	2.6%
24 months and within 5 years	0-20%	5.5%
5 years and within 10 years	0-25%	14.3%
10 years and above	50-100%	73.2%

## West Midlands Debt Administration Fund

	<b>Indicator</b>	<b>Outturn</b>
Maturity structure of fixed rate borrowing:-		
under 12 months	0-26%	28.6%
12 months and within 24 months	0-20%	33.9%
24 months and within 5 years	0-54%	37.4%

## Appendix 3

### Investment Activity 2023/24 to July

<b>Counterparty name</b>	<b>Number of investments</b>	<b>Average value £ million</b>	<b>Average rate %</b>	<b>Average duration (days)</b>
Debt Management Office	127	29.06	4.47	10
Other Local Authorities	1	8.0	4.95	18
HSBC Call Account	N/A	0.65	0.36	Call Account
HSBC 31 Day Notice	N/A	0.00	1.68	Deposit Account
Santander Call Account	N/A	1.03	2.69	Call Account
Santander 35 Day Notice	N/A	0.02	3.78	Deposit Account
Barclays Call Account	N/A	0.05	0.00	Call Account
Lloyds Call Account	N/A	2.86	4.90	Call Account

## **Meeting of the Audit and Standards Committee - 25<sup>th</sup> September 2023**

### **Joint Report of the Director of Digital, Customer and Commercial Services and the Monitoring Officer**

### **Update to the Contract Standing Orders in the Council's Constitution**

#### **Purpose of report**

1. To seek approval for the updates and changes proposed by the Head of Procurement to the Council's Contract Standing Orders.

#### **Recommendations**

2. It is recommended:-
  - Authorise the Lead for Law and Governance to adopt the revised Contract Standing Orders into the Constitution with effect from 26th September 2023.

#### **Background**

3. By law, the Council is required to make standing orders with respect to Contracts for the supply of goods or services or for the execution of works which provide for securing competition and regulation of the manner in which tenders are invited.
4. The Council is a Contracting Authority for the purposes of the Public Procurement Legislation, and is thereby legally bound to comply with certain practices and procedures in the award of Contracts.
5. The current Contract Standing Orders were last updated in 2019 and require changes to ensure they remain in line with Public Procurement Legislation and are up to date.

## Summary of Changes

6.
  - Update to £values in line with legislative and statutory changes
  - To simplify the text to ensure compliance with the Exemptions is made as easy as possible
  - Drive down administration whilst ensuring compliance by simplifying and updating the Exemptions
  - Some minor corrections
  - These changes are not driving up costs or driving down compliance

## Future Reporting

7.
  - In the next 12-18 months a wider review of the Contract Standing Orders will be conducted by Procurement
  - This will take place once the Procurement Bill is enacted (expected Oct 2024) which will be the most significant change to the Public Contract Regulations since 2015
  - The exemptions will be amended by procurement, as per the Procurement Bill, to ensure continued compliance with legislation
  - Contract Management will feature more evidently in the Contract Standing Orders (Procurement are rolling out a Contract Management framework this quarter)
  - The Government are expected to (but may not) provide further guidance on Adult Social Care contracts to provide clarity around the current conflict between patient choice and competitive tendering.

## Finance

8. Adherence to the Contract Standing Orders and Procurement Code provides greater oversight of expenditure and means there is less likely to be off contract spend with suppliers that has not gone through a competitive process and as such does not demonstrate value for money. These updates should aid compliance.

## Law

9. There is a requirement to ensure all 3<sup>rd</sup> party expenditure is procured within the legal framework of the Public Contract Regulations 2015 and the Contract Standing Orders.

## Risk Management

10. Failure of Council Officers to comply with the Procurement Code and Contract Standing Orders could lead to greater risk of procurement challenge and/or fraud.

## **Equality Impact**

11. No equality impacts have been identified.

## **Human Resources/Organisational Development**

12. The Procurement team will continue to train and inform Council officers of the requirements under the Procurement Code and Contract Standing Orders.

## **Commercial/Procurement**

13. This report is in relation to future procurement arrangements, details of which are set out in the background and associated appendix.

## **Environment/Climate Change**

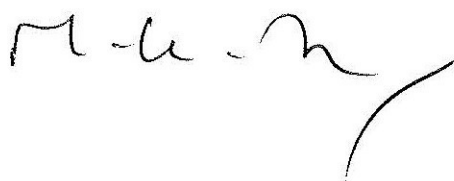
14. No environment/climate change impacts have been identified.

## **Council Priorities and Projects**

15. The information contained within this report supports the Future Council Programme as the Council aims for financial sustainability and looks to strengthen governance processes to take informed and transparent decisions.

*Luisa Fulci*

**Director of Digital, Customer and Commercial Services**



**Lead for Law and Governance (Monitoring Officer)**

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## **Appendices**

- Appendix One – Contract Standing Orders Updated 2023
- Appendix Two - Presentation



## **STANDING ORDERS RELATING TO CONTRACTS**

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## CONTRACT STANDING ORDERS

### 1. INTRODUCTION

- 1.1 These Contract Standing Orders apply to the procurement and commissioning of all goods, works, and services for the Council in the interests of openness, integrity, and accountability in the spending of public monies.

### 2. COMPLIANCE

- 2.1 All employees of the Council, agents, consultants, and contractual partners acting on behalf of the Council, the Governing Body of a Local Authority Maintained School, and organisations for which the Council is the accountable body, shall comply with these Contract Standing Orders, the Financial Regulations, and the Corporate Procurement Strategy. Directors shall ensure compliance within their area of responsibility. Failure to comply may result in disciplinary action. Cases of legal non-compliance can result in substantial losses to the Council and may involve reputational risk and will therefore be treated seriously.
- 2.2 Where reference is made within these Contract Standing Orders to the Responsible Director, it refers to the individual who is accountable for the relevant service area. Within the Council this will ordinarily be the Director and within Local Authority Maintained Schools the Headteacher. Responsible Directors are required to comply with all guidance, procedures, strategies, and governance arrangements put in place by the Director of Digital, Customer and Commercial Services.
- 2.3 The decision of the Lead for Law and Governance will be final in any matter concerning the interpretation of these Contract Standing Orders.
- 2.4 Officers undertaking procurement activity shall ensure that:
- 2.4.1 Any contract made by or on behalf of the Council for works, goods, or services complies with these Contract Standing Orders, the Council's Financial Regulations, and the Corporate Procurement Strategy.
- 2.4.2 All contracts ~~above £25,000 are~~ tendered are to be done so using an electronic tender system and are processed as approved by the Director of Digital, Customer and Commercial Services.
- 2.4.3 The procurement by the Council of any works, goods, or services must comply with Public Contracts Regulations (2015) (PCR) and applicable international public procurement legislation. Where conflict with these Contract Standing Orders arises, the legislation shall take precedence over these Contract Standing Orders. In estimating values for the purposes of the legislation, contracts shall not be disaggregated to avoid the application of the legislation or these Contract Standing Orders.
- 2.4.4 In applying these Contract Standing Orders, officers must have regard to the duty to secure Best Value under the Local Government Act 1999 and guidance issued thereunder. Guidance is that "authorities should consider overall value, including economic, environmental and social value, when reviewing service provision.

Social value is about seeking to maximise the additional benefit that can be created by procuring or commissioning goods and services, beyond the benefit of merely the goods and services themselves." (Social Value Act 2012)

2.4.5 In the case of large-scale procurement there may be a need to undertake consultation in accordance with s3 of the Local Government Act 1999. Officers should seek advice from the Director of Digital, Customer and Commercial Services if the procurement is high value (more than £5 million) or will make a significant difference to the way in which the authority carries out its functions.

2.4.6 In applying these Contract Standing Orders any Officer undertaking a procurement must consider the potential to make contracts accessible to small and medium contractors, in accordance with the Corporate Procurement Policy.

### **3. RESPONSIBILITIES OF RESPONSIBLE DIRECTORS**

3.1 In procuring works, goods, and/or services Responsible Directors shall: -

~~3.1.1 Maintain an up-to-date schedule of authorised positions for procurement activity;~~

~~3.1.23.1.1~~ Achieve Best Value for public money spent;

~~3.1.33.1.2~~ Show no undue favour to any Contractor, nor discriminate against any Contractor;

~~3.1.43.1.3~~ Conduct tendering and price-testing in accordance with the highest standards of propriety and proper practice (including respecting the confidentiality of commercial information);

~~3.1.53.1.4~~ Do nothing that contravenes the law;

~~3.1.63.1.5~~ Ensure that before entering any Contract: -

- (a) there is approved budgetary provision;
- (b) an authority from the Cabinet or Committee or officer exercising delegated powers is in place in a form specified by the Director of Digital, Customer and Commercial Services.

~~3.1.73.1.6~~ Ensure that a purchase order on approved standard terms, or such other terms as may be approved by the Lead for Law and Governance, is issued by the Budget Manager for any contract;

~~3.1.83.1.7~~ Ensure that there are effective mechanisms in place for the submission of invoices in relation to contracts which they are responsible for letting;

~~3.1.93.1.8~~ Ensure that all contracts are procured in accordance with procedures set by the Director of Digital, Customer and Commercial Services and stored in accordance with the approved contract storage policies and retained in an electronic form and location approved by the Director of Digital, Customer and Commercial Services.

3.2 Responsible Directors will ensure that prior to procuring goods or services their staff complete documentation in a form specified by the Director of Digital, Customer and Commercial Services which will:

- 3.2.1 Consider the requirements of Best Value including the potential for the contract to deliver social value;
- 3.2.2 Ascertain whether the subject matter of the contract falls within the scope of an in-house service or contractual arrangement that is already in place;
- 3.2.3 Define the objectives of the procurement;
- 3.2.4 Estimate the contract value and record how the estimate was arrived at;
- 3.2.5 Consider the human resources implications of the procurement, in particular the implications of the Transfer of Undertakings (Protection of Employment) Regulations;
- 3.2.6 Ensure that any Waiver from compliance with these Contract Standing Orders is properly approved in accordance with the Scheme of Delegation and that this is recorded on CMIS and the Corporate Contract Register;
- 3.2.7 Assess the risks associated with the procurement and determine how they will be managed;
- 3.2.8 Reflect on advice from Procurement Officers regarding the procurement process and procurement route most likely to achieve the purchasing objectives given the value/risk of the project;
- 3.2.9 Prepare a draft specification considering any international or British Standards that may need to be referred to.
- 3.2.10 Identify and obtain any approvals that may be required.
- 3.3 For the purposes of these Contract Standing Orders, the estimated value of a contract shall include all extensions and include VAT.
- 3.4 Contracts must not be artificially divided to keep them below any threshold which may apply.
- 3.5 The estimated value of a Contract shall not be disaggregated on the basis that the expenditure is to be incurred in more than one financial year.

#### 4. RESPONSIBILITIES

- 4.1 **The Cabinet** is responsible for ensuring that procurement activity and contracts follow the requirements set out within these Contract Standing Orders.
- 4.2 The **Audit and Standards Committee** is responsible for overseeing the effective management of these Contract Standing Orders and such procedures and guidance as may be introduced to support these Contract Standing Orders from time to time.
- 4.3 The **Director of Digital, Customer and Commercial Services in conjunction with the Lead for Law and Governance** is responsible for ensuring that there are in place effective procedures for the management, storage, and retention of contractual documentation.
- 4.4 **Budget Managers** are responsible for ensuring that the requirements set out in paragraph 3.2 of these Contract Standing Orders have been met in relation to contracts funded from within their budget and that the appropriate authority for the procurement activity is in place.

- 4.5 The **Director of Digital, Customer and Commercial Services** is responsible for:
- 4.5.1 Ensuring that the procurement of all contracts for public works, goods and services complies with these Contract Standing Orders, the Council's Financial Regulations, the Officer Code of Conduct, and with all UK and international binding legal requirements relating to procurement.
  - 4.5.2 ~~Ensuring the publication of a Forward Plan of procurement activity with a value of more than £25,000.~~
  - 4.5.34.5.2 Ensuring that there is adequate and appropriate governance and guidance available upon the process of procurement.
  - 4.5.44.5.3 Ensuring that an electronic Contract File is retained centrally by the Procurement Team on an electronic procurement or contract systems for each contract with a value exceeding £5,000 which includes that as set out in Regulation 109. Clause 2(C)(ii) of the Public Contract Regulations (2015) or any Procurement Policy Note set by Central Government that supersedes this.
    - 4.5.4.1 The identity of the Procurement Officer ~~relevant~~ managing the procurement process
    - 4.5.4.2 The rationale for the procurement route taken
    - 4.5.4.3 A copy of the specification
    - 4.5.4.4 Where required, the risk register relating to the procurement
    - 4.5.4.5 A record in written form of any Exemption from these Contract Standing Orders and the reason for it.
    - 4.5.4.6 Copies of all tenders or quotations
    - 4.5.4.7 A copy of the evaluation process and reasons for the decisions as to acceptance or rejection of every tender or quotation
    - 4.5.4.8 A copy of any debrief request and the response thereto
    - 4.5.4.9 The award letter
    - 4.5.4.10 The copy of the final contract. (This may be electronic if stored in pdf format in the contract register.)
    - 4.5.4.11 The monitoring arrangements for management of the contract including the details of the Contract Manager responsible for on-going contract management
    - 4.5.4.12 A copy of any extension or variation to the contract granted in accordance with these Contract Standing Orders.
- 4.6 Ensuring the service areas produce a forward plan of procurement activity for each category and planning the procurement activity for all categories of supply/spend.
- 4.7 The relevant Officer undertaking the procurement (~~the Procurement Officer~~) is responsible in respect of any procurement for managing the procurement process and complying with any statutory time limits in relation to each procurement process and complying with all guidance set by the Director of Digital, Customer and Commercial Services.

## **5. CORPORATE PURCHASING ARRANGEMENTS**

- 5.1 Where a recurring pattern of purchases for works, supplies or services is identified, Procurement Officers are expected to consider:
- 5.1.1 If there is an existing Corporate Contract
  - 5.1.2 Whether a nationally or regionally negotiated framework/ contract exists which is appropriate to use for the procurement activity, and offers best value;
  - 5.1.3 Whether letting one or more Corporate Framework Contracts or arrangements will provide Best Value considering among other things invoicing and other administration costs.
  - 5.1.4 Whether letting such a contract through a consortium of which the Council is a member (or could become a member) will achieve procurement efficiencies.
  - 5.1.5 Whether to request the Director of Digital, Customer and Commercial Services to establish an Approved List for a category of work.
  - 5.1.6 Where aggregate annual spend in each category of supply or service exceeds the PCR threshold levels, the approved form of contract and term shall be selected. ~~If a Framework Contract is appropriate, it must be for a maximum duration of four years.~~ Variances must be approved by the Director of Digital, Customer and Commercial Services who will liaise with the Lead for Law and Governance as required.
- 5.2 Approval to not use a corporate contract should be sought from the [Procurement Team who will liaise with Director of Digital, Customer and Commercial Services the Lead for Law & Governance as appropriate.](#)

## **6. DECLARATIONS OF INTEREST**

- 6.1 Directors shall ensure that officers involved in the procurement process are familiar with the Code of Conduct for officers.
- 6.2 Any officer involved in the procurement process who has any financial or non-financial interests which could conflict with the Council's interests in relation to a procurement process or contract shall complete an annual declaration of interests and provide a copy to his/her Director annually in compliance with the Code of Conduct Procedure which will be retained on the individual's personnel file. The Lead for Law and Governance shall approve arrangements for a central register of completed staff declarations of interest which will be available for inspection.
- 6.3 In any procurement process where a potential conflict of interests exists, an officer with a potential conflict, shall bring that conflict to the attention of the responsible Director who shall either certify the interest as acceptable or take any necessary action.

## **7. REPRESENTATIVES OF THE COMMUNITY**

- 7.1 In compliance with Best Value Guidance, before initiating a procurement process and drawing up a specification for a procurement process, the Budget Manager and Procurement Officer must consider the need to consult those who use or are likely to use services provided by the authority, and those appearing to the authority to have an

interest in any area within which the authority carries out functions, including local voluntary and community organisations and small businesses.

- 7.2 Service users may offer advice to the Commissioner and/or Procurement Officer where appropriate, however, they will have no decision-making role. All decisions shall be taken strictly within the scheme of delegation.
- 7.3 Where confidential information is shared with a service user, the Procurement Officer shall ensure that a written undertaking is given by the service user to treat such information as confidential.

## **~~8. COUNCIL APPROVED LIST~~**

~~8.1 The Director of Digital, Customer and Commercial Services may maintain an Approved List of suppliers under Regulation 10 of PCR. The List may be used for selection as an alternative to advertisement where the Total Value is less than the PCR threshold. The Director of Digital, Customer and Commercial Services will ensure that the List:~~

~~8.1.1 Relates to categories of work where there is an expected future demand.~~

~~8.1.2 Contains the names and addresses of all contractors who meet the List criteria.~~

~~8.1.3 Is reviewed annually through the Council's electronic tendering system in respect of all matters recorded to ensure approval criteria standards are met.~~

## **~~9.8. PRE-TENDER / QUOTATION ENQUIRIES / MARKET ENGAGEMENT~~**

~~9.18.1~~ Enquiries of potential contractors in advance of the initiation of a procurement exercise may be undertaken to prepare the marketplace for a tender, and/or to assist the Council to better understand what the market is able to provide to meet the outcome that the Council is trying to achieve.

~~9.28.2~~ However, when making enquiries of contractors before tender or quotation:

~~9.2.18.2.1~~ No information shall be disclosed to one contractor which is not then disclosed to all those of which enquiries are made or which are subsequently invited to tender or submit a quotation.

~~9.2.28.2.2~~ No contractor shall be led to believe that the information they offer will necessarily lead to them being invited to tender or submit a quotation or be awarded the contract.

~~9.2.38.2.3~~ Taking detailed technical advice on the preparation of the Specification, Invitation to Tender or Quotation from a potential supplier, must be avoided as this may prejudice the equal treatment of all potential Bidders or distort competition.

~~9.2.48.2.4~~ A written record, including notes of any substantive telephone conversations and/or meetings held, and the responses and the names of all individuals spoken to, or present shall be kept on the Contract File.

## **40.9. PRE-TENDER AND QUOTATION**

**40.19.1** The Procurement Officer, prior to submitting a notice to the Find A Tender Service or Contracts Finder, inviting expressions of interest or any other form of bid, shall:

**40.1.49.1.1** Ensure there is a formal approval for the acquisition or purchase of goods, services or works and for the evaluation criteria.

**40.1.29.1.2** Ensure that there is an estimate of the whole life cost of the Contract, including maintenance and on-going costs;

**40.1.39.1.3** Liaise with the Budget Manager to ensure that there is finance in the budget to cover the likely expenditure on the Contract.

**40.1.49.1.4** Ensure that there is clarity upon the desired outcomes or outputs from the Contract and ensure that an appropriate specification for the Contract has been prepared.

**40.1.59.1.5** Assess the risks associated with the Contract and how to manage them.

**40.1.69.1.6** Consult with ~~consult~~ Legal Services as required, on the appropriate form of agreement for the Contract.

**40.29.2** The Procurement Officer shall liaise with the Director of Digital, Customer and Commercial Services if appropriate to:

**40.2.49.2.1** Ensure that the market position has been established and prior information notices, where required and if appropriate for PCR procedures, have been published.

**40.2.29.2.2** Consider what procurement route is most likely to achieve the contracting objectives.

**40.2.39.2.3** Clarify the Award Criteria, including social value and a price/quality split as appropriate, considering such policies (including social value) as the Council may adopt from time to time.

**40.2.49.2.4** Check whether there is an appropriate framework contract for the goods, services or works and check that these provide Best Value.

**40.2.59.2.5** Prepare tender documentation, and contracts.

## **44.10. EXEMPTIONS FROM THE REQUIREMENT FOR A COMPETITIVE PROCUREMENT PROCESS**

**44.110.1** No Exemptions may be granted:

**44.1.110.1.1** Where it would be in breach of any legal requirement and/or provision;

**44.1.210.1.2** From any requirement to declare an interest under rule 6 or the provisions concerning representatives of the community under rule 7 of these Contract Standing Orders.

**44.210.2** If an Exemption is required to relax the requirements in relation to seeking Quotations or tendering, the Procurement Officer shall seek approval from Procurement Management Group and Director for all contracts ~~over £25,000 and from Head of Service for lower value contracts (including VAT)~~. For each Exemption the Procurement Officer shall submit a file record in a form specified by the Director of Digital, Customer



and Commercial Services. This will include market testing and any declined Quotations (which will be stored ~~within the electronic tendering system~~ by the Procurement Team).

~~11.3~~10.3 If approval is not granted, the Procurement Officer must not issue any formal order or contract. The Director of Digital, Customer and Commercial Services, in consultation with the Lead for Law and Governance shall be consulted as to the most appropriate procurement process.

10.4 Subject to the grant of an Exemption being in compliance with all applicable legal requirements, Exemptions from the need for a competitive procurement process may be granted where:

10.5 An unforeseeable emergency involving danger to life or health or serious damage to property, in which the work, goods or services are required more urgently than would be possible if a procurement procedure was followed;

10.6 For justifiable technical reasons, the works, goods or services can be obtained from only one supplier;

10.7 Acquiring goods or services from a different supplier would result in incompatibility with existing goods or services or disproportionate technical difficulties;

10.8 Additional works or services are required which, through unforeseen circumstances, were not included in the original contract and which either are strictly necessary for the completion of the contract or, for technical or economic reasons, cannot be carried out separately and the original contract was let in compliance with Public Contracts Regulations (2015). Such additional works or services must not exceed 50 per cent of the value of the original contract;

10.9 Additional works or services are required which, through unforeseen circumstances, were not included in the original contract and which either are strictly necessary for the completion of the contract or, for technical or economic reasons, cannot be carried out separately and the original contract fell below the relevant thresholds to fall in scope of the Public Contract regulations (2015). In this case the revised total value of the contract must not exceed the relevant threshold.

10.10 The purchase of used vehicles, plant or materials that does not exceed the relevant threshold;

10.11 Where no tenders, no suitable tenders, no requests to participate or no suitable requests to participate have been submitted in response to an open procedure or a restricted procedure, provided that the initial conditions of the contract are not substantially altered.

~~11.4~~

~~11.4.1 Only one contractor can carry out the work or service or to supply the goods for technical or artistic reasons or because of exclusive rights or that goods are required as a partial replacement for or addition to existing goods or installations and obtaining them from another contractor would result in incompatibility or disproportionate technical difficulties in operation or maintenance provided that continued use represents Best Value for the Council.~~

~~11.4.2 The time limits required for tendering cannot be met for reasons of extreme urgency and the reasons were unforeseen and unattributable to the Council, subject to the method adopted for the letting of the contract, representing Best Value for the Council. In the case of contracts above the PCR threshold, advice~~

should be sought from the Director of Digital, Customer and Commercial Services, who will consult with legal services as required, before this ground is used.

~~11.4.3 Additional works or services are required which, through unforeseen circumstances, were not included in the original contract and which either are strictly necessary for the completion of the contract or, for technical or economic reasons, cannot be carried out separately and where the original contract was not let in accordance with the procurement Contract Standing Orders the revised value of the contract does not exceed the relevant thresholds. Where the original contract was let in compliance with Public Contracts Regulations (2015), such additional works or services must not exceed 50 per cent of the value of the original contract.~~

~~11.4.4 New works or services are required which are an exact repetition of works or services carried out under the original contract provided they are required within 3 years of the conclusion of the original contract and the contract notice stated that a new contract might be awarded by negotiation.~~

~~11.4.5 Goods are required as a partial replacement for or an addition to existing goods or installations and obtaining them from another contractor would result in incompatibility or disproportionate technical difficulties in operation or maintenance provided that continued use represents Best Value for the Council.~~

~~44.5.10.12~~ The following forms of contract are not required to be let in accordance with the formal procurement procedures set out within these Contract Standing Orders but remain subject to the requirement to deliver Best Value:

~~44.5.10.12.1~~ Contracts for the engagement of counsel.

~~44.5.210.12.2~~ Contracts for the employment of staff, excluding agency or consultancy staff.

~~44.5.310.12.3~~ Money market transactions.

~~10.12.4~~ Contracts for theatrical productions.

~~44.5.410.12.5~~ Contracts for the commissioning and acquisition of artefacts, paintings, photographs, or sculptures.

~~44.5.510.12.6~~ Contracts for the sale or other disposal of land or the acquisition of land and buildings unless such transaction involves the engagement of a person to procure by any means the carrying out for the contracting authority of a Public Works Contract or to deliver output requirements of the Council by way of services.

~~44.5.610.12.7~~ Contracts entered by the Council to form a "Teckal" company i.e. one which the Council controls within the meaning of regulation 12 of the Public Contracts Regulations 2015.

~~44.610.13~~ Exemptions must not be automatically extended or renewed without undertaking an Options Appraisal or Business Case and seeking approval from the Director of Digital, Customer and Commercial Services.

~~44.710.14~~ If a contract is to be extended under an exemption this must be undertaken prior to the expiry of the contract term and must not be for longer than 3 years unless approved by the Director of Digital, Customer and Commercial Services.

~~44.8~~10.15 If a contract is to be extended under an exemption and the additional value will exceed the PCR thresholds then approval must be sought from the Director of Digital, Customer and Commercial Services.

## 11. Exemptions for Residential Social Care Contracts

11.1 It is recognised that either because of service user choice or the nature of the market for specialist placements that for some types of social care contracts competitive procurement processes cannot be undertaken and Sections 13-26 of the CSO do not apply.

11.2 Contracts awarded under this exemption may not surpass the Light Touch Regime Threshold.

11.3 Only contracts for the above have specific exclusions from these CSOs all other elements are covered by Procurement Legislation.

11.4 The Council will contract with Residential Social Care Providers using a standard contract. The contract will set out a breakdown of the price. Any deviations from this standard contract must be approved in advance by the relevant Director.

11.5 If an annual fee for a placement is higher than in the table below then approval must be gained from the relevant Director prior to agreeing the placement with the Provider and the Primary Care Need Fee per annum.

Type of placement	Fee per annum
Disability (Adults)	£74,999
Adults	£74,999

11.6 For out of area placements the fee per week must be either the Council standard rate as set out in 11.5 or the standard rate for the relevant local authority area. For out of area placements with a fee per week above this approval must be gained from the relevant Director.

## 12. GROUNDS FOR EXCLUSION

12.1 A tenderer will be excluded from inclusion in a tender process where one of the mandatory grounds for exclusion of a tenderers applies (terrorism, financing of terrorism, people trafficking, and non-payment of tax or social security following a final and binding decision of a court or tribunal).

12.2 A tenderer may be excluded from inclusion in a tender process following consultation with the Director of Digital, Customer and Commercial Services who will consult with the Lead for Law and Governance if necessary, if one of the discretionary grounds for exclusion apply (violation of environmental, social or labour law, unresolvable conflict of interest, unresolvable distortion of competition due to suppliers prior involvement in preparation of procurement process, sufficiently plausible indications of collusion, non-payment of tax or social security, significant or persistent deficiencies in performance of a prior public contract or seeking undue influence or confidential information or negligently providing misleading information).

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- 12.3 Tenderers to which one of the mandatory or discretionary grounds for exclusion apply have the right to provide evidence to show that they are reliable despite the existence of a relevant ground for exclusion. Any such evidence shall be provided to the Lead for Law and Governance who shall decide on behalf of the Council whether the evidence is sufficient. If it is, the tenderer shall not be excluded from the tender process.

### **13. SELECTION OF COMPANIES TO TENDER**

- 13.1 The selection of which companies are invited to tender is subject to the value and risk of the contract:
- 13.1.1 Where the value of the contract is below the PCR threshold, the Procurement Officer will obtain several technically competent companies to provide Quotations (the number of Quotations being in accordance with guidance produced by the Director of Digital, Customer and Commercial Services).
- 13.1.2 Where the tender value will exceed the PCR threshold – selection of tenders must be in accordance with the Public Contract Regulations in force at the time.

### **14. QUOTATION / TENDER INVITATION – GENERAL PRINCIPLES**

- 14.1 The invitation to tender or submit a Quotation must include a specification and where appropriate a bill of quantities or schedule of rates. In preparing specifications, the Procurement Officer must have regard to any guidance from the Director of Digital, Customer and Commercial Services.
- 14.2 The invitation to tender or submit a Quotation must state that the Council is not bound to accept any quote or tender and can discontinue the process at any time.
- 14.3 All Bidders invited to tender, or quote must be issued with the same information at the same time and subject to the same conditions. Any supplementary information must be given on the same basis.
- 14.4 The invitation to tender or quote must specify the evaluation criteria.
- 14.5 The invitation to tender or quote must be submitted electronically through the e-procurement portal (unless there are special circumstances which will be decided by the Director of Digital, Customer and Commercial Services).
- 14.6 The invitation to tender or quote must include instructions to tenderers.
- 14.7 The invitation to tender or quote must include the appropriate Contract terms and conditions which have the approval of the Lead for Law and Governance.

### **15. PROCEDURES FOR CONTRACT ABOVE PUBLIC CONTRACT REGULATION THRESHOLDS**

- 15.1 The PCR thresholds are set every two years by Cabinet Office and available [here](#).

Thresholds include Value Added Tax.

- 15.2 PCR Procedures

15.2.1 All contracts with a value more than the thresholds in the PCR shall be let in accordance with a procurement method which is acceptable within the legislation. An explanation of the procedures is set out [here](#) and these should be applied under the guidance of the Director of Digital, Customer and Commercial Services and the Lead for Law and Governance. An existing contract which has terminated cannot be extended where the effect of such extension would be to take its value above the relevant threshold.

15.2.2 Consideration shall be given to breaking down a contract into lots in any tender for a contract with a value more than the thresholds to ensure accessibility to SMEs and shall be let broken down into lots unless there is a justification for not so doing. Where a contract is not let in lots, the notice in the Find a Tender service shall include the reasons for not so doing.

### 15.3 Standards

If an international standard has issued a relevant standard, all the goods and materials used or supplied, and all the work done under the contract, must be in line with that standard.

### 15.4 Common Currency

A provision should be included in any contractual documentation requiring the contractor to quote prices in GB sterling.

### 15.5 Number of Tenderers

If the contract is expected to exceed the thresholds in the Public Contracts Regulations (2015), the following number of tenders must be obtained:

Procedure	Minimum number of Bidders or Suppliers invited to tender
Open – One Stage procedure	No minimum requirement
Restricted Procedure – Two Stage Procedure	<del>Five Bidders or suppliers must be invited to tender.</del> If fewer than five Bidders apply and are shortlisted, all Bidders must be invited to tender.
Competitive Procedure with Negotiation	Three Bidders or Suppliers must be invited to tender.
Competitive Dialogue	Three Bidders or Suppliers must be invited to tender
Innovation Partnership	Three Bidders or Suppliers must be invited to tender.

15.6 If during a competitive tendering exercise, an officer becomes aware that the value of bids received exceeds the Thresholds but bid invitations have not been invited through the Find A Tender Service notice procedure, advice must be sought from the Director of

Digital, Customer and Commercial Services who will, if necessary, consult with the Lead for Law and Governance upon how to proceed.

**15.7 Accelerated Procedure**

15.7.1 Where urgency makes the normal timescales for procurement using the Restricted Procedure or Negotiated Procedure impractical, subject to:

- 15.7.1.1 The agreement of the Director of Digital, Customer and Commercial Services (who will liaise with the Lead for Law and Governance as required; and
- 15.7.1.2 Publication of the reasons for use of the procedure in the Find a Tender notice.
- 15.7.1.3 The accelerated procedure may be used and the timescales for the required Public Contracts Regulations (2015) processes reduced as set out in Table 2 below.

**16. PROCEDURES FOR CONTRACTS VALUED AT LESS THAN THE PUBLIC CONTRACTS REGULATIONS (2015) PROCUREMENT THRESHOLDS**

16.1 For a contract or purchase made where the estimated value is less than the PCR thresholds, the Budget Manager or Procurement Officer must comply with guidance set by the Director of Digital, Customer and Commercial Services in respect of:

- 16.1.1 The procurement route and governance.
- 16.1.2 Advertising.
- 16.1.3 Award criteria.
- 16.1.4 Number of tenders, quotations, or bids.
- 16.1.5 Use of the appropriate standard Terms and Conditions.
- 16.1.6 Measurement and delivery of social value.
- 16.1.7 Entry to the corporate contract register.
- 16.1.8 Sealing of contract.

16.2 The Budget Manager shall be satisfied that the tender or quotation accepted represents value for money. If it is not possible to obtain the requisite number of Quotations, then the Budget Manager may seek approval as specified by the Director of Digital, Customer and Commercial Services to dispense with the requirement to obtain a number of Quotations. Approval should be sought in a form specified by the Director of Digital, Customer and Commercial Services.

16.3 In all cases the Procurement Officer shall record, in a form specified by the Director of Digital, Customer and Commercial Services:

- 16.3.1 Contractors approached.
- 16.3.2 Contractor responses (including a willingness to quote).
- 16.3.3 Details of any Quotations provided.
- 16.3.4 The subject matter of the Quotation.

- 16.3.5 The name of the contractor.
- 16.3.6 The date and time of the quote.
- 16.3.7 The price offered and other relevant trading items.
- 16.3.8 The name of the Budget Manager.
- 16.3.9 The contractor offering the most favourable Quotation and the reasons why that Quotation was accepted.
- 16.3.10 The risks associated with taking or omitting to take a particular course of action.
- 16.4 Contracts must not be artificially divided to reduce their value below the relevant thresholds.

## **17. CONCESSION CONTRACTS**

- 17.1 The contract must involve the transfer to the concessionaire of an operating risk in exploiting the works or services encompassing demand or supply risk or both. The part of the risk transferred to the concessionaire must involve real exposure to the vagaries of the market such that any estimated potential loss incurred by the concessionaire must not be merely nominal or negligible.
- 17.2 A Concession Contract above the PCR threshold must be advertised by way of a concession notice in the Find a Tender Service. The Director of Digital, Customer and Commercial Services shall be consulted about any proposal to let a Concession Contract.
- 17.3 The principles of procurement law, namely transparency, non-discrimination and equal treatment must be followed in the letting of any Concession Contract.

## **18. PUBLIC ADVERTISEMENT OF TENDERS**

- 18.1 Where the value of the contract is below the PCR threshold, the method of advertising shall be in accordance with guidance produced by the Director of Digital, Customer and Commercial Services.
- 18.2 In the case of contracts which require tendering in accordance with the Public Contracts Regulations (2015), the Council is required to place a Contract Notice in the Find a Tender service and the timescale for expressions of interest in response to such notices is prescribed.  
Advertisement is subject to the following constraints:
  - 18.2.1 Legal advice may be required upon the applicable timescales
  - 18.2.2 Unrestricted full direct access, free of charge to all procurement documents must be provided from the date of publication of the Find a Tender notice on the electronic procurement system
  - 18.2.3 The accelerated procedure can only be used with the consent of the Director of Digital, Customer and Commercial Services who will consult with the Lead for Law and Governance if appropriate.

Table 2 sets out the ordinary timescales.

Table 2: Notice of contract compiled and submitted electronically and unrestricted electronic access to all contract documentation provided at tender receipt stage

<b>Minimum no. of calendar days after sending the Contract Notice to Find a Tender</b>	<b>Open Procedure</b>	<b>Restricted Procedure</b>	<b>Competitive Procedure with Negotiation</b>	<b>Accelerated Procedure</b>	<b>Innovation Partnership &amp; Competitive Dialogue Procedure</b>
(i) to the closing date for receipt of registrations of interest from electronic contract notice		30 days (or 15 days in case of urgency)	30 days	10 days	30 days
(ii) to the closing date for receipt of tenders	30 days	25 days	25 days, (initial tenders) Final tender submission date agreed with tenderers	10 days	Agreed with tenderers
as (ii) above, but where a PIN is published between 35 and 365 days prior to the Contract Notice	15 days	15 days	10 days	N/A	
Minimum no. of days following contract award before formalising contract	10 days	10 days	10 days	10 days	10 days
Max. no. of days after contract award in which to send Contract Award Notice	30 days	30 days	30 days	30 days	30 days



## **19. SUBMISSION, RECEIPT AND OPENING OF TENDERS**

- 19.1 All tenders should be administered through the Council's electronic tendering system. All tender submissions should be made electronically through the electronic system unless, for technical reasons, hard copies are required. In that case, hard copies should be returned to a location specified by the Director of Digital, Customer and Commercial Services, who is responsible for their safekeeping. Procurement Officers will ensure that all tenders are opened at the same time when the period of submission has ended and will record receipt of the tenders.
- 19.2 If there appears to be an error in a bid or supporting information, the Bidder must be invited to clarify the supporting information and/or confirm or withdraw the bid.

## **20. CLARIFICATION**

- 20.1 Clarification must take place through the procurement portal only with support from the Procurement Officers.

## **21. CONTRACT AWARD**

- 21.1 The Budget Manager shall ensure that sufficient budget is available to fund the winning bid and that all necessary approvals have been obtained to authorise the expenditure on the contract. The Budget Manager or the Procurement Officer shall ensure that evidence of authority to spend, and the budget code to be used, is recorded on the Contract File.
- 21.2 Contracts must be evaluated and awarded in accordance with the Award Criteria set out in the original tender or Quotation documents and advertisement.
- 21.3 Every contract shall be in writing and bear the signature or other mark of all the parties and will be subject to an official order number.
- 21.4 In relation to any contract requiring compliance with the Public Contracts Regulations (2015), a notification of intent to award a contract shall be issued to each supplier who has participated in the award procedure unless that supplier has already been lawfully excluded from the procedure. No contract shall be concluded with the successful supplier prior to expiry of the mandatory standstill period. In the event of a challenge being made by an unsuccessful supplier within the mandatory standstill period, advice from Legal Services must be taken prior to the contract being awarded.

<b>Form of communication:</b>	<b>Mandatory Standstill Period</b>
Where notification is by facsimile or electronic means:	10 calendar days from the date following the date on which the notification was sent.
Where the notification is by other means:	15 calendar days with effect from the date following the date on which the notification was sent or of a period of 10 calendar days with effect from the date following the date on which the notification was received.

- 21.5 Contracts shall be awarded by the Responsible Director following endorsement from Procurement Management Group. For contracts with a value of more than £1m or where the contract exposes the Council to significant risk, a contract manager will be nominated to monitor the contract performance.
- 21.6 The Form of Contract shall be selected based on value and risk in accordance with guidance set out by the Director of Digital, Customer and Commercial Services.
- 21.7 Each Responsible Director shall ensure that an electronic copy of every contract entered by them shall be entered onto the Council's Contract Register.

## **22. DEBRIEFING/PROCUREMENT REPORT**

- 22.1 The Procurement Officer shall inform all bidders of the characteristics and relative advantages of the successful tender. This should normally include:
  - 22.1.1 How the Award Criteria were applied.
  - 22.1.2 The prices or range of prices submitted, without disclosing the individual Bidder names or identities
  - 22.1.3 The scores awarded, without disclosing the individual Bidder names or identities.
  - 22.1.4 The name of the successful Bidder.
- 22.2 During the debriefing process the confidentiality of Quotations, tenders and the identity of bidders must be always protected.
- 22.3 An offer of a debriefing must be given to unsuccessful Bidders if a request is received. A debrief shall be provided in writing within 15 clear working days of receipt of a request. An aim of the debrief shall be to assist Bidders to understand the reasons that their bid was unsuccessful to inform future tender submissions.
- 22.4 At the conclusion of every procurement, the Procurement Officer shall record the outcome in a form specified by the Director of Digital, Customer and Commercial Services and submit this to the Director of Digital, Customer and Commercial Services with a copy to the Responsible Director.

## **23. CONTRACT CONDITIONS**

- 23.1 The form of contract used will depend on the subject matter of the contract. For contracts for works it will be necessary to use one of the standard forms of construction contract, normally either Joint Contracts Tribunal (JCT) or New Engineering Contract (NEC). The Lead for Law and Governance can advise on the appropriate form of contract.
- 23.2 Subject to 24.1 above, Procurement Officers shall, unless instructed otherwise by the Lead for Law and Governance, use the Council's Standard Terms and Conditions and shall ensure that each contract contains the following details:
  - 23.2.1 The works or services (including Concessions) to be performed and/or the goods to be supplied.
  - 23.2.2 The parties to the contract, including any guarantor.

- 23.2.3 The price and any discounts, or the method by which prices and discounts are to be calculated, and the method and timing of payments.
- 23.2.4 The start and end dates together with any extensions.
- 23.2.5 That the contractor shall not assign the contract without written consent of the Council.
- 23.2.6 That the contractor may pay liquidated damages (where these can be assessed and ascertained) as a pre-estimate of the potential loss sustained by the Council or other damages to the Council should the terms of the contract not be properly carried out, including the method by which such damages will be calculated and the circumstances in which they will be payable.
- 23.2.7 The performance of every contract over £100,000 (except a supply contract) may be required to be secured by either a guarantee or a Bond or a deposit of money if the Responsible Director so decides.
- 23.2.8 Any requirements of the Council regarding equalities and diversities.
- 23.2.9 That the contractor shall adopt safe methods of work and comply with all other requirements of the Health and Safety at Work etc. Act 1974 to protect the health and safety of its personnel, the personnel of the Council and all other persons.
- 23.2.10 That appropriate procedures are in place to ensure that children and vulnerable clients are safeguarded.
- 23.2.11 That the contractor shall comply with data protection and freedom of information requirements if appropriate.
- 23.2.12 That the Council may cancel the contract and recover any loss if the contractor, its employees, agents, and sub-contractors offer any reward relating to the contract, commit any offence under the Prevention from Corruption Acts 1889 to 1916, the Bribery Act 2010, the Employment Relations Act 1999 (Blacklists) Regulations 2010 or improperly influence or make any attempt to influence the award or administration of the contract.
- 23.2.13 That all requirements relating to social value are included
- 23.2.14 Any other terms and conditions specified by the Lead for Law and Governance who has a general authority to set standard and particular contract conditions.

## **24. CONTRACT SPECIFICATIONS**

- 24.1 The Procurement Officer shall ensure the contract specifies as necessary:
  - 24.1.1 Whether it is input, output or outcome focussed, or a combination
  - 24.1.2 The inputs or outputs required, their volume and frequency and/or the outcomes to be delivered, their volume and frequency
  - 24.1.3 The quality required, testing and inspection methods, standards of performance expected, performance monitoring arrangements, and the identification and allocation of roles and responsibilities
  - 24.1.4 The facilities on-site, health and safety and access arrangements, if applicable
  - 24.1.5 Any other details not included elsewhere

24.1.6 The quality of materials

24.1.7 Reference to relevant Council policies

24.2 Technical specifications shall be defined by reference to relevant international specifications or, where they do not exist, in the following order; to British technical specifications, British standards implementing international standards, other British standards and technical approvals or any other standards. Where an appropriate standard is current at the date of tender, all works, services, and supplies shall be at least of equal quality.

24.3 Specifications shall not refer to supplies of a particular make or source unless:

24.3.1 This is justified by the contract requirements.

24.3.2 The contract requirements cannot otherwise be described precisely and intelligibly, provided references are accompanied by the words "or equivalent."

## **25. POST CONTRACT MONITORING AND EVALUATION**

25.1 During the life of qualifying contracts, the Procurement Officer must, in accordance with any Council approved guidance, ensure that there are in place, arrangements that will ensure:

25.1.1 Monitoring of contract performance and risk management.

25.1.2 Compliance with specification and contract, including any key performance indicators.

25.1.3 Costs are controlled.

25.1.4 Any Best Value requirements are delivered.

25.1.5 User satisfaction, if appropriate

25.2 The Budget Manager in consultation with the Procurement Officer shall maintain under review the extent to which the purchasing need and the contract objectives are being met by a tendered contract. Where the contract is to be re-let, a report on contract performance should be prepared to inform the approach to re-letting the subsequent contract.

## **26. CONTRACT VARIATION**

26.1 Contract variation of the original terms and conditions or contract sum (if more than 10 % for goods and services and 15% for works) shall be reported to the Director of Digital, Customer and Commercial Services who will consult with the Lead for Law and Governance if appropriate.

26.2 No variation may be made unless allowed for in the contract documentation unless approved by the Director of Digital, Customer and Commercial Services who will consult with the Lead for Law and Governance if appropriate.

26.3 If a request is made to vary a contract which increases the cost to the Council, the Budget Manager shall not agree such variation unless finance is available and within the budget

to cover the cost of the variation. Such increases must be reported to the Director of Director of Digital, Customer and Commercial Services for approval and reporting.

- 26.4 No variation, notwithstanding the application of clauses in conditions of contract, shall be made until the Responsible Director has identified and approved any additional funding required to the Director of Digital, Customer and Commercial Services.
- 26.5 Any negotiations about contract variations or extensions shall be undertaken in a timely manner to allow sufficient time to retender (if necessary) and should always seek to manage costs.

## 27. NOMINATING PRODUCTS, CONTRACTORS, OR SUPPLIERS

- 27.1 These Contract Standing Orders apply where the Council nominates a sub-contractor or supplier for carrying out works or services or supplying goods or materials that form part of a tender. Sub-contractors or suppliers shall send with the tender an undertaking to work for the main contractor and indemnify them for the subcontracted works or materials.
- 27.2 Lead Contractors must agree to delegate the same payment terms to their subcontractors and supply chain.

## 28. TECHNICAL AMENDMENT

- 28.1 The Lead for Law and Governance has authority to make technical amendments from time to time to make these Contract Standing Orders consistent with legal requirements, changes in Council structures and personnel and best practice.

## 29. BREACHES TO THE CONTRACT STANDING ORDERS

- 28.1 No Waiver or Exemption can be granted where the result would result in a breach of Public Procurement Law.

- 29.1 Where a suspected Breach of the Procurement Governance has taken place, or an individual has become aware that they themselves have breached the Rules, initial referral is made to the Head of Procurement with immediate effect from a suspected Breach.

- 29.2 The Head of Procurement will then arrange an initial investigation into the suspected Breach in order to determine an opinion around the seriousness of the Breach and a decision taken as to the actions which shall be taken. The intent, the individual circumstances and the impact of the alleged Breach shall be considered with the investigation proportionate to the nature of the Breach.

## 29.30. DEFINITIONS

- 29.130.1 The following terms in these Contract Standing Orders have the meaning indicated and shall be interpreted accordingly:

‘Approved List’ is a list drawn up in accordance with rule 8.

‘Award Criteria’ are the criteria by which the successful Quotation or tender is selected.

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**'Best Value'** means the duty placed on local authorities to secure continuous improvement in the way in which services are provided, having regard to a combination of economy, efficiency and effectiveness, and as implemented by the Council.

**'Bidder'** means a person or company participating or applying to participate in a procurement undertaken by the Council

**'Bond'** has a similar effect to an insurance policy where a contractor does not do what it has promised under a contract, the Council can claim the sum of money specified in the bond, often 10 per cent of the contract value. A bond is intended to protect the Council against a level of cost arising from a contractor's failure.

**"Budget Manager"** means the officer with delegated responsibility for management of the budget from which it is anticipated that the costs arising from a contract will be funded.

**'Director of Digital, Customer and Commercial Services'** means the officer with overall responsibility for procurement within the Council or a relevant officer to whom they have delegated the relevant authority

**"CMIS"** means the Council's committee management information system

**'Concession'** means a contract whereby a payment is received to permit a service to be provided to the public for a charge.

**'Contract'** or 'sub-contract' means any agreement for the supply of goods, materials or services, the execution of works and the awarding of concessions. This list is not exhaustive and this section refers to the supply of anything to the Council.

**'Contract Manager'** means the officer responsible for management of the performance/delivery of a Contract.

**'Contractor'** is a supplier to the Council.

**'Contract File'** comprises a record of all matters relating to a contract whether in paper or electronic form.

**'Contract Register'** means the register of the Contracts entered into by the Council maintained by the Director of Digital, Customer and Commercial Services.

**'Crown Commercial Services or CCS'** is the Government Agency responsible for leading and providing guidance upon Central Government Procurement activity.

**"Exemption"** means an exemption from a process of competitive tendering in accordance with rule 11.

**'Lead for Law and Governance'** means the officer with responsibility for the Council's legal function.

**'PCR'** means the Public Contracts Regulations 2015 [or any relevant Procurement Legislation](#)

**'Procurement Officer'** means the officer responsible for the procurement of a Contract

**'Quotation'** means any written response to an invitation to quote which includes the price of goods or services to be supplied other than a tender

**'Responsible Director'** in these Contract Standing Orders means the Chief Executive, Deputy Chief Executive or Directors with delegated responsibility for the contract in question and within Local Authority Maintained Schools the Head teacher.

**'Total Value'** is the whole of the value or estimated value (in money or equivalent value) of the whole life of the contract including all extensions whether or not it comprises several lots or stages to be paid or received by the Council and calculated as follows:

- (e) Where the contract is for a fixed period, by taking the total price to be paid or which might be paid during the whole of the period.
- (f) Where the purchase involves recurrent transactions for the same type of item, by aggregating the value of those transactions in the coming 12 months.

- (g) Where the contract is for an uncertain duration by multiplying the monthly payment by 48.
  - (h) In the case of feasibility studies, it is the value of the scheme or contracts which may be awarded as a result.
  - (i) In the case of nominated suppliers and sub-contractors it is the value of that part of the main contract to be fulfilled by the nominated supplier or sub-contractor.
- “Waiver”** means a waiver from compliance with Standing Orders

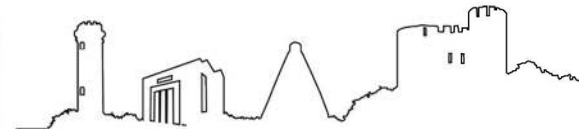
# Contract Standing Orders Update

25<sup>th</sup> Sept 2023

Tim Robbins - Head of Procurement



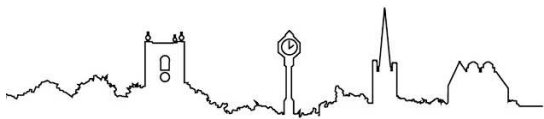
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the historic capital of the Black Country





# Objectives & Contents

- The objective today is to get your agreement to the changes proposed to the Contract Standing Orders
- Contents:
  - Why change now
  - Fundamental Changes: Simplifying & Expanding Exemptions
  - Fundamental Change: Social Care
  - Moving Forward

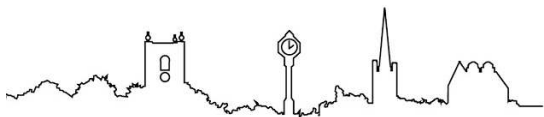


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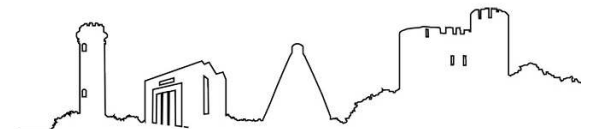


# Why Change Now

- Update to £values in line with legislative & statutory changes
  - To simplify the text to ensure compliance is made as easy as possible
  - Drive down administration whilst ensuring compliance
  - Some minor corrections
- 
- These changes are **not** driving up costs or driving down compliance



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# Fundamental Changes: Simplifying & Expanding Exemptions

1. An **unforeseeable emergency** involving danger to life or health or serious damage to property, in which the work, goods or services are required more urgently than would be possible if a procurement procedure was followed;
2. For **justifiable technical reasons**, the works, goods or services can be obtained from only one supplier;
3. Acquiring goods or services from a different supplier would result in **incompatibility with existing goods or services** or disproportionate technical difficulties;
4. Additional works or services are required which, through **unforeseen circumstances**, were not included in the original contract and which either are **strictly necessary for the completion of the contract** or, for technical or economic reasons, cannot be carried out separately and the original contract was let in compliance with Public Contracts Regulations (2015). **Such additional works or services must not exceed 50 per cent of the value of the original contract**;
5. Additional works or services are required which, through **unforeseen circumstances**, were not included in the original contract and which either are **strictly necessary for the completion of the contract** or, for technical or economic reasons, cannot be carried out separately and the original contract fell below the relevant thresholds to fall in scope of the Public Contract regulations (2015). In this case **the revised total value of the contract must not exceed the relevant threshold**.
6. The purchase of **used vehicles, plant or materials** that does not exceed the relevant threshold;
7. Where **no tenders, no suitable tenders, no requests to participate** or no suitable requests to participate have been submitted in response to an open procedure or a restricted procedure, provided that the **initial conditions of the contract are not substantially altered**.

# Fundamental Change: Residential Social Care

## 11. Exemptions for Residential Social Care Contracts

11.1 It is recognised that either because of **service user choice** or the **nature of the market for specialist placements** that for some types of residential social care contracts competitive procurement processes cannot be undertaken and Sections 13-26 of the CSO do not apply.

11.2 Contracts awarded under this exemption may not surpass the Light Touch Regime Threshold (currently £663,000).

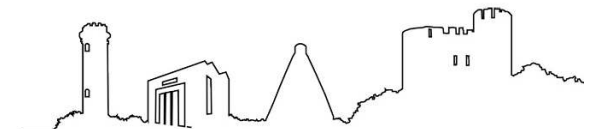
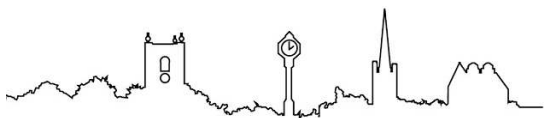
11.3 Only contracts for the above have specific exclusions from these CSOs all other elements are covered by Procurement Legislation.

11.4 The Council will contract with Residential Care Providers using a standard contract. The contract will set out a breakdown of the price. Any deviations from this standard contract must be approved in advance by the relevant Director.

11.5 If an annual fee for a placement is higher than in the table below then approval must be gained from the relevant Director prior to agreeing the placement with the Provider and the Primary Care Need Fee per annum;

Type of placement	Fee per annum
Disability (Adults)	£74,999
Adults	£74,999

11.6 For out of area placements the annual fee must be either the Council standard rate as set out in 11.5 or the standard rate for the relevant local authority area. For out of area placements with a fee per week above this approval must be gained from the relevant Director.



# Moving Forward

- In the next 12-18 months a wider review of the Contract Standing Orders will be conducted by Procurement
  - This will take place once the Procurement Bill is enacted (expected Oct 2024) which will be the most significant change to the Public Contract Regulations since 2015
  - The exemptions will be amended by procurement, as per the Procurement Bill, to ensure continued compliance with legislation
  - Contract Management will feature more evidently in the Contract Standing Orders (Procurement are rolling out a Contract Management framework this quarter)
  - The Government are expected to (but may not) provide further guidance on Adult Social Care contracts to provide clarity around the current conflict between patient choice and competitive tendering.

