

Borough Council of
**King's Lynn &
West Norfolk**



CABINET

Agenda

**TUESDAY, 30 OCTOBER 2012
at 5.30pm**

in the

**Stone Hall
Town Hall
Saturday Market Place
King's Lynn**



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Borough Council of
**King's Lynn &
West Norfolk**



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CABINET AGENDA

DATE: CABINET – TUESDAY, 30 OCTOBER 2012

**VENUE: STONE HALL, TOWN HALL, SATURDAY
MARKET PLACE, KING'S LYNN**

TIME: 5.30 pm

This agenda gives notice of items to be considered in private as required by Regulations 5 (4) and (5) of The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012

1. MINUTES

To approve the Minutes of the Meeting held on 2 October 2012.

2. APOLOGIES

To receive apologies for absence.

3. URGENT BUSINESS

To consider any business, which by reason of special circumstances, the Chairman proposes to accept, under Section 100(b)(4)(b) of the Local Government Act 1972.

4. DECLARATION OF INTEREST

Please indicate if there are any interests which should be declared. A declaration of an interest should indicate the nature of the interest (if not already declared on the Register of Interests) and the agenda item to which it relates. If a

disclosable pecuniary interest is declared, the member should withdraw from the room whilst the matter is discussed.

These declarations apply to all Members present, whether the Member is part of the meeting, attending to speak as a local Member on an item or simply observing the meeting from the public seating area.

5. CHAIRMAN'S CORRESPONDENCE

To receive any Chairman's correspondence.

6. MEMBERS PRESENT PURSUANT TO STANDING ORDER 34

To note the names of any Councillors who wish to address the meeting under Standing Order 34.

7. CALLED IN MATTERS

To report on any Cabinet decisions called in.

8. FORWARD DECISIONS LIST

A copy of the Forward Decisions List is attached (Page 8)

9. MATTERS REFERRED TO CABINET FROM OTHER COUNCIL BODIES

To receive any comments and recommendations from other Council bodies some of which meet after the dispatch of this agenda. Copies of any comments made will be circulated as soon as they are available.

- Resources and Performance Panel and Audit Committee –23 October 2012
- Regeneration, Community and Environment Panel - 24 October 2012

10. REPORTS

1) MID YEAR REVIEW TREASURY REPORT 2012/2013 (page 13)

The Council has formally adopted the Chartered Institute of Public Finance and Accountancy's (CIPFA) Code of Practice on Treasury Management (2011) and remains fully compliant with its requirements.

One of the primary requirements of the Code is:

Receipt by Council of an annual strategy report (including the annual investment strategy report) for the year ahead, a mid year review report and an annual review report of the previous year.

The Mid Year Review Report has been prepared in compliance with CIPFA's Code of Practice, and covers the following:

- An economic update for the first six months of 2012/2013
- A review of the Treasury Management Strategy Statement and Annual Investment Strategy 2012/2013
- The Council's capital expenditure (prudential indicators)
- A review of the Council's investment portfolio for 2012/2013
- A review of the Council's borrowing strategy for 2012/2013
- A review of any debt rescheduling undertaken during 2012/2013
- A review of compliance with Treasury and Prudential Limits for 2012/2013

2) Town Hall (page 32)

The report details the revised proposals for the Town Hall to be submitted to the HLF (Heritage Lottery Fund) in November. The total cost of the scheme is estimated at £2.3-2.5million of which £500,000 will be funded by the Council.

3) Gambling Act 2005 - Statement of Principles (page 39)

The Gambling Act 2005 requires every local authority to agree a Statement of Principles (previously referred to as 'Statement of Licensing Policy) in accordance with the Statutory Guidance issued under the Act. The policy has been drawn up in accordance with the guidelines issued by the Gambling Commission and has been subject to consultation.

4) Contract Standing Orders (Page76)

Since the current version of Contract Standing Orders was approved by Council on 29 September 2011 there have been two major external influences on procurement policy. These are the government initiative to remove the use of Pre-Qualification Questionnaires for contracts under £100,000 and the introduction of the Public Services (Social Value) Act 2012. Contract Standing Orders have been reviewed and amendments are proposed that address these issues and a few other, more minor, updates.

5) Permanent Contracts For Care And Repair Staff (page119)

The reports makes recommendations on the contracts of staff within the Care and

6) Corporate Apprenticeship Scheme (page125)

As part of Central Services Directorate Plan for 2012/13 it was agreed that Personnel would investigate the potential benefits and costs of introducing an Apprenticeship Scheme to the Council.

7) Outsourced Payroll Contract (page 130)

In September 2012 Cabinet considered a report outlining the tendering process being undertaken to award the contract for outsourced payroll provision from 1st April 2013. The tendering exercise has now been completed and the assessment process is underway to identify the successful contractor. The results of the process will be reported to the meeting.

8) Proposal for a Large Scale Housing Development on some of the Council's Land Holdings (page 132)

This report shows how a significant housing development could be progressed on the Councils housing land under arrangements that would see the Council retaining an equity investment in the development rather than simply disposing of the assets. It sets the current market scene shown from the Housing, Property, Regeneration and Planning perspective and then considers the reasons why such a scheme would be good for the local economy as well as the Council, whilst demonstrating how any risks to the Council can be mitigated.

9) Millennium Communities Agreement: Process for Agreeing Variations (page 144)

The Council entered into the Millennium Communities Agreement (MCA) in 2006 with English Partnerships (now the Homes and Communities Agency), East of England Development Agency (EEDA) and Morston Assets. The agreement set out the obligations, outputs and funding contributions from each of the partners to facilitate the construction of the Nar Ouse Regeneration Area (NORA). In light of the changing economic and policy environment, some variations to the outputs and obligations of all the partners are required in order to facilitate viable developments on the NORA site. This report recommends a procedure to be put in place to manage the request for variations between the partners in a timely manner in order to progress development of the NORA site.

EXCLUSION OF PUBLIC

The Cabinet is asked to consider excluding the public from the meeting under section 100A of the Local Government Act 1972 for consideration of the items below on the grounds that they involve the likely disclosure of exempt information as defined by Paragraph 3 of Part 1 of Schedule 12A to the Act, and that the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

PRIVATE ITEMS

Details of any representations received by the Executive about why any of the following reports should be considered in public – none received

10 BLACK SACK WASTE RECYCLING CONTRACT (page 148)

The report details the outcome of a direct negotiation process for a Framework Agreement and Contract to recycle waste that is currently landfilled, following a procurement exercise authorised by Cabinet that formally failed.

11 MUSEUM SQUARE PROJECT (MSP) (page 156)

This report outlines the rationale and delivery mechanism for King's Lynn town centre extension (The Museum Square Project) through a collaborative relationship

To: Members of the Cabinet
Councillors N J Daubney (Chairman), A Beales, Lord Howard,
A Lawrence, B Long, Mrs E A Nockolds, D Pope and Mrs V Spikings.

Cabinet Scrutiny Committee

For further information, please contact:

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Democratic Services Manager,
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King's Lynn PE30 1EX
Telephone: (01553) 616327 Email: sam.winter@west-norfolk.gov.uk

FORWARD DECISIONS LIST

Date of meeting	Report title	Description of report	Key or Non Key Decision	Decision Maker	Cabinet Member and Lead Officer	List of Background Papers	Public or Private Meeting
30 October 2012	Town Centre Expansion – Museum Square – Heads of Terms	Report on rationale and delivery method of King's Lynn Town Centre extension.	Key	Cabinet	Regeneration Exec Dir Regen and Planning		Private – Contains exempt Information under para 3 – information relating to the business affairs of any person (including the authority)
	Payroll Tender Outcome	Report on the outcome of the Payroll Tender	Key	Cabinet	Leader Exec Dir Central Services	Report to Management team	Public
	Review of Statement of Principles – Gambling Act 2005	Statutory Review of the Gambling Act Policy	Non	Council	Community Exec Dir Environmental Health & Housing		Public
	Black Bin Recycling Contract	Report on the new contract for black bin recycling	Key	Cabinet	Dep Leader Exec Dir Leisure and Public Space	Cabinet Report – 4 th October 2011 Recycling of Waste Cabinet Report – 6 th March 2012 Procurement update for the black bin recycling project Cabinet Report – 19 th June 2012 Recycle black bin waste – progress update Recycling Plant Invitation to Submit Outline	Private - Contains exempt Information under para 3 – information relating to the business affairs of any person (including the authority)

						Solution Material Works – Process flow diagram Material Works – Product section photograph Material Works – Initial Plant concept design	
	Contract Standing Orders – amendments	Update to CSOs to remove the requirement for PQQs for contracts under £100,000.	Non	Council	Leader Deputy Chief Executive	Previous reports	Public
	Corporate Apprenticeship Scheme	Introduction of Corporate Apprenticeship Scheme by the Borough Council.	Non	Cabinet	Leader Exec Dir Central Services	Report to Management Team	Public
	Care and Repair Staffing Contracts	Report regulating contracts of Temporary staff	Non	Council	Community Exec Dir Environmental Health & Housing		Public
	Mid Year Review Treasury Report	Review of Treasury Management Activity for the Borough	Non	Cabinet	Leader Dep Chief Exec	The Budget 2011/2015 – A Financial Plan Capital Programme 2011/2015 Treasury Management Strategy and Annual Investment Strategy 2012 Budget Monitoring	Public

						reports 2012/2013 Sector Monthly Investment Analysis Review Treasury Monthly Monitoring reports	
	Town Hall- HLF - Revised proposals	Proposals for submission to HLF for works to the Town Hall, King's Lynn	Non	Cabinet	Health & Wellbeing Exec Dir Leisure and Public Space		Public
	Major Housing Development – King's Lynn	Proposals for development on Council land	Key	Cabinet	Regeneration Exec Dir Regen and Planning	The Montague Report DTZ's response to the Montague Report	Public
	NORA Millennium Communities Agreement Variations	Approval sought for a process to vary terms of Millennium Communities Agreement at NORA	Non	Cabinet	Regeneration Exec Dir Regen and Planning		Public

Date of meeting	Report title	Description of report	Key or Non Key Decision	Decision Maker	Cabinet Member and Lead Officer	List of Background Papers	Public or Private Meeting
4 December 2012	King's Lynn Enterprise and Innovation Centre (KLIC)	Report on the provision of a new KLIC	Key	Council	Regeneration Exec Dir Regen and Planning		Private - Contains exempt Information under para 3 – information relating

							to the business affairs of any person (including the authority)
	Local Authority Leisure Trust – Project Plan and Follow Up report	Update on discussions re Leisure Trust	Key	Cabinet	Leader/ Assets Chief Executive		Public
	Holiday Caravan Sites/Touring Caravan Sites/Residential Caravan Sites – Licensing Procedures & Standard Conditions	Review of the Policies and procedures	Non	Council	Community Exec Dir Environmental Health & Housing		Public
	Asset Management - Downham Market – Potential Sale of Land	Report on the sale of land	Non	Cabinet	Regeneration Dep Chief Exec		Private - Contains exempt Information under para 3 – information relating to the business affairs of any person (including the authority) a third
	Local Council Tax Support Scheme – end of consultation period	Outcome of consultation process on the proposed new Cloal Council Tax Support Scheme and	Key	Council	Leader Deputy Chief Executive		Public
	Materials Recycling Facility (MURF) Contract	Report on the outcome of the of the MURF contract negotiations	Key	Cabinet	Dep Leader Exec Dir Leisure and Public Space		Private - Contains exempt Information under para 3 – information relating to the business affairs of any

							person (including the authority) a third
	Social Housing Allocation Policy Review	Review of policy	Key	Council	Community Exec Dir Environmental Health & Housing		Public
	Contract for Floor Printers/Copiers	Outcome of tender process for the provision of printers/copiers	Key	Cabinet	Leader Deputy Chief Executive		
	Cost Reduction Programme – Application for early retirement	Application for early retirement		Council	Leader Chief Executive		Private - Contains exempt Information under para 1 – information relating to any individual.

Date of meeting	Report title	Description of report	Key or Non Key Decision	Decision Maker	Cabinet Member and Lead Officer	List of Background Papers	Public or Private Meeting
8 January 2013	Staff Pay Settlement 2013/14		Key	Cabinet	Leader Exec Dir Central Services		Public
	Timetable of meetings 2013/14	Seeking approval for the timetable of meetings	Non	Cabinet	Leader Exec Dir Central Services	Previous timetables	Public

Open		Would any decisions proposed :		
Any especially affected Wards	Operational Statutory	(a) Be entirely within Cabinet's powers to decide YES		
None		(b) Need to be recommendations to Council NO		
		(c) Be partly for recommendations to Council NO and partly within Cabinets powers –		
Lead Member: Nick Daubney E-mail: cllr.nick.daubney@west-norfolk.gov.uk		Other Cabinet Members consulted: None		
		Other Members consulted: None		
Lead Officer: Lorraine Gore E-mail: lorraine.gore@west-norfolk.gov.uk Direct Dial: 01553 616249		Other Officers consulted: David Thomason, Management Team		
Financial Implications YES	Policy/Personnel Implications NO	Statutory Implications (incl S.17) YES	EIA req'd NO	Risk Management Implications YES

Date of meeting: 30 October 2012

1 MID YEAR REVIEW TREASURY REPORT 2012/2013

Summary

The Council has formally adopted the Chartered Institute of Public Finance and Accountancy's (CIPFA) Code of Practice on Treasury Management (2011) and remains fully compliant with its requirements.

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Recommendations

Cabinet is asked to note the report and the treasury activity.

Reason for the Decision

The Council must make a Mid Year Review of its Treasury operation, as part of the CIPFA code of Practice.

1. Background

- 1.1 The Council operates a balanced budget, which broadly means cash raised during the year and the use of reserves and balances will meet its cash expenditure. Part of the treasury management operations ensure this cash flow is adequately planned, with surplus monies being invested in low risk counterparties, providing adequate liquidity initially before considering maximising investment return.
- 1.2 The second main function of the treasury management service is the funding of the Council's capital plans. These capital plans provide a guide to the borrowing need of the Council, essentially the longer term cash flow planning to ensure the Council can meet its capital spending operations. This management of longer term cash may involve arranging long or short term loans, or using longer term cash flow surpluses, and on occasion any debt previously drawn may be restructured to meet Council risk or cost objectives.
- 1.3 As a consequence treasury management is defined as:

“The management of the local authority's investments and cash flows, its banking, money market and capital market transactions; the effective control of the risks associated with those activities; and the pursuit of optimum performance consistent with those risks. ”

2. Introduction

- 2.1 The Chartered Institute of Public Finance and Accountancy's (CIPFA) Code of Practice on Treasury Management 2011 as adopted by this Council in April 2012.

The primary requirements of the Code are as follows:

1. Creation and maintenance of a Treasury Management Policy Statement which sets out the policies and objectives of the Council's treasury management activities.
2. Creation and maintenance of Treasury Management Practices which set out the manner in which the Council will seek to achieve those policies and objectives.
3. Receipt by the full council of an annual Treasury Management Strategy Statement - including the Annual Investment Strategy and Minimum

Revenue Provision Policy - for the year ahead, a **Mid-year Review Report** and an Annual Report (stewardship report) covering activities during the previous year.

4. Delegation by the Council of responsibilities for implementing and monitoring treasury management policies and practices and for the execution and administration of treasury management decisions.
 5. Delegation by the Council of the role of scrutiny of Treasury Management strategy and policies to a specific named body. For the Council the delegated body is the Audit Committee.
- 2.2 This mid-year report has been prepared in compliance with CIPFA's Code of Practice, and covers the following:
- An economic update for the first six months of 2012/13;
 - A review of the Treasury Management Strategy Statement and Annual Investment Strategy;
 - The Council's capital expenditure (prudential indicators);
 - A review of the Council's investment portfolio for 2012/13;
 - A review of the Council's borrowing strategy for 2012/13;
 - A review of any debt rescheduling undertaken during 2012/13;
 - A review of compliance with Treasury and Prudential Limits for 2012/13.

3 Economic update

3.1 **Global economy**

Economic sentiment, in respect of the prospects for the UK economy to recover swiftly from recession, suffered a major blow in August when the Bank of England substantially lowered its expectations for the speed of recovery and rate of growth over the coming months and materially amended its forecasts for 2012 and 2013. It was noted that the UK economy is heavily influenced by worldwide economic developments, particularly in the Eurozone, and that on-going negative sentiment in that area would inevitably affect the UK's economic performance.

With regard to the Eurozone, investor confidence remains weak because successive "rescue packages" have first raised, and then disappointed, market expectations. However, the uncertainty created by the continuing Eurozone debt crisis is having a major effect in undermining business and consumer confidence not only in Europe and the UK, but also in America and the Far East/China.

3.2 UK economy

In the UK, consumer confidence remains very depressed with unemployment concerns, indebtedness and a squeeze on real incomes from high inflation and low pay rises, all taking a toll. Whilst inflation has fallen considerably (Consumer Price Index (CPI) @ 2.5% in August), UK Gross Domestic Product (GDP) fell by 0.5% in the quarter to 30 June, the third quarterly fall in succession. This means that the UK's recovery from the initial 2008 recession has been the worst and slowest of any G7 country apart from Italy (G7 = US, Japan, Germany, France, Canada, Italy and UK). It is also the slowest recovery from a recession of any of the five UK recessions since 1930 and total GDP is still 4.5% below its peak in 2008.

This weak recovery has caused social security payments to remain elevated and tax receipts to be depressed. Consequently, the Chancellor's plan to eliminate the annual public sector borrowing deficit has been pushed back further into the future. The Monetary Policy Committee has kept Bank Rate at 0.5% throughout the period while quantitative easing was increased by £50bn to £375bn in July. In addition, in June, the Bank of England and the Government announced schemes to free up banking funds for business and consumers.

On a positive note, despite all the bad news on the economic front, the UK's sovereign debt remains one of the first ports of call for surplus cash to be invested in and gilt yields, prior to the European Central Bank (ECB) bond buying announcement in early September, were close to zero for periods out to five years and not that much higher out to ten years.

3.3 Sector's Outlook for the next six months of 2012/13

The risks in economic forecasts continue unabated from the previous treasury strategy. Concern has been escalating that the Chinese economy is heading for a hard landing, rather than a gentle slowdown, while America is hamstrung by political deadlock which prevents a positive approach to countering weak growth. Whether the presidential election in November will remedy this deadlock is debatable but urgent action will be required early in 2013 to address the US debt position. However, on 13th September 2012, the Federal Reserve System (Fed) announced an aggressive stimulus programme for the economy with a third round of quantitative easing focused on boosting the stubbornly weak growth in job creation, and this time with no time limit. They also announced that it was unlikely that there would be any increase in interest rates until at least mid 2015.

Eurozone growth will remain weak as austerity programmes in various countries curtail economic recovery. A crunch situation is rapidly developing in Greece as it has failed yet again to achieve deficit reduction targets and so may require yet another (third) bail out. There is the distinct possibility that some of the northern European countries could push for the

ejection of Greece from the Eurozone unless its financial prospects improve, which does not seem likely at this juncture. A financial crisis was also rapidly escalating over the situation in Spain. However, in early September the ECB announced that it would purchase unlimited amounts of shorter term bonds of Eurozone countries which have formally agreed the terms for a bailout. Importantly, this support would be subject to conditions (which have yet to be set) and include supervision from the International Monetary Fund. This resulted in a surge in confidence that the Eurozone has at last put in place the framework for adequate defences to protect the Euro. However, it remains to be seen whether the politicians in charge of Spain and Italy will accept such loss of sovereignty in the light of the verdicts that voters have delivered to the politicians in other peripheral countries which have accepted such supervision and austerity programmes. The Eurozone crisis is therefore far from being resolved as yet. The immediate aftermath of this announcement was a rise in bond yields in safe haven countries, including the UK. Nevertheless, this could prove to be as short lived as previous “solutions” to the Eurozone crisis.

The Bank of England Quarterly Inflation Report in August pushed back the timing of the return to trend growth and also lowered its inflation expectations. Nevertheless, concern remains that the Bank’s forecasts of a weaker and delayed robust recovery may still prove to be over optimistic given the world headwinds the UK economy faces. Weak export markets will remain a drag on the economy and consumer expenditure will continue to be depressed due to a focus on paying down debt, negative economic sentiment and job fears. The Coalition Government, meanwhile, is likely to be hampered in promoting growth by the requirement of maintaining austerity measures to tackle the budget deficit.

The overall balance of risks is, therefore, weighted to the downside:

- We expect low growth in the UK to continue, with Bank Rate unlikely to rise in the next 24 months, coupled with a possible further extension of quantitative easing. This will keep investment returns depressed.
- The expected longer run trend for Public Works Loans Board (PWLB) borrowing rates is for them to eventually rise, primarily due to the need for a high volume of gilt issuance in the UK and the high volume of debt issuance in other major western countries. However, the current safe haven status of the UK may continue for some time, tempering any increases in yield.
- This interest rate forecast is based on an assumption that growth starts to recover in the next three years to a near trend rate (2.5%). However, if the Eurozone debt crisis worsens as a result of one or more countries having to leave the Euro, or low growth in the UK continues longer, then Bank Rate is likely to be depressed for even longer than in this forecast.

3.4 Sector's interest rate forecast

	17.09.12 actual	Dec-12	Mar-13	Jun-13	Sep-13	Dec-13	Mar-14	Jun-14	Sep-14	Dec-14	Mar-15
BANK RATE	0.5	0.5	0.5	0.5	0.5	0.5	0.5	0.5	0.5	0.75	1.0
3m LIBID	0.55	0.6	0.6	0.6	0.6	0.6	0.6	0.7	0.9	1.1	1.4
6m LIBID	0.85	0.85	0.85	0.85	0.85	0.85	1.0	1.1	1.3	1.5	1.8
12m LIBID	1.3	1.3	1.3	1.3	1.4	1.5	1.7	1.9	2.1	2.3	2.6
5yr PWLB	1.89	1.5	1.5	1.5	1.6	1.7	1.8	1.9	2.0	2.1	2.3
10yr PWLB	2.91	2.5	2.5	2.5	2.6	2.7	2.8	2.9	3.0	3.2	3.3
25yr PWLB	4.15	3.7	3.7	3.7	3.8	3.8	3.9	4.0	4.1	4.2	4.3
50yr PWLB	4.32	3.9	3.9	3.9	4.0	4.0	4.1	4.2	4.3	4.4	4.5

The above Sector forecasts for PWLB rates incorporate the introduction of the PWLB certainty rate in November 2012 which will reduce PWLB borrowing rates by 0.20% for most local authorities. The actual PWLB rates on 17th September 2012 ought therefore to be reduced by 20 base points to provide a true comparison to the forecasts.

4 Treasury Management Strategy Statement and Annual Investment Strategy update

4.1 *The Treasury Management Strategy Statement (TMSS) for 2012/2013 was approved by this Council on 3 April 2012. The Council's Annual Investment Strategy, which is incorporated in the TMSS, outlines the Council's investment priorities as follows:*

- *Security of capital*
- *Liquidity*

4.2 *The Council will also aim to achieve the optimum return (yield) on investments commensurate with the proper levels of security and liquidity. In the current economic climate it is considered appropriate to keep investments short term (maximum loan period of 12 months), and only invest with highly credit rated financial institutions, using Sector's suggested creditworthiness approach, including sovereign credit rating and credit default swap (CDS) overlay information provided by Sector.*

4.3 A breakdown of the Council's investment portfolio is shown in Section 6 and Appendix 1 of this report.

4.4 Borrowing rates have been at historically low rates during the first six months of the 2012/13 financial year. Borrowing during the first six months of the year has been in line with the strategy, and there have been no deviations from the strategy.

- 4.5 As outlined in Section 3 above, there is still considerable uncertainty in the financial and banking market, both globally and in the UK. In this context, it is considered that the strategy approved on 3 April 2012 is still fit for purpose in the current economic climate.

5 The Council's Capital Position (Prudential Indicators)

This part of the report is structured to update:

- The Council's capital expenditure plans;
- How these plans are being financed;
- The impact of the changes in the capital expenditure plans on the prudential indicators and the underlying need to borrow; and
- Compliance with the limits in place for borrowing activity.

5.1 Prudential Indicator for Capital Expenditure

The capital programme approved by Council on 7 February 2012 was updated for rephrasing and amendments as part of the closedown of the accounts 2011/2012. The updated estimates were approved by Council on 19 June 2012 and are shown in Table 1 below. The capital programme 2012/2013 has been revised as reported in the Monthly Monitoring reports.

Table 1

Portfolio	Capital Programme 2012/2013 (Council 19 June 2012)	Expenditure as at 31 September 2012	Revised Capital Programme 2012/2013 (September Monitoring)
	£'000	£'000	£'000
Community & Democracy	1,469	669	1,814
Environmental Imp & Protection	526	55	526
Housing	2,111	407	2,111
Performance & Resources	899	183	899
Regeneration	3,095	1,214	3,095
Safer & Healthy Communities	19	1	19
Total Capital Programme	8,119	2,529	8,464

5.2 Changes to the Financing of the Capital Programme

Table 2 below shows the expected financing arrangements of the capital expenditure detailed above. The borrowing element of the table increases the underlying indebtedness of the Council by way of the Capital Financing Requirement (CFR), although this will be reduced in part by revenue charges for the repayment of debt (the Minimum Revenue Provision). This direct borrowing need will also be supplemented by maturing temporary debt and other treasury cash flow requirements.

Table 2

Capital Expenditure	Capital Programme 2012/2013 (Council 19 June 2012)	Revised Capital Programme 2012/2013 (August Monitoring)
	£'000	£'000
Total spend	8,119	8,464
Financed by:		
Capital receipts	2,465	2,465
Capital grants	577	577
Capital reserves	3,155	3,175
Total resource	6,197	6,217
Borrowing need	1,922	2,247
Total Financing	8,119	8,464

5.3 Changes to the Prudential Indicators for the Capital Financing Requirement (CFR), External Debt and the Operational Boundary

Table 3 shows the CFR, which is the underlying external need to incur borrowing for a capital purpose. It also shows the expected debt position over the period. This is termed the Operational Boundary.

Prudential Indicator – Capital Financing Requirement

The original estimated CFR for 2012/2013 included in the Treasury Management Strategy Statement 2012/2013 was based on an estimated outturn CFR for 2011/2012 of £13.7m, the actual outturn was £14m. The revised CFR for 2012/2013 after rephasing from 2011/2012 and revised capital resources, in particular reprofiling capital receipts to later years, is £15.7m.

Prudential Indicator – External Debt / the Operational Boundary

Section 3 of the Local Government Act 2003 requires the Council to determine and keep under review how much it can afford to borrow. The amount so determined is termed the “Affordable Borrowing Limit”. The Limit is in fact two sets of figures:

- the Authorised Limit for External Debt is the maximum borrowing that the Council can incur in a set period further prudential indicator controls the overall level of borrowing. The Authorised Limit represents the limit beyond which borrowing is prohibited, and needs to be set and revised by Members. It reflects the level of borrowing which, while not desired, could be afforded in the short term, but is not sustainable in the longer term. It is the expected maximum borrowing need with some headroom for unexpected movements.

- the Operational Boundary for External Debt is a working practice limit that is set slightly lower than the Authorised Limit. In effect the authorised limit includes a degree of contingency in case of circumstances arising that take the limit above the operational limit. It allows business to continue giving time for Council to be advised in case of the need for more permanent changes to the limits.

Table 3

	2012/13 Original Estimate £m	Current Position £m	2012/13 Revised Estimate £m
Prudential Indicator – Capital Financing Requirement			
CFR	13.7	14.0	15.7
Prudential Indicator – External Debt / the Operational Boundary			
Authorised Limit for external debt	25.0	25.0	25.0
Operational Boundary for external debt	20.0	20.0	20.0
Borrowing	16.6	11.5	17.5

5.4 Limits to Borrowing Activity

The first key control over the treasury activity is a prudential indicator to ensure that over the medium term, net borrowing (borrowings less investments) will only be for a capital purpose. Net external borrowing should not, except in the short term, exceed the total of CFR in the preceding year plus the estimates of any additional CFR for 2012/13 and the next two financial years. This allows some flexibility for limited early borrowing for future years. The Council has approved a policy for borrowing in advance of need which will be adhered to if this proves prudent. The Deputy Chief Executive reports that no difficulties are envisaged for the current year in complying with this prudential indicator as detailed in Table 4 below.

Table 4

	2012/13 Original Estimate	Current Position 30 September 2012	2012/13 Revised Estimate
	£m	£m	£m
Gross borrowing	16,600	11,420	16,500
Less investments	25,000	28,025	26,000
Net borrowing	(8,400)	(16,605)	(9,500)
CFR (year end position)	13,670	14,039	15,700

6 Investment Portfolio 2012/2013

- 6.1 In accordance with the Code, it is the Council's priority to ensure security of capital and liquidity, and to obtain an appropriate level of return which is consistent with the Council's risk appetite. As set out in Section 3, it is a very difficult investment market in terms of earning the level of interest rates commonly seen in previous decades as rates are very low and in line with the 0.5% Bank Rate. The continuing Euro zone sovereign debt crisis, and its potential impact on banks, prompts a low risk and short term strategy. Given this risk adverse environment, investment returns are likely to remain low.
- 6.2 The Council held £28.0m of investments as at 30 September 2012 (£25.7m at 31 March 2012) and the investment portfolio yield for the first six months of the year is 1.67% against a benchmark 0.39% (7 day LIBID – London Interbank Bid Rate).
- 6.3 As agreed by Cabinet in March 2011 the Council's Discretionary Fund Management Agreement with Investec has been terminated and all funds (£13.6m) are now managed internally and are included in Table 5 below. A saving of £22,400 in management fees has been made in 2012/2013.

6.4 A full list of investments held by the Council as at 30th September 2012, is shown in Appendix 1, and summarised in Table 5 below:

Table 5

Investments	30th September 2012 £	Average Rate of Return %
Bank of Scotland	5,000,000	2.37
Bank of Scotland	2,000,000	3.00
Newcastle City Council	3,900,000	1.55
Natwest	6,800,000	2.25
Barclays	2,400,000	0.66
Barclays	2,600,000	0.63
Natwest call account	200,000	0.90
Ignis Money Market Fund	4,265,000	0.62
Prime Rate	860,000	0.57
Total	28,025,000	1.63

6.5 As illustrated in the economic background section above, investment rates available in the market are at a historical low point. The average level of funds available for investment purposes in the first six months of 2012/13 was £2million (per week). These funds were available on a temporary basis, and the level of funds available was mainly dependent on the timing of precept payments, receipt of grants and progress on the capital programme. The Council holds £25.7million core cash balances for investment purposes.

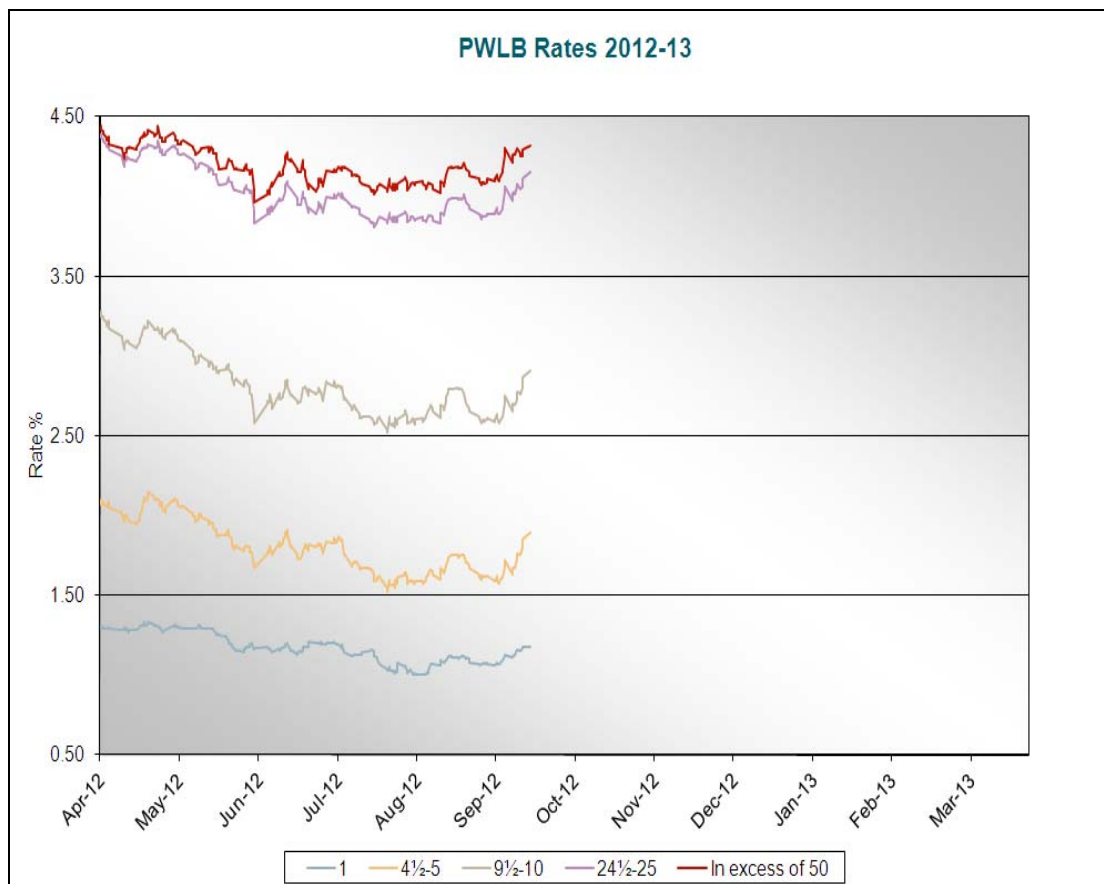
6.6 To maximise investment income, it was necessary to breach counterparty limits to £8.3m from £7m for a period of 1 week in late July 2012, to ensure we could obtain a return of 2.25%. This was available from a semi nationalised counterparty (partly owned by the UK Government), Natwest, for a limited period of time. Before deciding on this course of action, the Council Treasury advisors, Sector, were consulted and approved the decision, who felt it was prudent taking into account the possible return and the counterparty having a semi nationalised status. The Deputy Chief Executive and the Leader were consulted and aware of this breach, and approved the decision. If the forward deal had not been made, returns would likely have been around 1.49% for £2m which would have obtained £15,200 less income than the £45,000 which the Council will obtain on maturity after 1 year.

- 6.7 Apart from the reported investment above, the Deputy Chief Executive confirms that the approved limits within the Annual Investment Strategy were not breached during the first six months of 2012/13.
- 6.8 The Council's budgeted investment return for 2012/13 is £439,000 and the projected performance for the year is £300,000 which is below budget. The Council's budgeted borrowing costs for 2012/2013 are £603,100 and projected outturn for the year is £480,000. Overall it is anticipated there is net impact of £15,900 on the Council's budget, the capital programme is currently being reviewed and any rephasing will reduce the cost of borrowing in the current year. The cost of borrowing and investment returns are included in the financing adjustment element of the Council's budget, which is monitored and variances reported in the overall Budget Monitoring Report.
- 6.9 **Investment Counterparty criteria**
- The current investment counterparty criteria selection approved in the Treasury Management Strategy Statement 2012/2013 is meeting the requirement of the treasury management function.

7 External Borrowing 2012/2013

- 7.1 The Council's capital financing requirement (CFR) for 2012/13 is £13.7m. The CFR denotes the Council's underlying need to borrow for capital purposes. If the CFR is positive the Council may borrow from the PWLB or the market (external borrowing) or from internal balances on a temporary basis (internal borrowing). The balance of external and internal borrowing is generally driven by market conditions. The use of cash flow funds in lieu of borrowing is a prudent and cost effective approach in the current economic climate. A full list of borrowings made by the Council as at 30th September 2012 is shown in Appendix 2.
- 7.2 As outlined below, the general trend has been a reduction in interest rates during the six months, across all maturity bands.
- 7.3 During the first six months of this financial year, less borrowing has been required due to rephasing of the capital programme. It is still anticipated that the Council will have an underlying need to borrow for capital purposes (the capital financing requirement - CFR), if new external borrowing is required this will be undertaken during the second half of this financial year.

7.4 The graph and table below show the movement in PWLB rates for the first six months of the year and provide benchmarking data showing high and low points etc:



8 Debt Rescheduling

8.1 During the first six months of the year, no debt rescheduling was undertaken.

9 Compliance with Treasury and Prudential Limits

9.1 It is a statutory duty for the Council to determine and keep under review the “Affordable Borrowing Limits”. Council’s approved Treasury and Prudential Indicators (affordability limits) are outlined in the approved Treasury Management Strategy Statement.

9.2 During the financial year to date the Council has operated within the treasury limits and Prudential Indicators set out in the Council’s Treasury Management Strategy Statement and in compliance with the Council’s Treasury Management Practices. The Prudential and Treasury Indicators are shown in Appendix 3.

10. Financial Implications

- 10.1 The financial implications of the borrowing and investment strategy are reflected in the financing adjustment figure included in the Financial Plan 2011/2015 approved at Cabinet on 7 February 2012 and updated as reported in the Budget Monitoring report.

11. Risk Management Implications

- 11.1 There are elements of risk in dealing with the treasury management function although the production and monitoring of such controls as prudential indicators and the treasury management strategy help to reduce the exposure of the Council to the market. The costs and returns on borrowing and investment are in themselves a reflection of risk that is seen by the market forces.

12 Policy Implications

- 12.1 There are no changes in the Treasury Management policy at present.

13 Statutory Considerations

- 13.1 The Council must set prudential indicators and adopt a Treasury Management Strategy and Annual Investment Strategy.

Access to Information

The Budget 2011/2015 – A Financial Plan
Capital Programme 2011/2015
Treasury Management Strategy and Annual Investment Strategy 2012
Budget Monitoring reports 2012/2013
Sector Monthly Investment Analysis Review
Treasury Monthly Monitoring reports

1 Investment Portfolio as at 30 September 2012

Institution	Principal	Start Date	End Date	Rate %	Ratings
Bank of Scotland	2,000,000	24/11/2011	22/11/2012	2.37	A
Bank of Scotland	3,000,000	28/11/2011	26/11/2012	2.37	A
Bank of Scotland	2,000,000	12/04/2012	11/04/2013	3.00	A
Barclays	2,400,000	10/08/2012	12/11/2012	0.66	A
Barclays	2,600,000	11/09/2012	20/12/2012	0.63	A
Newcastle City Council	3,900,000	20/06/2011	20/12/2012	1.55	AAA
Natwest (Fixed)	1,300,000	05/04/2012	04/04/2013	2.25	A
Natwest (Fixed)	3,000,000	23/05/2012	22/05/2013	2.25	A
Natwest (Fixed)	2,500,000	22/08/2012	21/08/2013	2.25	A
Natwest (Call)	200,000	31/08/2012		0.90	A
Prime Rate Money Market Fund	860,000	28/09/2012		0.57	AAA
Ignis Money Market Fund	1,300,000	27/07/12		0.63	AAA
Ignis Money Market Fund	1,500,000	08/08/12		0.67	AAA
Ignis Money Market Fund	165,000	17/09/12		0.62	AAA
Ignis Money Market Fund	1,300,000	20/09/12		0.62	AAA
Total	28,025,000				

Appendix 2 Borrowing Portfolio as at 30 September 2012

Institution	Principal	Start Date	End Date	Rate
Kings Lynn Festival	20,000	11/06/2007	-	0.00%
Barclays	5,000,000	22/03/2007	21/03/2077	3.81%
Barclays	5,000,000	12/04/2007	14/04/2077	3.81%
Public Works Loan Board	1,500,000	15/09/2009	14/09/2019	2.92%
Total	11,520,000			

**Appendix 3
Revised Prudential and Treasury Indicators**

PRUDENTIAL INDICATOR	2012/13 estimate	2013/14 estimate	2014/15 estimate
BUDGET RELATED PRUDENTIAL INDICATORS	£'000	£'000	£'000
Capital Expenditure Approved at Cabinet 19 June 2012	£8,464	£6,027	£5,451
Ratio of financing costs to net revenue stream (Equals net treasury cost ie cost of borrowing less the income from investments divided by the total of Government grant and total council tax). The ratios take into account the announced reduction in grant of 7.25% per year from 2011/2012 as part of the Comprehensive Spending Review.	4.13%	4.44%	3.76%
Increase/(decrease) in Borrowing required each year	£1,700	(£590)	£1,700
Capital Financing Requirement (CFR) as at 31 March this reflects the Council's underlying need to borrow for capital purposes	£15,715	£15,100	£16,800

PRUDENTIAL INDICATOR	2012/13 estimate	2013/14 estimate	2014/15 estimate
TREASURY MANAGEMENT PRUDENTIAL INDICATORS	£'000	£'000	£'000
Authorised Limit for external debt	25,000	25,000	25,000
Operational Boundary for external debt	20,000	20,000	20,000

	2012/13	2013/14	2014/15
Interest rate Exposures			
	Upper	Upper	Upper
Limits on fixed interest rates based on net debt	20,000	20,000	20,000
Limits on variable interest rates based on net debt	20,000	20,000	20,000

Maturity Structure of fixed interest rate borrowing		
	Lower	Upper
Under 12 months	0%	100%
12 months to 2 years	0%	100%
2 years to 5 years	0%	100%
5 years to 10 years	0%	100%
10 years and above	0%	100%

REPORT TO CABINET

Open		Would any decisions proposed :		
Any especially affected Wards	Discretionary	(a) Be entirely within cabinet's powers to decide YES		
		(b) Need to be recommendations to Council NO		
		(c) Be partly for recommendations to Council and partly within Cabinets powers – NO		
Lead Member: Cllr Elizabeth Nockolds E-mail: cllr.elizabeth.nockolds@west-norfolk.gov.uk		Other Cabinet Members consulted: Cllr David Pope		
		Other Members consulted:		
Lead Officer: Chris Bamfield E-mail: chris.bamfield@west-norfolk.gov.uk Direct Dial: 01553 616648		Other Officers consulted: Les Miller, Mark Fuller, David Thomason, Tim Humphreys		
Financial Implications YES	Policy/Personnel Implications NO	Statutory Implications (incl S.17) NO	EIA req'd NO	Risk Management Implications YES

Date of meeting: 30 October 2012

2 TOWN HALL

Summary

The report details the revised proposals for the Town Hall to be submitted to the HLF (Heritage Lottery Fund) by 28 November. The total cost of the scheme is estimated at £2,361,218 of which £500,000 will be funded by the Council.

Recommendation

Cabinet is recommended to agree the submission of a grant application to the HLF for the Town Hall.

Reason for Decision

To enable the development of the Town hall as part of an integrated heritage offering for King's Lynn.

1. BACKGROUND

- 1.1 At its meeting on 26 July 2011, Cabinet agreed the submissions of a proposal to develop King's Lynn Town Hall as a key heritage attraction for the Town.
- 1.2 The proposal improved access for visitors, created new display spaces in under utilised parts of the building, provided new displays and refurbished the whole of the Town Hall including external areas.
- 1.3 The estimated cost of the scheme was £3.8million of which £3million was sought as an HLF grant. Due to the size of the grant required the application was considered at national level by the HLF.

- 1.4 The HLF rejected the application and in their letter to the Council noted “The Board noted the potential of this project to open up important heritage assets and the opportunities to explore new themes. The archive, collections and historic buildings were of national historic and architectural interest. However, they expressed concerns about the high proportion of new build in the plans in the context of the overall cost of the project. Trustees also felt that there was a lack of clarity of vision for the project and that the need for the project and support from local people had not been sufficiently well demonstrated. Overall it did not represent good value for money in comparison to other projects”.
- 1.5 A follow up meeting was held with the Regional HLF Officers to gain further information on the reasons for refusal. The attached Appendix 1 details the key issues. The Regional Officers’ general view was that the Council had a strong case and should reapply but the overall cost of the scheme should be revised.
- 1.6 In discussions with relevant Cabinet Members and Officers it was determined to review the application and commence work for a resubmission in 2012. The aim should be to keep the cost of the scheme to a level which would set it as a regional application rather than a national scheme. In this context the grant requested from the HLF would need to be below £2million.
- 1.7 The main elements of the scheme will therefore be;
 - To create a modern archive area that meets the BS55454 standard, together with associated reading and display space.
 - To refurbish and upgrade all displays in the Regalia Room.
 - To create an open area to be used for temporary displays and exhibitions.
 - To improve the attraction and interpretation of the Gaol House area.
 - To landscape the external areas.
 - To improve access from the ground to first floor levels between the archive/Regalia/Gaol House area and the Assembly Room/ Stone Hall.
 - General work to upgrade electrical/heating systems, decoration and fixtures and fittings.

To reflect the issues raised by the HLF the project will also adopt a single thematic focus focusing on the “Stories of Lynn” (or similar title) which the project articulates through the King’s Lynn Archive, the historic spaces and collections of the Town Hall and Gaol House and through linking and networking with other heritage agencies and sites in the town.

2. CONSULTATION

2.1 Consultation to support a revised bid has been undertaken with a wide range of users, interested bodies and individuals. Key elements of the consultation programme were:

- Online survey – ran until August 31st
- The Lions Fun Day – stall to present the project and collect written survey responses
- Custom House – written responses to survey collected
- Arts Centre exhibition – survey publicised and responses collected
- Sandringham Flower show – survey publicised
- Family fun day event 'History Alive' at the Town Hall – graffiti wall and written responses collected

2.2 A Consultative Forum has been established with representatives of the key stakeholders including Heritage groups, the Youth Forum and local Heritage attractions and venues.

2.3 Three meetings have been held to date and a final consultation session is planned for the 6 November which will include the plans and financial details included in this report.

3. STRATEGIC IMPACT

3.1 The application will reference the strategic importance of improving the heritage assets of King's Lynn in terms of maintaining the attraction of the town centre, not just as a retail centre but as a leisure visitor attraction. In this context the project will demonstrate the links with;

- Town Centre "Townscape Heritage Initiative" (THI) and other relevant Heritage initiatives.
- Public realm work with EU/Amiens funding

3.2 The Town Hall will also act as a central hub for other heritage sites and attractions telling different parts of the Stories of Lynn.

4. TIMETABLE

4.1 The remaining schedule for resubmission of the bid to the HLF is as follows:

September 2012

Pre application

Draft consultation report produced

Consultative Forum meeting

Borough Council REC panel

Draft 1 bid produced

October 2012

Draft bid and consultation report external review
Consultative Forum meeting – bid sign off
Source letters of support
Final bid produced
Borough Council Cabinet

November 2012

Stage 1 bid submitted

March 2013

HLF regional committee meeting – Stage 1 decision

August 2013

Stage 2 bid submitted

December 2013

HLF regional committee meeting - Stage 2 decision

April 2014

Works commence

5. PROPOSALS

- 5.1 The revised scheme has reduced the costs of the proposal by cutting the level of new building works and reducing the cost of cabinet displays and interpretive material.
- 5.2 The main revisions to the original proposal are detailed below.
 - 5.2.1 **Glazed External Space**
The new glazed structure to the side of the Town Hall has not been included in the proposals.
 - 5.2.2 No substantial building works will take place in the Gaol House.
 - 5.2.3 The level of display and exhibition material has been reduced.
 - 5.2.4 The TIC will remain within the Custom House.
 - 5.2.5 **Entrance**
The main entrance to the site has been set in what is currently the car park area. This access will enable the site to be fully accessible for people with disabilities unlike the existing entrance.
 - 5.2.6 **Archive**
The current undercroft area is to be used for the archives. The proposal is to effectively build a box within part of the area in which temperature and humidity can be controlled and to use part of the area for reading rooms.

The scheme will still include an Activity Plan for the Town Hall.

- 5.2.7 A key requirement for HLF funding will be the development of a detailed Activity Plan at Round 2. Amongst other things, this will detail the formal and informal learning and audience engagement programmes that will facilitate improved access to the Town Hall buildings, Borough Archives and other collections. These programmes would be delivered both on-site and as outreach. HLF will look for evidence of the project improving participation by groups currently not actively engaging with the heritage of the town including young people.

6. STAGE I APPROVAL

- 6.1 If the bid achieves Stage I approval then the Council will have six months to work up the proposal in more detail including finalising plans, building works and display proposals to be submitted in August 2013 for Stage II approval.

7. FINANCIAL IMPLICATIONS

- 7.1 Incorporating the changes from the revised proposals has been utilised to revise the estimated cost of the scheme to be £2,361,218. The Council has a budget provision of £500,000, therefore, a grant of £1,838,718 would be needed from the HLF.
- 7.2 Attached at Appendix 2 is a breakdown of the budget costs.
- 7.3 If the Stage I application is successful the HLF will fund development costs to progress the scheme to a Stage II application. The development costs are estimated at £110,000 of which £23,100 would be a Council contribution.

8. RISK MANAGEMENT

- 8.1 If the Council is unsuccessful in its application then consideration would need to be given to prioritising work within the available funding.

Background papers

Town Hall Cost Plan

Town Hall HLF feedback

Develop a Coherent Working Model:

How the diverse elements of the Town Hall will complement each other in an integrated project:

- Building
- Collections
- Archives
- Gaol House
- Modern Civics

Articulate strengths of an integrated project e.g. reflecting modern civic life in historical context; exploring citizenship through courtroom, cells & records.

Demonstrate need for project & local support:

Evidence support for vision amongst local people especially non-visitors

Demonstrate ongoing consultation process with local stakeholders (HLF recognise challenges)

Articulate the Vision:

What is the vision for this project?

Vision needs to be the “golden thread” running through application.

How can diverse elements of the project be convincingly stitched together?

All those involved in developing bid must be able to articulate same vision

Broad current vision: “the story of the building & its collections, told through the lives of local people.”

Demonstrate Value for Money:

Justify new build elements & review alternative options e.g. café space

Justify need for higher cost elements e.g. peppers ghosts

Emphasise Strategic Impact:

Demonstrate how the project will deliver outcomes against a range of wider agendas e.g.:

- Economic regeneration
- Regional/local tourism
- Townscape redevelopment

Demonstrate integration of discrete heritage elements in key forward planning:

Single conservation plan reflecting building, collections, archives

Present sustainable & convincing plan for Custom House

Avoid combining Custom House & Town Hall in single project

Consider separate bid for re-display, with focus on built heritage/maritime

Provide reassurance re opening hours etc

APPENDIX 2

		£	£
1.	Construction Costs		
1.1	Preliminaries	150,000.00	
1.2	Works to ground floor	414,500.00	
1.3	Works to first floor	55,250.00	
1.4	New lift and access	136,750.00	
1.5	Mechanical and Electrical works	182,500.00	
1.6	External works	125,000.00	
1.7	External entrance signage	20,000.00	
1.8	Contingencies	135,750.00	
1.9	Allowances for inflation for April 2014 commencement	122,000.00	
1.10	Consultants and other associated fees in connection with construction	125,300.00	
			1,467,050.00
2.	Project Delivery Costs		
2.1	Conservation	35,000.00	
2.2	Display Exhibition	350,000.00	
2.3	Interactive Kiosks	25,000.00	
2.4	Archive fitting out	107,500.00	
2.5	Activity and staffing costs	164,130.00	
2.6	Marketing and evaluation	33,000.00	
2.7	Volunteer time (non cash contribution)	22,500.00	
2.8	Contingencies	75,750.00	
2.9	Allowances for inflation for April 2014 commencement	81,288.00	
			894,168.00
3.	Total Project Costs		2,361,218.00
4.	Contributions		
	BCKLWN	500,000	
	Volunteer Time non cash	22,500	
	HLF Grant Request	1,838,718.00	
	TOTAL	2,361,218.00	

REPORT TO CABINET

Open		Would any decisions proposed :		
Any especially affected Wards	Statutory	(a) Be entirely within cabinet's powers to decide NO		
		(b) Need to be recommendations to Council YES		
		(c) Be partly for recommendations to Council and partly within Cabinets powers – NO		
Lead Member: Adrian Lawrence E-mail: adrian.lawrence@west-norfolk.gov.uk		Other Cabinet Members consulted:		
Lead Officer: Andy Piper E-mail: andy.piper@west-norfolk.gov.uk Direct Dial: 01553 616365		Other Members consulted:		
Other Officers consulted:				
Financial Implications NO	Policy/Personnel Implications NO	Statutory Implications (incl S.17) YES	Equality Impact Assessment Req'd No	Risk Management Implications NO

Date of meeting: **30th October 2012**

3 Gambling Act 2005 - Statement of Principles

Summary

The Gambling Act 2005 requires every local authority to agree a Statement of Principles (previously referred to as 'Statement of Licensing Policy) in accordance with the Statutory Guidance issued under the Act. The policy has been drawn up in accordance with the guidelines issued by the Gambling Commission and has been subject to consultation.

Recommendation

That the Council be invited to adopt the Statement of Principles in accordance with the requirements of the Gambling Act 2005.

Reason for Report

It is a Statutory requirement that the Council adopts a Statement of Principles

1.0 Background

1.1 The Gambling Act 2005 (the 'Act') requires all local authorities to publish a Statement of Principles each three-year period. Our current policy was approved by Full Council on the 26th November 2009.

1.2 Regulations require that local authorities have their statement of principles in place by the 31st January 2013.

2.0 Consultation

2.1 The Guidance to Licensing Authorities issued by the Gambling Commission advises on how the policy is to be formulated and the consultation process to which it will be subjected. The Act requires that the following parties are consulted:

- The Chief Officer of Police
- One or more persons who appear to the authority represent the interests of persons carrying on gambling businesses in the authority's area
- One or more persons who appear to the authority to represent the interests of persons who are likely to be affected by the exercise of the authority's functions under the Gambling Act 2005

2.2 A list of persons we consulted can be found at Annex A to the Draft Statement of Principles (attached). In addition, the consultation has been open to the public on the Borough Council's website.

2.2 The consultation proposed no changes to the current Statement of Principles although holders of Small Society Lotteries were asked to comment on the provision of a basic Criminal Records Bureau (CRB) for lottery promoters.

2.3 There are 155 registered small society lotteries.

3.0 Review

3.1 Regulations issued under the Act require that the statement of principles be formally reviewed every three years although it can be reviewed and changed at any time if required.

3.2 The term 'statement of principles' rather than 'policy statement' or 'licensing policy statement' is designed to help distinguish it from the Licensing Act 2003 Statement of Licensing Policy.

3.3 Other than to review some of the terminology within the document no policy changes are proposed other than in relation to the provision of a Criminal Records Bureau (CRB) disclosure for promoters of small society lotteries.

3.4 A Small Society Lottery enables non-commercial society's to run a lottery to raise funds for charity, sporting or other non-commercial activities provided that a single 'draw' does not exceed £20,000 or an aggregate over a calendar year of £250,000.

3.5 The Borough Council may only refuse an application for a Small Society Lottery if:

- The society is not a non-commercial society;
 - A person who will or may be connected with the promotion of the lottery has been convicted of a relevant offence; or
 - Information provided in or with the application for registration is false or misleading.
- 3.6 In determining whether a person has been convicted of a relevant offence we currently require a promoter to produce a basic CRB dated no earlier than one calendar month. This has a cost implication (£25) and has been the source of some irritation because of both the cost and inconvenience.
- 3.7 The requirement to produce a CRB is not a legal requirement but the Borough Council's own policy. An alternative policy could be to require applicants to provide a written statement that they have no relevant convictions that would make them unsuitable from running a lottery.
- 3.8 An analysis of the 17 responses from holders of small society lottery registrations is as follows:
- Three were in favour of retaining the CRB;
 - Twelve were in favour of a self-certified statement;
 - One suggested that we accept CRB Disclosure dated older than a calendar month; and
 - One had no strong view either way.
- 3.9 Since the CRB policy was introduced in 2010 there have been no instances where a CRB disclosure has revealed any matters which would have brought into doubt a promoter's suitability. Given this, the responses received and the fact that this requirement has caused the biggest irritation from applicants it is proposed that the Borough Council adopt a policy of a self-certified statement instead of a CRB. It is therefore proposed that paragraph 35.2 of the current Statement of Principles be amended to read:

35.2 For new applications or change of promoter, the Borough Council shall require the promoter of the lottery to produce a statement declaring that they had no relevant convictions that would prevent them from running a lottery. A list of 'relevant' offences is listed at Schedule 7 of the Act.

4.0 Delegation of Functions

- 4.1 The Act delegates the Licensing Authority's functions to the same Licensing Committee established under the Licensing Act 2003 with the exception of the Authority's function to publish a three-year statement of principles and the power to resolve not to grant casino licences. These two matters can only be dealt with by Full Council.

5.0 Financial Implications

5.1 There are no direct financial implications.

6.0 Statutory Consideration

6.1 It is a statutory requirement that we review our statement of principles at least every 3-year period.

7.0 Risk Assessment

7.1 The risk of not adopting the statement of principles means that the Borough Council will not be able to conduct any of its statutory functions (issue licences and permits and enforcement) under the Gambling Act 2005 after the 31st January 2013.

7.2 The risk of granting a small society lottery to a promoter with relevant convictions is considered minimal. As mentioned in paragraph 3.9 above, no instances have arisen where a CRB disclosure has revealed any matters which would have brought into doubt a promoter's suitability. Equally, the Gambling Commission considers, in their Guidance to Licensing Authorities, a system of self-certification by lottery promoters as appropriate.

8.0 Equality Implications

8.1 There are no equality implications.

Attached Papers

1. Gambling Act 2005 - Draft Statement of Principles (3rd October 2009)

Background papers

1. The Gambling Act 2005
2. The Gambling Commission's Guidance to Licensing Authorities (3rd Edition) dated May 2009.



Gambling Act 2005

Statement of Principles

Approved by Cabinet on: XX Xxxxx 2012
Approved by Full Council on: XX Xxxxx 2012

<u>Item</u>	<u>Paragraph</u>
Part A	
The licensing objectives	1.0
Introduction	2.0
Declaration	3.0
Responsible Authorities	4.0
Interested parties	5.0
Exchange of information	6.0
Enforcement	7.0
Licensing Authority Functions	8.0
Part B - Premises licences: Consideration of Applications	
General Principles	9.0
Decision Making	10.0
Definition of "premises"	11.0
Gambling Commission's Relevant Access Provisions	12.0
Premises "ready for gambling"	13.0
Location	14.0
Planning	15.0
Duplication with other regulatory regimes	16.0
Licensing Objectives	17.0
Conditions	18.0
Adult Gaming Centres (AGC)	19.0
(Licensed) Family Entertainment Centres (FEC)	20.0
Casinos	21.0
Bingo Premises	22.0
Betting Premises	23.0
Tracks	24.0
Applications & Plans	25.0
Travelling fairs	26.0
Provisional Statements	27.0
Reviews	28.0
Part C – Permits / Temporary and Occasional Use Notices	
Unlicensed Family Entertainment Centre gaming machine permits	29.0
(Alcohol) Licensed premises gaming machine permits	30.0
Prize Gaming Permits	31.0
Club Gaming and Club Machines Permits	32.0
Temporary Use Notices	33.0
Occasional Use Notices	34.0
Small Society Lotteries	35.0
Part D – Committee, Officer Delegation & Contacts	
Committee Decisions and Scheme of Delegation	36.0
Contacts	37.0
Annexes	
List of Persons Consulted	A
Responsible Authorities	B
Table of Delegation of Licensing Functions	C

All references to the Guidance refer to the Gambling Commission's Guidance for Local Authorities, 3rd Edition, published May 2009.

PART A

1.0 The Licensing Objectives

1.1 In exercising their functions under the Gambling Act 2005, (hereafter referred to as the 'Act') the Borough Council of King's Lynn & West Norfolk (hereafter referred to as the 'Borough Council') must have regard to the licensing objectives as set out in section 1 of the Act. These licensing objectives are:

- Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime
- Ensuring that gambling is conducted in a fair and open way
- Protecting children and other vulnerable persons from being harmed or exploited by gambling

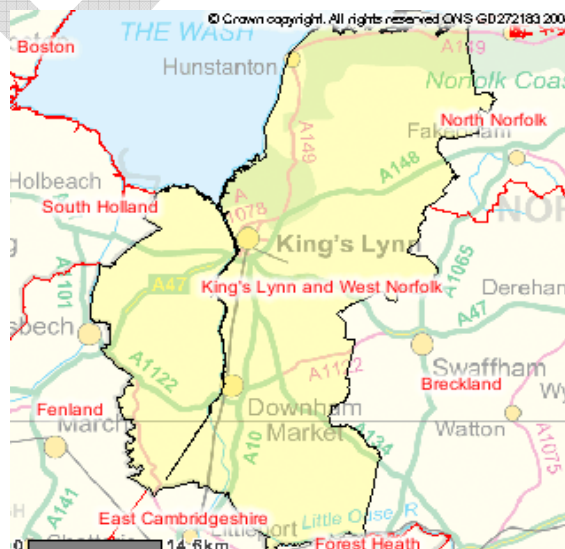
1.2 It should be noted that the Gambling Commission has stated: "The requirement in relation to children is explicitly to protect them from being harmed or exploited by gambling".

1.3 The Borough Council is aware that, as per Section 153 of the Act, in making decisions about premises licences and temporary use notices it should aim to permit the use of premises for gambling in so far as it thinks it is:

- in accordance with any relevant code of practice issued by the Gambling Commission
- in accordance with any relevant guidance issued by the Gambling Commission
- reasonably consistent with the licensing objectives and
- in accordance with the Borough Council's Statement of Principles.

2.0 Introduction

2.1 The Borough Council is situated in the County of Norfolk and has a population of 147,451 (2011 Census). In terms of area it is the largest, covering 1428.76 square kilometres (551 square miles). The area is mainly rural with urban areas of King's Lynn, Downham Market and Hunstanton. These areas are shown in the map below:



- 2.2 Licensing authorities are required by the Act to publish a statement of the principles (policy) which they propose to apply when exercising their functions. This statement must be published at least every three years. The statement must also be reviewed from “time to time” and then any amended parts re-consulted upon. The statement must be then re-published.
- 2.3 The Borough Council will consult widely upon this statement of principles before finalising and publishing. A list of the persons who have been consulted is provided at Annex A.
- 2.4 The Act requires that the following parties must be consulted:
- The Chief Officer of Police;
 - One or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the authority’s area; and
 - One or more persons who appear to the authority to represent the interests of persons who are likely to be affected by the exercise of the authority’s functions under the Act.
- 2.5 Our consultation took place between the 1st July 2012 and the 1st October 2012 and followed HM Government Code of Practice on Consultation (published July 2008), which is available at:
<http://www.berr.gov.uk/files/file47158.pdf>
- 2.6 The full list of any comments made and the consideration by the Borough Council of those comments will be available by request to the Licensing Manager.
- 2.7 The policy was approved at a meeting of the Full Council on the 29th November 2012 and was published via our website on the _____ 2012.
- 2.8 Should you have any comments as regards this statement of principles please send them via e-mail or letter to the following contact:
- Name: The Licensing Team
Address: Environmental Health & Housing
King’s Court
Chapel Street
King’s Lynn
Norfolk
PE30 1EX
E-mail: ehlicensing@west-norfolk.gov.uk
- 2.9 It should be noted that this statement of principles will not override the right of any person to make an application, make representations about an application, or apply for a review of a licence, as each will be considered on its own merits and according to the statutory requirements of the Act.

3.0 Declaration

3.1 In producing the final statement, the Borough Council declares that it has had regard to the licensing objectives of the Act, the Guidance to Local Authorities issued by the Gambling Commission, and any responses from those consulted on the statement.

4.0 Responsible Authorities

4.1 The Borough Council is required by regulations to state the principles it will apply in exercising its powers under Section 157(h) of the Act to designate, in writing, a body which is competent to advise the authority about the protection of children from harm. The principles are:

- the need for the body to be responsible for an area covering the whole of the licensing authority's area; and
- the need for the body to be answerable to democratically elected persons, rather than any particular vested interest group.

4.2 The Borough Council designates the Norfolk Safeguarding Children Board for this purpose.

4.3 The contact details of all the Responsible Authorities under the Act are attached to this document at Annex B.

5.0 Interested Parties

5.1 Interested parties can make representations about licence applications, or apply for a review of an existing licence. These parties are defined in the Act as follows:

"For the purposes of this Part a person is an interested party in relation to an application for or in respect of a premises licence if, in the opinion of the licensing authority which issues the licence or to which the applications is made, the person-

- a) lives sufficiently close to the premises to be likely to be affected by the authorised activities,*
- b) has business interests that might be affected by the authorised activities, or*
- c) represents persons who satisfy paragraph (a) or (b)"*

5.2 The Borough Council is required by regulations to state the principles it will apply in exercising its powers under the Act to determine whether a person is an interested party. The principles are that each case will be decided upon its merits. The Borough Council will not apply a rigid rule to its decision making. It will consider the examples of considerations provided in the Gambling Commission's Guidance for local authorities. It will also consider the Gambling Commission's Guidance that "has business interests" should be given the widest possible interpretation and include partnerships, charities, faith groups and medical practices.

5.3 Interested parties can be persons who are democratically elected such as councillors and members of parliament. No specific evidence of being asked to represent an interested person will be required as long as the councillor / MP represents the ward likely to be affected. Likewise, parish

councils likely to be affected will be considered to be interested parties. Other than these however, this authority will generally require written evidence that a person/body (e.g. an advocate / relative) 'represents' someone who either lives sufficiently close to the premises to be likely to be affected by the authorised activities and/or has business interests that might be affected by the authorised activities. A letter from one of these persons, requesting the representation is sufficient.

- 5.4 If individuals wish to approach councillors to ask them to represent their views then care should be taken that the councillors are not part of the Licensing Sub-Committee dealing with the licence application. If there are any doubts then please contact the licensing team.

6.0 Exchange of Information

- 6.1 The Borough Council is required to include in our statement the principles to be applied by the authority in exercising the functions under sections 29 and 30 of the Act with respect to the exchange of information between it and the Gambling Commission, and the functions under section 350 of the Act with respect to the exchange of information between it and the other persons listed in Schedule 6 to the Act.

- 6.2 The principle that the Borough Council will apply is that we will act in accordance with the provisions of the Act in its exchange of information which includes the provision that the Data Protection Act 1998 will not be contravened. The Borough Council will also have regard to any Guidance issued by the Gambling Commission to local authorities on this matter, as well as any relevant regulations issued by the Secretary of State under the powers provided in the Act.

7.0 Enforcement

- 7.1 Licensing authorities are required by regulation under the Act to state the principles to be applied by the authority in exercising the functions under Part 15 of the Act with respect to the inspection of premises; and the powers under section 346 of the Act to institute criminal proceedings in respect of the offences specified.

- 7.2 The Borough Council's principles are that it will be guided by the Gambling Commission's Guidance for local authorities and will endeavour to be:

- Proportionate: regulators should only intervene when necessary: remedies should be appropriate to the risk posed, and costs identified and minimised;
- Accountable: regulators must be able to justify decisions, and be subject to public scrutiny;
- Consistent: rules and standards must be joined up and implemented fairly;
- Transparent: regulators should be open, and keep regulations simple and user friendly; and
- Targeted: regulation should be focused on the problem, and minimise side effects.

- 7.3 In accordance with the Gambling Commission's Guidance to local authorities the Borough Council will endeavour to avoid duplication with other regulatory regimes so far as possible.
- 7.4 The Borough Council inspection programme will be risk-based and take into account;
- The licensing objectives;
 - Relevant codes of practice;
 - Guidance issued by the Gambling Commission, in particular at Part 36;
 - This statement of principles.
- 7.5 The main enforcement and compliance role for the Borough Council in terms of the Act is to ensure compliance with the premises licences and other permissions which it authorises. The Gambling Commission is the enforcement body for the operating and personal licences. It is also worth noting that concerns about manufacture, supply or repair of gaming machines are not dealt with by the Borough Council but should be notified to the Gambling Commission.

8.0 Licensing Authority Functions

- 8.1 The Borough Council, as the Licensing Authority is required under the Act to:
- be responsible for the licensing of premises where gambling activities are to take place by issuing *Premises Licences*;
 - issue *Provisional Statements*;
 - regulate *members' clubs* and *miners' welfare institutes* who wish to undertake certain gaming activities via issuing Club Gaming Permits and/or Club Machine Permits;
 - issue *Club Machine Permits* to *Commercial Clubs*;
 - grant permits for the use of certain lower stake gaming machines at *unlicensed Family Entertainment Centres*;
 - receive notifications from alcohol licensed premises (under the Licensing Act 2003) for the use of two or fewer gaming machines;
 - issue *Licensed Premises Gaming Machine Permits* for premises licensed to sell/supply alcohol for consumption on the licensed premises, under the Licensing Act 2003, where there are more than two machines;
 - register *small society lotteries* below prescribed thresholds;
 - issue *Prize Gaming Permits*;
 - receive and Endorse *Temporary Use Notices*;
 - receive *Occasional Use Notices*;
 - provide information to the Gambling Commission regarding details of licences issued (see section above on 'information exchange'); and
 - maintain registers of the permits and licences that are issued under these functions
- 8.2 It should be noted that local licensing authorities are not involved in the licensing of remote gambling, which is regulated by the Gambling Commission via operating licences.

**PART B
PREMISES LICENCES: CONSIDERATION OF APPLICATIONS**

9.0 General Principles

9.1 Premises licences are subject to the requirements set-out in the Act and regulations, as well as specific mandatory and default conditions which are detailed in regulations issued by the Secretary of State. Licensing authorities are able to exclude default conditions and also attach others, where it is believed to be appropriate.

10.0 Decision Making

10.1 The Borough Council is aware that in making decisions about premises licences it should aim to permit the use of premises for gambling in so far as it thinks it:

- in accordance with any relevant code of practice issued by the Gambling Commission;
- in accordance with any relevant guidance issued by the Gambling Commission ;
- reasonably consistent with the licensing objectives; and
- in accordance with the authority's statement of principles.

10.2 It is appreciated that as per the Gambling Commission's Guidance for local authorities "moral objections to gambling are not a valid reason to reject applications for premises licences" (except as regards any 'no casino resolution' - see section on Casinos at paragraph 21) and also that demand is not a criterion for a licensing authority.

11.0 Definition of "premises"

11.1 In the Act, "premises" is defined as including "any place". Section 152 therefore prevents more than one premises licence applying to any place. But a single building could be subject to more than one premises licence, provided they are for different parts of the building and the different parts of the building can be reasonably regarded as being different premises. This approach has been taken to allow large, multiple unit premises such as a pleasure park, pier, track or shopping mall to obtain discrete premises licences, where appropriate safeguards are in place. However, the Borough Council shall pay particular attention if there are issues about subdivisions of a single building or plot and shall ensure that mandatory conditions relating to access between premises are observed.

11.2 The Gambling Commission states in its Guidance to Licensing Authorities that: "In most cases the expectation is that a single building / plot will be the subject of an application for a licence, for example, 32 High Street. But, that does not mean 32 High Street cannot be the subject of separate premises licences for the basement and ground floor, if they are configured acceptably. Whether different parts of a building can properly be regarded as being separate premises will depend on the circumstances. The location of the premises will clearly be an important consideration and the

suitability of the division is likely to be a matter for discussion between the operator and the licensing officer. However, the Commission does not consider that areas of a building that are artificially or temporarily separated, for example by ropes or moveable partitions, can properly be regarded as different premises.”

11.3 The Borough Council takes particular note of the Gambling Commission’s Guidance to Licensing Authorities which states that: licensing authorities should take particular care in considering applications for multiple licences for a building and those relating to a discrete part of a building used for other (non-gambling) purposes. In particular they should be aware of the following:

- The third licensing objective seeks to protect children from being harmed by gambling. In practice that means not only preventing them from taking part in gambling, but also preventing them from being in close proximity to gambling. Therefore premises should be configured so that children are not invited to participate in, have accidental access to or closely observe gambling where they are prohibited from participating.
- Entrances to and exits from parts of a building covered by one or more premises licences should be separate and identifiable so that the separation of different premises is not compromised and people do not “drift” into a gambling area. In this context it should normally be possible to access the premises without going through another licensed premises or premises with a permit.
- Customers should be able to participate in the activity named on the premises licence.

11.4 The Guidance also gives a list of factors which the licensing authority should be aware of, which may include:

- Do the premises have a separate registration for business rates?
- Is the premises’ neighbouring premises owned by the same person or someone else?
- Can each of the premises be accessed from the street or a public passageway?
- Can the premises only be accessed from any other gambling premises?

11.5 The Borough Council will consider these and other relevant factors in making its decision, depending on all the circumstances of the case.

12.0 The Gambling Commission’s relevant access provisions for each premises type are reproduced below:

12.1 Casinos

- The principal access entrance to the premises must be from a street;
- No entrance to a casino must be from premises that are used wholly or mainly by children and/or young persons;
- No customer must be able to enter a casino directly from any other premises which holds a gambling premises licence.

12.2 Adult Gaming Centre

- No customer must be able to access the premises directly from any other licensed gambling premises.

12.3 Betting Shops

- Access must be from a street or from another premises with a betting premises licence;
- No direct access from a betting shop to another premises used for the retail sale of merchandise or services. In effect there cannot be an entrance to a betting shop from a shop of any kind and you could not have a betting shop at the back of a café – the whole area would have to be licensed.

12.4 Tracks

- No customer should be able to access the premises directly from:
 - a casino
 - an adult gaming centre

12.5 Bingo Premises

- No customer must be able to access the premise directly from:
 - a casino;
 - an adult gaming centre; or
 - a betting premises, other than a track.

12.6 Family Entertainment Centres

- No customer must be able to access the premises directly from:
 - a casino;
 - an adult gaming centre; or
 - a betting premises, other than a track.

12.7 The Gambling Commission's Guidance contains further advice on this issue, which the Borough Council will also take into account in its decision-making.

13.0 Premises "Ready for Gambling"

13.1 The Guidance states that a licence to use premises for gambling should only be issued in relation to premises that the licensing authority can be satisfied are going to be ready to be used for gambling in the reasonably near future, consistent with the scale of building or alterations required before the premises are brought into use.

13.2 If the construction of a premises is not yet complete, or if they need alteration, or if the applicant does not yet have a right to occupy them, then an application for a provisional statement should be made instead.

13.3 In deciding whether a premises licence can be granted where there are outstanding construction or alteration works at a premises, the Borough Council will determine applications on their merits, applying a two stage consideration process:-

- First, whether the premises ought to be permitted to be used for gambling;

- Second, whether appropriate conditions can be put in place to cater for the situation that the premises are not yet in the state in which they ought to be before gambling takes place.

13.4 Applicants should note that the Borough Council is entitled to decide that it is appropriate to grant a licence subject to conditions, but it is not obliged to grant such a licence.

13.5 More detailed examples of the circumstances in which such a licence may be granted can be found in the Gambling Commission Guidance.

14.0 Location

14.1 The Borough Council is aware that demand issues cannot be considered with regard to the location of premises but that considerations in terms of the licensing objectives are relevant to its decision-making. As per the Gambling Commission's Guidance for local authorities, this authority will pay particular attention to the protection of children and vulnerable persons from being harmed or exploited by gambling, as well as issues of crime and disorder. Should any specific policy be decided upon as regards areas where gambling premises should not be located, this statement will be updated. It should be noted that any such policy does not preclude any application being made and each application will be decided on its merits, with the onus upon the applicant showing how potential concerns can be overcome.

15.0 Planning

15.1 The Gambling Commission Guidance to Licensing Authorities states:

'In determining applications the licensing authority has a duty to take into consideration all relevant matters and not to take into consideration any irrelevant matters, i.e. those not related to gambling and the licensing objectives. One example of an irrelevant matter would be the likelihood of the applicant obtaining planning permission or building regulations approval for their proposal'.

15.2 In accordance with guidance, the Borough Council will not take into account irrelevant matters. In addition this authority notes the following excerpt from the Guidance:

When dealing with a premises licence application for finished buildings, the licensing authority should not take into account whether those buildings have or comply with the necessary planning or building consents. Those matters should be dealt with under relevant planning control and building regulation powers, and not form part of the consideration for the premises licence. Section 210 of the 2005 Act prevents licensing authorities taking into account the likelihood of the proposal by the applicant obtaining planning or building consent when considering a premises licence application. Equally the grant of a gambling premises licence does not prejudice or prevent any action that may be appropriate under the law relating to planning or building.

16.0 Duplication with other Regulatory Regimes

- 16.1 The Borough Council aims to avoid any duplication with other statutory / regulatory systems where possible, including planning. This authority will not consider whether a licence application is likely to be awarded planning permission or building regulations approval, in its consideration of it. It will though, listen to, and consider carefully, any concerns about conditions which are not able to be met by licensees due to planning restrictions, should such a situation arise.
- 16.2 When dealing with a premises licence application for finished buildings, the Borough Council will not take into account whether those buildings have to comply with the necessary planning or buildings consents. Fire or health and safety risks will not be taken into account, as these matters are dealt with under relevant planning control, buildings and other regulations and must not form part of the consideration for the premises licence.

17.0 Licensing Objectives

- 17.1 Premises licences granted must be reasonably consistent with the licensing objectives. With regard to this the Borough Council has considered the Gambling Commission's Guidance to local authorities and some comments are made below.
- 17.2 **Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime.** The Borough Council is aware that the Gambling Commission takes a leading role in preventing gambling from being a source of crime. The Gambling Commission's Guidance does however envisage that licensing authorities should pay attention to the proposed location of gambling premises in terms of this licensing objective. Thus, where an area has known high levels of organised crime this authority will consider carefully whether gambling premises are suitable to be located there and whether conditions may be suitable such as the provision of door supervisors. The Borough Council is aware of the distinction between disorder and nuisance and will consider factors (for example whether police assistance was required and how threatening the behaviour was to those who could see it) so as to make that distinction.
- 17.3 **Ensuring that gambling is conducted in a fair and open way.** The Borough Council has noted that the Gambling Commission states that it generally does not expect licensing authorities to be concerned with ensuring that gambling is conducted in a fair and open way as this will be addressed via operating and personal licences. The only exception to this is for tracks which is covered in paragraph 24 below.
- 17.4 **Protecting children and other vulnerable persons from being harmed or exploited by gambling.** The Borough Council has noted the Gambling Commission's Guidance for local authorities states that this objective means preventing children from taking part in gambling (as well as restriction of advertising so that gambling products are not aimed at or are, particularly attractive to children). The Borough Council will therefore

consider, as suggested in the Gambling Commission's Guidance, whether specific measures are required at particular premises, with regard to this licensing objective. Appropriate measures may include supervision of entrances / machines, segregation of areas etc.

As regards the term "vulnerable persons" it is noted that the Gambling Commission does not seek to offer a definition but states that "it will for regulatory purposes assume that this group includes people who gamble more than they want to; people who gambling beyond their means; and people who may not be able to make informed or balanced decisions about gambling due to a mental impairment, alcohol or drugs." This licensing authority will consider this licensing objective on a case by case basis.

18.0 Conditions

- 18.1 Any conditions attached to licences will be proportionate and will be:
- relevant to the need to make the proposed building suitable as a gambling facility;
 - directly related to the premises and the type of licence applied for;
 - fairly and reasonably related to the scale and type of premises; and
 - reasonable in all other respects.
- 18.2 Decisions upon individual conditions will be made on a case by case basis, although there will be a number of measures the Borough Council will consider utilising should there be a perceived need, such as the use of supervisors, appropriate signage for adult only areas etc. There are specific comments made in this regard under some of the licence types below. The Borough Council will also expect the licence applicant to offer his/her own suggestions as to way in which the licensing objectives can be met effectively.
- 18.3 The Borough Council will also consider specific measures which may be required for buildings which are subject to multiple premises licences. Such measures may include the supervision of entrances; segregation of gambling from non-gambling areas frequented by children; and the supervision of gaming machines in non-adult gambling specific premises in order to pursue the licensing objectives. These matters are in accordance with the Gambling Commission's Guidance.
- 18.4 The Borough Council will also ensure that where category A, B or C machines are on offer in premises to which children are admitted that:
- all such machines are located in an area of the premises which is separated from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance;
 - only adults are admitted to the area where these machines are located;
 - access to the area where the machines are located is supervised;
 - the area where these machines are located is arranged so that it can be observed by the staff or the licence holder; and
 - the entrance to and inside any such areas there are prominently displayed notices indicating that access to the area is prohibited to

persons under 18.

These considerations will apply to premises including buildings where multiple premises licences are applicable.

18.5 The Borough Council is aware that tracks may be subject to one or more than one premises licence, provided each licence relates to a specified area of the track. As per the Gambling Commission's Guidance, this authority will consider the impact upon the third licensing objective and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.

18.6 It is noted that the Borough Council cannot attach conditions to premises licences which:

- makes it impossible to comply with an operating licence condition;
- relate to gaming machine categories, numbers, or method of operation;
- provide that membership of a club or body be required (the Act specifically removes the membership requirement for casino and bingo clubs and this provision prevents it being reinstated); and
- relate to stakes, fees, winnings or prizes.

18.7 **Door Supervisors**

The Gambling Commission advises in its Guidance for local authorities that if a licensing authority is concerned that a premises may attract disorder or be subject to attempts at unauthorised access (for example by children and young persons) then it may require that the entrances to the premises are controlled by a door supervisor, and is entitled to impose a condition on the premises licence to this effect.

Where it is decided that supervision of entrances / machines is appropriate for particular cases, a consideration of whether these need to be SIA licensed or not will be necessary. It will not be automatically assumed that they need to be licensed, as the statutory requirements for different types of premises vary (as per the Guidance)

19.0 **Adult Gaming Centres**

19.1 The Borough Council will have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to, for example, ensure that children and young persons do not have access to the premises.

19.2 The Borough Council may consider measures to meet the licensing objectives such as:

- Proof of age schemes;
- CCTV;
- Supervision of entrances / machine areas;
- Physical separation of areas;
- Location of entry;
- Notices / signage;

- Specific opening hours;
- Self-exclusion schemes; and
- Provision of information leaflets / helpline numbers for organisations such as GamCare.

This list is not mandatory, nor exhaustive, and is merely indicative of example measures.

20.0 (Licensed) Family Entertainment Centres (FEC):

20.1 The Borough Council will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority, for example, that there will be sufficient measures to ensure that under children and young persons do not have access to the adult only gaming machine areas.

20.2 The Borough Council may consider measures to meet the licensing objectives such as:

- CCTV;
- Supervision of entrances / machine areas;
- Physical separation of areas;
- Location of entry;
- Notices / signage;
- Specific opening hours;
- Self-exclusion schemes;
- Provision of information leaflets / helpline numbers for organisations such as GamCare; and
- Measures / training for staff on how to deal with suspected truant school children on the premises

This list is not mandatory, nor exhaustive, and is merely indicative of example measures.

21.0 Casinos

21.1 There are currently no casinos operating within the borough.

21.2 The Borough Council has not passed a 'no casino' resolution under Section 166 of the Act, but is aware that it has the power to do so. Should the Borough Council decide in the future to pass such a resolution, it will update this statement of principles with details of that resolution.

22.0 Bingo premises

22.1 The Borough Council notes that the Gambling Commission's Guidance which states that:

Licensing authorities will need to satisfy themselves that bingo can be played in any bingo premises for which they issue a premises licence. This will be a relevant consideration where the operator of an existing bingo premises applies to vary their licence to exclude an area of the existing premises from its ambit and then applies for a new premises licence, or multiple licences, for that or those excluded areas.

22.2 This authority also notes the Guidance regarding the unusual circumstances in which the splitting of a pre-existing premise into two adjacent premises might be permitted, and in particular that it is not permissible to locate sixteen, or 20% entitlement of category B3 gaming machines in one of the resulting premises, as the gaming machine entitlement for that premises would be exceeded.

22.3 Children and young people are allowed into bingo premises; however they are not permitted to participate in the bingo and if category B or C machines are made available for use these must be separated from areas where children and young people are allowed.

23.0 Betting premises

23.1 Betting machines – A 'betting machine' is not a gaming machine and the Borough Council is aware that it can attach a condition to restrict the number of betting machines. The Borough Council will take into account the size of the premises, the number of counter positions available for person-to-person transactions, and the ability of staff to monitor the use of these machines when considering the number/nature/circumstances of betting machines an operator wants to offer.

24.0 Tracks

24.1 The Borough Council is aware that tracks may be subject to one or more than one premises licence, provided each licence relates to a specified area of the track. As per the Gambling Commission's Guidance, this licensing authority will especially consider the impact upon the third licensing objective (i.e. the protection of children and vulnerable persons from being harmed or exploited by gambling) and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.

24.2 The Borough Council will therefore expect the premises licence applicant to demonstrate suitable measures to ensure that children do not have access to adult only gaming facilities. It is noted that children and young persons will be permitted to enter track areas where facilities for betting are provided on days when dog-racing and/or horse racing takes place, but that they are still prevented from entering areas where gaming machines (other than category D machines) are provided.

24.3 The Borough Council may consider measures to meet the licensing objectives such as:

- Proof of age schemes;
- CCTV;
- Supervision of entrances / machine areas;
- Physical separation of areas;
- Location of entry;
- Notices / signage;
- Specific opening hours;
- Self-exclusion schemes; and

- Provision of information leaflets / helpline numbers for organisations such as GamCare

This list is not mandatory, nor exhaustive, and is merely indicative of example measures.

24.4 *Gaming machines* - Where the applicant holds a pool betting operating licence and is going to use the entitlement to four gaming machines, machines (other than category D machines) should be located in areas from which children are excluded.

24.5 *Betting machines* - This licensing authority will, as per the Gambling Commission's Guidance, take into account the size of the premises and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number/ nature/ circumstances of betting machines an operator proposes to offer.

25.0 Applications and plans

25.1 Section 51 of the Act requires applicants to submit plans of the premises with their application, in order to ensure that the licensing authority has the necessary information to make an informed judgement about whether the premises are fit for gambling.

25.2 Plans for tracks do not need to be in a particular scale, but should be drawn to scale and should be sufficiently detailed to include the information required by regulations.

25.3 Some tracks may be situated on agricultural land where the perimeter is not defined by virtue of an outer wall or fence, such as point-to-point racetracks. In such instances, where an entry fee is levied, track premises licence holders may erect temporary structures to restrict access to premises.

25.4 In the rare cases where the outer perimeter cannot be defined, it is likely that the track in question will not be specifically designed for the frequent holding of sporting events or races. In such cases betting facilities may be better provided through occasional use notices where the boundary premises do not need to be defined.

25.5 The Borough Council appreciates that it is sometimes difficult to define the precise location of betting areas on tracks. The precise location of where betting facilities are provided is not required to be shown on track plans, both by virtue of the fact that betting is permitted anywhere on the premises and because of the difficulties associated with pinpointing exact locations for some types of track. Applicants should provide sufficient information that this authority can satisfy itself that the plan indicates the main areas where betting might take place. For racecourses in particular, any betting areas subject to the "five times rule" (commonly known as betting rings) must be indicated on the plan.

26.0 Travelling Fairs

- 26.1 The Borough Council is responsible for deciding whether, where category D machines and / or equal chance prize gaming without a permit is to be made available for use at travelling fairs, the statutory requirement that the facilities for gambling amount to no more than an ancillary amusement at the fair is met.
- 26.2 The Borough Council will also consider whether the applicant falls within the statutory definition of a travelling fair.
- 26.3 It is noted that the 27-day statutory maximum for the land being used as a fair applies on a per calendar year basis, and that it applies to the piece of land on which the fairs are held, regardless of whether it is the same or different travelling fairs occupying the land. The Borough Council will work with its neighbouring authorities to ensure that land which crosses our boundaries is monitored so that the statutory limits are not exceeded.

27.0 Provisional Statements

- 27.1 Developers may wish to apply for provisional statements before entering into a contract to buy or lease property or land to judge whether a development is worth taking forward in light of the need to obtain a premises licence. There is no need for the applicant to hold an operating licence in order to apply for a provisional statement.
- 27.2 Section 204 of the Act provides for a person to make an application to the licensing authority for a provisional statement in respect of premises that he or she:
- expects to be constructed;
 - expects to be altered; or
 - expects to acquire a right to occupy.
- 27.3 The process for considering an application for a provisional statement is the same as that for a premises licence application in that the applicant is obliged to give notice of the application in the same way as applying for a premises licence. Responsible authorities and interested parties may make representations and there are rights of appeal.
- 27.4 In contrast to the premises licence application, the applicant does not have to hold or have applied for an operating licence from the Gambling Commission (except in the case of a track) and they do not have to have a right to occupy the premises in respect of which their provisional application is made.
- 27.5 The holder of a provisional statement may then apply for a premises licence once the premises are constructed, altered or acquired. The licensing authority will be constrained in the matters it can consider when determining the premises licence application, and in terms of representations about premises licence applications that follow the grant of a provisional statement, no further representations from relevant authorities or interested parties can be taken into account unless:

- they concern matters which could not have been addressed at the provisional statement stage, or
- they reflect a change in the applicant's circumstances.

27.6 In addition, the authority may refuse the premises licence (or grant it on terms different to those attached to the provisional statement) only by reference to matters:

- which could not have been raised by objectors at the provisional statement stage;
- which in the authority's opinion reflect a change in the operator's circumstances; or
- where the premises has not been constructed in accordance with the plan submitted with the application. This must be a substantial change to the plan and this licensing authority notes that it can discuss any concerns it has with the applicant before making a decision.

28.0 Reviews:

28.1 Requests for a review of a premises licence can be made by interested parties or responsible authorities; however, it is for the Borough Council to decide whether the review is to be carried-out. This will be on the basis of whether the request for the review is relevant to the matters listed below;

- in accordance with any relevant code of practice issued by the Gambling Commission;
- in accordance with any relevant guidance issued by the Gambling Commission;
- reasonably consistent with the licensing objectives; and
- in accordance with the authority's statement of principles.

28.2 The request for the review will also be subject to the consideration by the Borough Council as to whether the request is frivolous, vexatious, or whether it will certainly not cause this authority to wish to alter/revoke/suspend the licence, or whether it is substantially the same as previous representations or requests for review.

28.3 The Borough Council, as the licensing authority can also initiate a review of a particular premises licence, or a particular class of premises licence on the basis of any reason which it thinks is appropriate.

28.4 Once a valid application for a review has been received by the licensing authority, representations can be made by responsible authorities and interested parties during a 28 day consultation period. This period begins 7 days after the application was received by the Borough Council, who will publish notice of the application within 7 days of receipt.

28.5 The Borough Council must carry out the review as soon as possible after the 28 day period for making representations has passed.

28.6 The purpose of the review will be to determine whether the Borough Council should take any action in relation to the licence. If action is justified, the options open to the Licensing Sub-Committee are:-

- add, remove or amend a licence condition imposed by the licensing authority;
 - exclude a default condition imposed by the Secretary of State (e.g. opening hours) or remove or amend such an exclusion;
 - suspend the premises licence for a period not exceeding three months; and
 - revoke the premises licence.
- 28.7 In determining what action, if any, should be taken following a review, the Borough Council must have regard to the principles set out in section 153 of the Act, as well as any relevant representations.
- 28.8 In particular, the Borough Council, acting as the licensing authority may also initiate a review of a premises licence on the grounds that a premises licence holder has not provided facilities for gambling at the premises. This is to prevent people from applying for licences in a speculative manner without intending to use them.
- 28.9 Once the review has been completed, the licensing authority must, as soon as possible, notify its decision to:
- the licence holder;
 - the applicant for review (if any);
 - the Commission;
 - any person who made representations;
 - the chief officer of police or chief constable; and
 - Her Majesty's Commissioners for Revenue and Customs.

PART C PERMITS / TEMPORARY & OCCASIONAL USE NOTICE

- 29.0 Unlicensed Family Entertainment Centre (FEC) gaming machine permits (Statement of Principles on Permits - Schedule 10 paragraph 7)**
- 29.1 Where a premise does not hold a premises licence but wishes to provide gaming machines, it may apply to the licensing authority for a Family Entertainment Centre permit. It should be noted that the applicant must show that the premises will be wholly or mainly used for making gaming machines available for use (Section 238).
- 29.2 The Act states that a licensing authority may prepare a *statement of principles* that they propose to consider in determining the suitability of an applicant for a permit and in preparing this statement, and/or considering applications, it need not (but may) have regard to the licensing objectives and shall have regard to any relevant guidance issued by the Commission under section 25. The Gambling Commission's Guidance to Licensing Authorities also states: "In their three year licensing policy statement, licensing authorities may include a statement of principles that they propose to apply when exercising their functions in considering applications for permits....., licensing authorities will want to give weight to child protection issues." (24.6)

- 29.3 Guidance also states: "...An application for a permit may be granted only if the licensing authority is satisfied that the premises will be used as an unlicensed FEC, and if the chief officer of police has been consulted on the application It also advises that licensing authorities might wish to consider asking applications to demonstrate:
- a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs;
 - that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act; and
 - that staff are trained to have a full understanding of the maximum stakes and prizes".
- 29.4 The Borough Council is aware that it cannot add conditions to this type of permit.
- 29.5 The Borough Council has adopted the following Statement of Principles, in respect of unlicensed FECs:
- 29.6 The Borough Council will expect the applicant to show that there are policies and procedures in place to protect children from harm. Such policies/procedures will be considered on their merits; however, they may include appropriate measures on staff training on how to deal with suspected truancy, how to deal with unsupervised very young children being on the premises and children causing problems around the premises.
- 29.7 The Borough Council will also expect the applicant to demonstrate a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs and that staff are trained to have a full understanding of the maximum stakes and prizes.
- 29.8 The Borough Council will require the following to be submitted in addition to the application form and fee:
- (1) Proof of the applicant's identity and age;
 - (2) Proof of the applicant's right to occupy the premises for which the permit is sought;
 - (3) (Where the applicant is an individual) a 'basic' Criminal Records Bureau (CRB) disclosure dated no earlier than one calendar month on the day the application is received by the Borough Council. Holders of operating licences issued by the Gambling Commission are exempt this requirement.
 - (4) An insurance certificate (or certified copy) confirming the availability of public liability insurance covering the proposed activity.
 - (5) A plan scale 1:100 of the premises showing:
 - a. The boundary of the premises including any internal and external walls, entrances, exits, doorways and windows, and indicating the points of access available to the public.
 - b. The location of any fixed or temporary structures.
 - c. The location of any counters, booths, offices or other locations from which staff may monitor the activities of persons on the premises.

- d. The location of any public toilets within the boundary of the premises.
- e. The location of CCTV cameras.
- f. The location of any ATM or other cash/change machines.
- g. The proposed location of the Category 'D' machines.
- h. Details of non category 'D' machines (e.g. skill with prizes machines).

30.0 (Alcohol) Licensed premises gaming machine permits – (Schedule 13 paragraph 4(1))

30.1 Automatic entitlement: 2 machines

There is provision in the Act for premises licensed to sell alcohol for consumption on the premises to automatically have 2 gaming machines, of categories C and/or D. The premises merely need to notify the Borough Council on the appropriate application form.

30.2 The Borough Council can remove the automatic authorisation in respect of any particular premises if:

- provision of the machines is not reasonably consistent with the pursuit of the licensing objectives;
- gaming has taken place on the premises that breaches a condition of section 282 of the Act (i.e. that written notice has been provided to the licensing authority, that a fee has been provided and that any relevant code of practice issued by the Gambling Commission about the location and operation of the machine has been complied with);
- the premises are mainly used for gaming; or
- an offence under the Act has been committed on the premises.

30.3 Permit: 3 or more machines

If a premises wishes to have more than 2 machines, then the premises licence holder needs to apply for a permit and the Borough Council must consider that application based upon the licensing objectives, any guidance issued by the Gambling Commission issued under Section 25 of the Act and “*such matters as they think relevant.*”

30.4 The Borough Council considers that “such matters” will be decided on a case by case basis but generally there will be regard to the need to protect children and vulnerable persons from harmed or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machines (category ‘C’ machines). Measures which will satisfy the authority that there will be no access may include the adult machines being in sight of the bar, or in the sight of staff who will monitor that the machines are not being used by those under 18. Notices and signage may also be help. As regards the protection of vulnerable persons, applicants may wish to consider the provision of information leaflets / helpline numbers for organisations such as GamCare.

30.5 It is recognised that some alcohol licensed premises may apply for a premises licence for their non-alcohol licensed areas.

- 30.6 It should be noted that the Borough Council can decide to grant the application with a smaller number of machines and/or a different category of machines than that applied for. Conditions (other than these) cannot be attached.
- 30.7 It should also be noted that the holder of a permit must comply with any Code of Practice issued by the Gambling Commission about the location and operation of the machine.

31.0 Prize Gaming Permits

- 31.1 The Act states that a licensing authority may “prepare a statement of principles that they propose to apply in exercising their functions under this Schedule” which “may, in particular, specify matters that the licensing authority proposes to consider in determining the suitability of the applicant for a permit”.
- 31.2 The Borough Council has prepared a Statement of Principles which is that the applicant should set out the types of gaming that he or she is intending to offer and that the applicant should be able to demonstrate:
- that they understand the limits to stakes and prizes that are set out in Regulations;
 - that the gaming offered is within the law;
 - clear policies that outline the steps to be taken to protect children from harm.
- 31.3 The Borough Council shall also require (where the applicant is an individual) a ‘basic’ Criminal Records Bureau (CRB) disclosure dated no earlier than one calendar month on the day the application is received by the Borough Council. Holders of operating licences issued by the Gambling Commission are exempt this requirement.
- 31.4 In making its decision on an application for this permit the licensing authority does not need to (but may) have regard to the licensing objectives but must have regard to any Gambling Commission guidance. (Gambling Act 2005, Schedule 14 paragraph 8(3))
- 31.5 It should be noted that there are conditions in the Act which the permit holder must comply, but that the Borough Council cannot attach conditions. The conditions in the Act are:
- the limits on participation fees, as set out in regulations, must be complied with;
 - all chances to participate in the gaming must be allocated on the premises on which the gaming is taking place and on one day; the game must be played and completed on the day the chances are allocated; and the result of the game must be made public in the premises on the day that it is played;
 - the prize for which the game is played must not exceed the amount set out in regulations (if a money prize), or the prescribed value (if non-monetary prize); and
 - participation in the gaming must not entitle the player to take part in any other gambling.

32.0 Club Gaming and Club Machines Permits

- 32.1 Members Clubs and Miners' welfare institutes (but not Commercial Clubs) may apply for a Club Gaming Permit or a Club Machines Permit. The Club Gaming Permit will enable the premises to provide gaming machines (3 machines of categories B, C or D), equal chance gaming and games of chance as set-out in regulations. A Club Machine Permit will enable the premises to provide gaming machines (3 machines of categories B, C or D).
- 32.2 Gambling Commission Guidance states: "Members clubs must have at least 25 members and be established and conducted "wholly or mainly" for purposes other than gaming, unless the gaming is permitted by separate regulations. The Secretary of State has made regulation and these cover bridge and whist clubs. A members' club must be permanent in nature, not established to make commercial profit, and controlled by its members equally. Examples include working men's clubs, branches of the Royal British Legion and clubs with political affiliations."
- 32.3 The Commission's Guidance also notes that "licensing authorities may only refuse an application on the grounds that:
- the applicant does not fulfil the requirements for a members' or commercial club or miners' welfare institute and therefore is not entitled to receive the type of permit for which it has applied;
 - the applicant's premises are used wholly or mainly by children and/or young persons;
 - an offence under the Act or a breach of a permit has been committed by the applicant while providing gaming facilities;
 - a permit held by the applicant has been cancelled in the previous ten years; or
 - an objection has been lodged by the Commission or the police.
- 32.4 There is a 'fast-track' procedure available under the Act for premises which hold a Club Premises Certificate under the Licensing Act 2003 (Schedule 12 paragraph 10). The Gambling Commission's Guidance for local authorities states: "Under the fast-track procedure there is no opportunity for objections to be made by the Commission or the police, and the ground upon which an authority can refuse a permit are reduced. Grounds on which an application under this process may be refused are:
- that the club is established primarily for gaming, other than gaming prescribed under schedule 12;
 - that in addition to the prescribed gaming, the applicant provides facilities for other gaming; or
 - that a club gaming permit or club machine permit issued to the applicant in the last ten years has been cancelled."
- 32.5 There are statutory conditions on club gaming permits that no child or young person uses a category B or C machine on the premises and that the holder complies with any relevant provision of a code of practice about the location and operation of gaming machines.

33.0 Temporary Use Notices

- 33.1 Temporary use notices allow the use of premises for gambling where there is no premises licence but where a gambling operator wishes to use the premises temporarily for providing facilities for gambling. Premises that might be suitable for a temporary use notice, according to the Gambling Commission, would include hotels, conference centres and sporting venues.
- 33.2 The licensing authority can only grant a temporary use notice to a person or company holding a relevant operating licence, i.e. a non-remote casino operating licence.
- 33.3 The Secretary of State has the power to determine what form of gambling can be authorised by temporary use notices, and at the time of writing this Statement the relevant regulations (SI no 3157: The Gambling Act 2005 (Temporary Use Notices) Regulations 2007) state that temporary use notices can only be used to permit the provision of facilities or equal chance gaming, where the gaming is intended to produce a single winner, which in practice means poker tournaments.
- 33.4 There are a number of statutory limits as regards temporary use notices. The meaning of "premises" in Part 8 of the Act is discussed in Part 7 of the Gambling Commission Guidance to Local Authorities. As with "premises", the definition of "a set of premises" will be a question of fact in the particular circumstances of each notice that is given. In the Act "premises" is defined as including "any place".
- 33.5 In considering whether a place falls within the definition of "a set of premises", the Borough Council will consider, amongst other things, the ownership/occupation and control of the premises.
- 33.6 In accordance with the Commission's guidance, it is expected that the Borough Council would object to notices where it appears that their effect would be to permit regular gambling in a place that could be described as one set of premises.

34.0 Occasional Use Notices:

- 34.1 The Borough Council has little discretion as regards occasional use notices aside from ensuring that the statutory limit of 8 days in a calendar year is not exceeded.

35.0 Small Society Lotteries

- 35.1 The Borough Council will register and administer smaller non-commercial lotteries and applicants for lottery licences must apply to the licensing authority in the area where their principal office is located.
- 35.2 For new applications or change of promoter, the Borough Council shall require the promoter of the lottery to produce a statement declaring that they had no relevant convictions that would prevent them from running a lottery. A list of 'relevant' offences is listed at Schedule 7 of the Act.

- 35.3 The Borough Council may refuse an application for registration if in their opinion:
- The applicant is not a non-commercial society;
 - A person who will or may be connected with the promotion of the lottery has been convicted of a relevant offence; or
 - Information provided in or with the application for registration is false or misleading.
- 35.4 Where the Borough Council intends to refuse registration of a Society, it will give the Society an opportunity to make representations and will inform the Society of the reasons why it is minded to refuse registration. It will also supply evidence on which it has reached that preliminary conclusion.
- 35.5 The Borough Council may revoke the registered status of a society if it thinks that they would have had to, or would be entitled to; refuse an application for registration if it were being made at that time. However, no revocations will take place unless the Society has been given the opportunity to make representations. The Borough Council will inform the society of the reasons why it is minded to revoke the registration and will provide an outline of the evidence on which it has reached that preliminary conclusion.

PART D COMMITTEE, OFFICER DELEGATION AND CONTACTS

36.0 Committee Decisions & Scheme of Delegation

- 36.1 The Borough Council is involved in a wide range of licensing decisions and functions and has established a Licensing Committee to administer them.
- 36.2 Licensing Sub-Committees made up of three Councillors from the main Licensing Committee will sit to hear applications where representations have been received from interested parties and responsible authorities. Ward Councillors will not sit on a Sub-Committee involving an application within their ward.
- 36.3 Where a Councillor who is a member of the Licensing Committee is making or has made representations regarding a licence on behalf of an interested party, in the interests of good governance they will disqualify themselves from any involvement in the decision making process affecting the licence in question.
- 36.4 The Borough Council's Licensing Officers will deal with all other licensing applications where either no representation have been received, or where representations have been received and it is agreed by the parties that a hearing is not necessary.
- 36.5 Decisions as to whether representations are irrelevant, frivolous or vexatious will be made by Borough Council Officers, who will make the decisions on whether representations or applications for licence reviews

should be referred to the Licensing Committee or Sub-Committee. Where representations are rejected, the person making that representation will be given written reason as to why that is the case. There is no right of appeal against a determination that representations are not admissible.

- 36.6 The table shown at Annex C sets out the agreed delegation of decisions and functions to Licensing Committee, Sub-Committee and Officers.
- 36.7 This form of delegation is without prejudice to Officers referring an application to a Sub-Committee or Full Committee if considered appropriate in the circumstances of any particular case.

Draft

37.0 Contacts

- 37.1 Further information about the Gambling Act 2005, this Statement of Principles or the application process can be obtained from:-

The Licensing Team
Environmental Health & Housing
Borough Council of King's Lynn & West Norfolk
King's Court
Chapel Street
King's Lynn
Norfolk
PE30 1EX

Tel: 01553 616200
Fax: 01553 691663
E-mail: EHHlicensing@west-norfolk.gov.uk
www: www.west-norfolk.gov.uk

- 37.2 Information is also available from:-

Gambling Commission
4th floor
Victoria Square House
Birmingham
B2 4BP

Tel: 01212 331096
Website: www.gamblingcommission.gov.uk

List of Persons Consulted

Borough Council of King's Lynn & West Norfolk

Gambling Commission

Norfolk Constabulary

Norfolk Fire Service

Norfolk Safeguarding Children Board

Norfolk County Council

HM Revenue & Customs

Norfolk Trading Standards

Association of British Bookmakers

Gamcare

British Amusement Catering Trade Association (BACTA)

NORCAS

Housing Associations:

- ◆ Broadland Housing Association
- ◆ Co-Op Homes
- ◆ Cotman Housing Association
- ◆ Freebridge House
- ◆ Guinness Trust
- ◆ Hastoe Housing Association
- ◆ Housing 21
- ◆ Longhurst Housing Association Limited
- ◆ Minster General Housing Association Limited
- ◆ Orbit Housing Association
- ◆ Peddars Way Housing Association
- ◆ Sanctuary Housing Association
- ◆ Wherry Housing Association

Parish Clerks

All holders of Gambling Act 2005 Premises Licences issued by the BCKLWN

All holders of Gambling Act 2005 permits issued by the BCKLWN

All promoters of Small Society Lottery Registrations issued by the BCKLWN

Annex B to the
Borough Council of King's Lynn & West Norfolk
Gambling Act 2005 - Statement of Principles
Dated _____

Responsible Authorities	
<p>The Licensing Authority:</p> <p>The Licensing Team Environmental Health & Housing Borough Council of King's Lynn & West Norfolk King's Court Chapel Street King's Lynn PE30 1EX Tel: 01553 616200 Fax: 01553 691663 E-mail: EHHlicensing@west-norfolk.gov.uk</p>	<p>The Gambling Commission:</p> <p>4th floor Victoria Square House Birmingham B2 4BP Telephone: 01212 306576 Fax: 01212 331096</p>
<p>The Chief Officer of Police:</p> <p>Norfolk Constabulary Licensing Team 4th Floor, Vantage House Fishers Lane Norwich Norfolk NR2 1ET</p>	<p>The Fire Authority:</p> <p>Fire Safety Office Norfolk Fire Service – Western Area Kilhams Way King's Lynn PE30 2HY</p>
<p>Planning Authority:</p> <p>Development Services Borough Council of King's Lynn & West Norfolk King's Court Chapel Street King's Lynn PE30 1EX Tel: 01553 616200</p>	<p>Environmental Health:</p> <p>Environmental Health & Housing Borough Council of King's Lynn & West Norfolk King's Court Chapel Street King's Lynn PE30 1EX Tel: 01553 616200</p>
<p>Norfolk Safeguarding Children Board:</p> <p>Room 60 Lower Ground Floor County Hall Martineau Lane Norwich NR1 2UG</p>	<p>HM Revenue and Customs:</p> <p>National Registration Unit Portcullis House 21 India House Glasgow G2 4PZ</p>

Table of Delegations of Licensing Functions

MATTER TO BE DEALT WITH	FULL COUNCIL	LICENSING COMMITTEE/ SUB-COMMITTEE	OFFICERS
Three year licensing policy	X		
Policy to permit casino	X		
Fee Setting - when appropriate			X
Application for premises licences		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Application for a variation to a licence		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Application for a transfer of a licence		Where representations have been received from the Commission	Where no representations received from the Commission
Application for a provisional statement		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Review of a premises licence		X	
Application for club gaming /club machine permits		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Cancellation of club gaming/ club machine permits		X	
Applications for other permits			X
Cancellation of licensed premises gaming machine permits			X
Consideration of temporary use notice			X
Decision to give a counter notice to a temporary use notice		X	

Pre-Screening Equality Impact Assessment

Borough Council of
**King's Lynn &
West Norfolk**



Name of policy/service/function	Gambling Act 2005 – Statement of Principles				
Is this a new or existing policy/service/function?	New / Existing (delete as appropriate)				
<p>Brief summary/description of the main aims of the policy/service/function being screened.</p> <p>Please state if this policy/service rigidly constrained by statutory obligations</p>	<p>The Gambling Act 2005 requires every local authority to prepare and publish a Statement of Principles. These are the principles the Borough Council proposes to apply when exercising their functions under the Act.</p> <p>It is an offence under various sections of the Act for under-18s to enter various premises used for gambling or for children to be involved in lotteries.</p>				
Question	Answer				
<p>1. Is there any reason to believe that the policy/service/function could have a specific impact on people from one or more of the following groups according to their different protected characteristic, for example, because they have particular needs, experiences, issues or priorities or in terms of ability to access the service?</p> <p>Please tick the relevant box for each group.</p> <p>NB. Equality neutral means no negative impact on any group.</p>		Positive	Negative	Neutral	Unsure
Age			X		
Disability				X	
Gender				X	
Gender Re-assignment				X	
Marriage/civil partnership				X	
Pregnancy & maternity				X	
Race				X	
Religion or belief				X	
Sexual orientation				X	
Other (eg low income)				X	

Question	Answer	Comments
<p>2. Is the proposed policy/service likely to affect relations between certain equality communities or to damage relations between the equality communities and the Council, for example because it is seen as favouring a particular community or denying opportunities to another?</p>	Yes / No	
<p>3. Could this policy/service be perceived as impacting on communities differently?</p>	Yes / No	
<p>4. Is the policy/service specifically designed to tackle evidence of disadvantage or potential discrimination?</p>	Yes / No	
<p>5. Are any impacts identified above minor and if so, can these be eliminated or reduced by minor actions?</p> <p>If yes, please agree actions with a member of the Corporate Equalities Working Group and list agreed actions in the comments section</p>	Yes / No	<p>Actions:</p>
		<p>Actions agreed by EWG member:</p> <p>.....</p>
<p>Assessment completed by: Name</p>		
<p>Job title</p>		
<p>Date</p>		

Please Note: If there are any positive or negative impacts identified in question 1, or there any ‘yes’ responses to questions 2 – 4 a full impact assessment will be required.

REPORT TO CABINET

Open		Would any decisions proposed :		
Any especially affected Wards	Mandatory/Operational	(a) Be entirely within cabinet's powers to decide NO		
		(b) Need to be recommendations to Council YES		
		(c) Be partly for recommendations to Council and partly within Cabinets powers – NO		
Lead Member: Cllr Nick Daubney E-mail: cllr.nick.daubney@west-norfolk.gov.uk		Other Cabinet Members consulted:		
		Other Members consulted:		
Lead Officer: Tony Hague, Purchasing E-mail: tony.hague@west-norfolk.gov.uk Direct Dial: 01553 616791		Other Officers consulted: Pete Mortlock; Toby Cowper; Management Team; Kate Littlewood; Matthew Henry; Nicola Leader.		
Financial Implications NO	Policy/Personnel Implications YES	Statutory Implications (incl S.17) YES	EIA req'd NO	Risk Management Implications YES

Date of meeting: 30 October 2012

4 REVIEW AND UPDATE OF CONTRACT STANDING ORDERS

Summary

Since the current version of Contract Standing Orders was approved by Council on 29 September 2011 there have been two major external influences on procurement policy. These are the government initiative to remove the use of Pre-Qualification Questionnaires for contracts under £100,000 and the introduction of the Public Services (Social Value) Act 2012. Contract Standing Orders have been reviewed and amendments are proposed that address these issues and a few other, more minor, updates.

Recommendation

Details of the main changes are provided in the body of this report. It is recommended that Cabinet accept the new version of Contract Standing Orders and that they recommend acceptance by full Council.

Reason for Decision

To ensure that the Council's purchasing and disposal procedures continue to reflect best practice in order to obtain best value and to guard against corruption, discrimination and breaches of public procurement regulations.

1 Background

1.1 The current version of Contract Standing Orders was approved by Council on 29 September 2011. Over recent months the Public Services (Social Value) Act 2012 "the Social Value Act" has come into operation and central government ministers have increased their campaign to get local authorities to follow the central government

policy of eliminating the use of Pre-Qualification Questionnaires (PQQs) on low value contracts.

- 1.2 A review of Contract Standing Orders has been carried out by one of the Purchasing Officers and a number of other key officers, including the Management Team, the Monitoring Officer and the Internal Audit Manager have been consulted on their views.
- 1.3 The Social Value Act requires contracting authorities to consider how whatever is being procured can help to improve the economic, social or environmental well-being of their area. They are also required to consider how the procurement itself can improve these factors. It is considered by officers that only contracts valued above £100,000 are likely to be able to significantly affect these factors. A form has been introduced as Appendix 9 in the revised Standing Orders that requires purchasers to consider the implications of the Social Value Act and to document what action is being taken as a result. Amendments have been introduced in the “Brief Guide” on page 3 and in Standing Order 5.3 on page 8 to draw attention to this.
- 1.4 Although central government have banned central government departments from using PQQs for any contract under £100,000 it is considered that there may be some occasions when the Council may need to continue their use. This could be when there is expected to be a very high level of interest in a particular contract making it desirable to restrict the number actually tendering or when particular skills, qualifications or experience are a pre-requisite to fulfil a contract. The wording of Standing Order 8.3 on page 11 and Standing Orders 12.1 and 12.3 on page 16 have therefore been changed to discourage, but not ban, PQQs.
- 1.5 The consultation process with senior Officers has brought about the following changes that have been incorporated into the proposed version of Contract Standing Orders: -
 - a) For informal quotations the threshold requiring the invitation of at least three quotes has been raised from £1,000 to £5,000. However, it is emphasised that whenever possible comparisons should be made to ensure value for money
 - b) The “Brief Guide” on page 2 now includes the advice to purchasers to ask themselves “if this was my money, would I buy?”
 - c) In Section 1 on page 5 the name of the Corporate Procurement Manager has been updated to reflect staff changes.
 - d) The reasons that can be used to obtain an exemption from Standing Orders have been expanded to include a new 3.2(10) on page 6 relating to legal advice.
 - e) Standing Order 3.3 on page 7 has been amended to reflect the change from Buying Solutions to the Government Procurement Service.

- f) Standing Order 13.2 on page 17 has been changed to include a recommendation to use standard address labels for tenders. This minimises the risk of staff inadvertently opening tenders prior to the deadline.
- g) A new definition has been introduced in Appendix 1 on page 29 for “Preferred Bidder”. This is a term introduced in the amendment to Standing Order 8.3 on Page 11.
- h) “the Bribery Act 2010” has been added to one of the statements in the Non-Collusion Certificate at Appendix 8 on page 37.

2 Policy Implications

- 2.1 Contract Standing Orders dictate the Council’s procurement policy.

3 Financial Implications

- 3.1 There are no direct financial implications from the proposed changes although, of course, one of the main objectives of Contract Standing Orders is to obtain best value for the Council.

4 Statutory Consideration

- 4.1 The proposed changes in part take into account new law and Government guidance, and the Standing Orders refer to EU Procurement regulations and other statutory considerations.

5 Risk Assessment

- 5.1 Potential costs to the Council could be substantial if regulations and guidelines are not complied with and, as a result, a successful challenge to a contract award is made. It is therefore vital that Contract Standing Orders are kept up to date and the compliance with those Orders is promoted by Members and senior Officers.

6 Access To Information

Current version of Contract Standing Orders (2011)
Proposed new version of Contract Standing Orders (changes highlighted in yellow) (appendix)

Borough Council of
**King's Lynn &
West Norfolk**



CONTRACT STANDING ORDERS

Under Section 135, Local Government Act 1972

November 2012 DRAFT

A Brief Guide to Contract Standing Orders

Contract Standing Orders promote good procurement practice and public accountability and help to deter corruption. Following the rules is the best defence against allegations that a purchase or disposal has been made incorrectly or fraudulently.

Individuals responsible for purchasing or disposal **must** comply with Contract Standing Orders. Contract Standing Orders lay down **minimum** requirements. A more thorough procedure may be appropriate for a particular contract.

- Follow the rules set out in these Contract Standing Orders and [Financial Regulations](#) if you purchase goods or services or order building work.
- Take all necessary legal, financial, Health & Safety and professional advice, including contacting the [Corporate Procurement Unit](#) for all tenders over £10,000.
- Declare any personal financial interest in a contract. Corruption is a criminal offence.
- Conduct any review of Value for Money and appraise the purchasing need.
- Ask yourself the question “If this was my money, would I buy?”
- Normally allow a minimum of four weeks for submission of tenders.
- Keep quotation or tender bids confidential.
- Ensure all bids are to the same [Specification](#)
- Do not negotiate with contractors/suppliers unless [Standing Order 15.4](#) applies.
- Complete a written contract or Council order **before** the supply or works begin.
- Keep records of dealings with suppliers.
- Assess each contract afterwards to see how well it met the purchasing need and requirements.
- Consider whether any form of guarantee or warranty applies to the contract which should be supplied by the contractor.

All Relevant Contracts (see [Standing Order 4](#)) must be subject to competition as set out below, unless there is an exemption as set out in [Standing Order 3](#) that applies.

Up to £5,000: One written quotation is required but whenever possible comparisons should be made to ensure Value for Money.

£5,000.01 – £10,000: Three suppliers must be invited to quote. There is no minimum timescale for this and the quotations can be submitted by email or letter. An official Purchase Order must be issued.

£10,000.01 – £100,000: Contracts in this range require a formal tender process as follows: -

- Refer to the Corporate Procurement Unit
- Advertise the contract on the Council’s website and on the Business Link government contracts portal “Contracts Finder”
- Use a formal [Invitation to Tender](#) including a detailed Specification
- Efforts should be made to ensure that a minimum of three tenders are obtained
- Tenders returned to the Executive Director responsible for the contract and to remain sealed until the deadline for responses

- All tenders to be opened at the same time in presence of two Officers and recorded in a log maintained by the Executive Director
- An official Purchase Order or the [Council's Standard Form of Contract](#) must be used.

Above £100,000

Contracts at this value require a formal tender process as follows: -

- Complete a Social Value Act Form ([Appendix 9](#)) at the outset and build the actions identified into the procurement process.
- Refer to the Corporate Procurement Unit and discuss the implications of the Social Value Act.
- Advertise the contract on the Council's website and on the Business Link government contracts portal "Contracts Finder"
- Use a formal Invitation to Tender including a detailed Specification
- Efforts should be made to ensure that a minimum of four tenders are obtained
- Tenders returned to the [Monitoring Officer](#) and to be kept secure in the legal department until the formal opening
- The opening of tenders to be supervised and recorded by the legal department
- At least two Officers to open the tenders and the Portfolio Holder to be invited. (His or her attendance is not essential)
- A formal Contract or Agreement must be signed and sealed by the Legal Services Manager
- Work/Service not to start until contract signed, sealed and dated

Above [EU Threshold](#)

Due to the need to adhere strictly to detailed EU regulations, and in order to guard against legal challenges under the EU Remedies Directive, the whole tender process at this level must be managed by a Purchasing Officer. The major requirements are as per Above £100,000 with the following additional requirements: -

- The appropriate [EU Procedure](#) must be selected
- A Contract Notice (advertisement) must be placed in the [Official Journal of the European Union](#) (OJEU)
- After notifying participants of the intended award decision a standstill period of at least 10 days is required to allow for challenges by unsuccessful participants prior to completing the contract.
- Following award of the contract a Contract Award Notice must be placed in OJEU.

Disposals:

See [Standing Order 8.8](#)

Exemptions:

See [Standing Order 3](#).

Contract Standing Orders - Contents

SECTION 1 – SCOPE OF CONTRACT STANDING ORDERS

1. Basic Principles
2. Officer Responsibilities
3. Exemptions & Waivers
4. Relevant Contracts

SECTION 2 – COMMON REQUIREMENTS

5. Steps prior to letting a contract
6. Procedures to ensure competition
7. Approved lists

SECTION 3 – CONDUCTING A PURCHASE AND DISPOSAL

8. Competition requirements for purchase, partnership and disposal arrangements
9. Pre-tender market research and consultation and contract conditions
10. Standards and award criteria
11. Invitations to Tender
12. Short-listing
13. Submission, receipt and opening of tenders
14. Clarification procedures
15. Evaluation, post-tender negotiations and contract award (see also App. 3)

SECTION 4 – CONTRACT AND OTHER FORMALITIES

16. Contract documents
17. Performance Bonds and parent company guarantees
18. Prevention of corruption

SECTION 5 – GENERAL

19. Post-contract monitoring and evaluation
20. Technical amendments

SECTION 6 – LAND AND PROPERTY TRANSACTIONS

21. Land and property transactions

APPENDICES

Appendix 1: Definitions

Appendix 2: Compilation and maintenance of a Standing Approved List

Appendix 3: Post-tender negotiations

Appendix 4: Exemptions

Appendix 5: Waiving of the need for a performance bond or parent company guarantee

Appendix 6: Requirements for Professional Indemnity and Public Liability Insurance

Appendix 7: Standstill Period and Remedies Directive

Appendix 8: Non-Collusion and Prevention of Corruption Certificate

Appendix 9: Social Value Form

Section 1 – Scope of Contract Standing Orders

Note: Where DEFINED TERMS are first used they are in [Blue](#), underlined, begin with a capital letter and are defined in [Appendix 1](#).

If you are viewing the document on screen, clicking on any word in [Blue](#) will take you to the appropriate point in the document.

Further Advice:

Monitoring Officer:	Nicola Leader	01553 616270
Safety & Welfare Adviser:	Dave Clack	01553 616368
Corporate Procurement manager:	Toby Cowper	01553 616523
Procurement Officers:	Tony Hague	01553 616791
	Pete Mortlock	01553 616795

1. BASIC PRINCIPLES

1.1 Purchasing and disposal procedures must:

- (a) Ensure that public money is spent in a way that achieves Value for Money
- (b) Be consistent with the highest standards of integrity
- (c) Ensure fairness in allocating public contracts
- (d) Comply with all legal requirements
- (e) Ensure that Non-Commercial Considerations do not influence any [Contracting Decision](#).
- (f) Support the Council's corporate and service aims and policies
- (g) Comply with Financial Regulations, the Council's Procurement Strategy, Health & Safety requirements and competition requirements.
- (h) Be able to demonstrate that the Council's interests have not been prejudiced nor exposed to unnecessary /unacceptable risks

2. OFFICER RESPONSIBILITIES

2.1 Officers

- (a) The [Officer](#) responsible for purchasing or disposal must comply with these Contract Standing Orders, Financial Regulations, the [Code of Conduct](#) and with all UK and European Union binding legal requirements.
- (b) The Officer must keep the records required by [Standing Order 5.4](#).
- (c) Tender procedures must be conducted in accordance with [Standing Order 11](#).
- (d) Officers must ensure that agents or [Consultants](#) acting on their behalf also comply with the requirements referred to in Standing Order 2.1(a) above. Such agents or Consultants must not make any decision as to whether to award a contract or whom a contract should be awarded to.
- (e) Officers must take all necessary legal, financial and professional advice, including advice from the Corporate Procurement Unit.
- (f) Consider whether and, if so, what form it might be prudent to obtain a formal guarantee or warranty from the contractor (See [Standing Order 17](#)).

2.2 Executive Directors

Executive Directors must:

- (a) ensure that their staff comply with these Contract Standing Orders.
- (b) keep a **register** of:
 - Tenders received for contracts valued between £10,000 and £100,000.
 - exemptions recorded under [Standing Order 3.2](#), in order that the Monitoring Officer may monitor their use.
- (c) advise the Corporate Procurement Unit of all contracts over £10,000

3. EXEMPTIONS and WAIVERS

3.1 Exemptions are provided for in the [Constitution](#) but are subject to the detailed requirements set out in this Standing Order 3. An exemption under this section allows a contract to be placed by direct negotiation with one or more suppliers rather than in accordance with [Standing Order 8](#). Exemptions under these Contract Standing Orders cannot normally be granted if the EU Procedure applies. However, if you consider that there may be a legitimate case for an Exemption in such a case, guidance must be obtained from the Monitoring Officer.

3.2 All exemptions, and the reasons for them, must be recorded using the form in [Appendix 4](#). Exemptions shall be signed by the Officer's Executive Director and approved in writing by a Purchasing Officer and by the Monitoring Officer. The following are exemptions that may apply:

- (1) The contract can only be supplied or provided by one specialist firm;
- (2) An exemption is necessary because of an unforeseen event involving immediate risk to persons, property or significant disruption to Council services;
- (3) The goods, services or materials are proprietary articles or are sold only at a fixed price and no reasonably satisfactory alternative is available;
- (4) The prices of goods, services or materials are wholly controlled by trade organisations or government order and no reasonably satisfactory alternative is available;
- (5) Where a contract is funded in whole or in part by a Government Agency or other public body and the funding from such external body requires the Council to let the contract to a contractor approved by that body in order to receive the funding;
- (6) Where purchase is made at a public auction;
- (7) The contract is by means of the creation of an arms-length trust or other agency that has been approved by Council;
- (8) The purchase is via a [Buying Agency](#), provided that the Buying Agency has, for the item(s) concerned, complied with EU Regulations where the contract exceeds the EU Threshold;
- (9) The purchase is to be made using standing arrangements or a select list of another local authority, government department, statutory undertaking or Buying Agency;
- (10) The contract is for the appointment of counsel by the Legal Services Manager or the contract is in respect of legal services which are in the opinion of the Legal Services Manager, urgently required.
- (11) Where the contract is an extension to an existing contract, where a change of supplier would cause:
 - disproportionate technical difficulties;
 - dis-economies; or
 - significant disruption to the delivery of Council services.

Provided that:

- no contract is extended more than once without being formally re-tendered;

- the extension period is less than the period applying to the original contract;
- the value of the extension is no more than 50% of the value of the original contract.

3.3 All purchases under the terms of any Customer Access Agreement entered into via the **Government Procurement Service (formerly Buying Solutions)** or another public sector Buying Consortium are deemed to comply with the competition requirements of Contract Standing Orders and no exemption is required.

3.4 In those exceptional circumstances not covered in Section 3.2 above, the Cabinet also has the power to waive any specific provision or provisions of these Contract Standing Orders (other than the requirement to comply with EU Regulations), although this must be formally obtained by the Officer. Any such decision may be a [Key Decision](#).

4. RELEVANT CONTRACTS

4.1 Contract Standing Orders apply to all contracts except those listed in 4.2 below.

4.2 Contract Standing Orders do not apply to contracts for the:

- (a) lending or borrowing of money; or
- (b) employment of an individual as a direct employee of the Council.

4.3 For the purposes of comparing a particular procurement route, the total for the whole Council needs to be considered, not just the [Service Area](#) making the acquisition under consideration. For example, if each of three Service Areas wish to acquire a common item (e.g. stationery), worth £10,000 p.a. over 6 years, the total value to be considered is £180,000 (i.e. 3 x £10,000 x 6), not £10,000 or £60,000. This is then above the EU Threshold and EU Regulations apply. The Corporate Procurement Unit will be monitoring expenditure patterns with the aim of ensuring that common procurement needs throughout the Council are aggregated where appropriate. This also applies to smaller contracts that could affect which route needs to be followed when selecting contractors. See also [Section 8.2](#) below.

Section 2 – Common Requirements

5. STEPS PRIOR TO LETTING A CONTRACT

- 5.1 Before beginning a contract-letting process, the Officer **must**:
- (a) ensure there is budgetary provision for the contract;
 - (b) identify whether there is an existing [Framework Agreement](#) (if necessary by checking with the Corporate Procurement Unit) that would negate the need for a separate contract;
 - (c) appraise the need for the expenditure and its priority;
 - (d) define the objectives of the contract;
 - (e) assess the risks associated with the contract and how to manage them;
 - (f) consider what procurement method is most likely to achieve the Council's objectives, including internal or external sourcing or sourcing through an external Framework Agreement, packaging strategy or collaboration with another organisation. This may include considering whether the procurement can be provided by the Council's own staff and resources, rather than putting the work out to contract, although value for money considerations will still apply;
 - (g) consult users as appropriate about the proposed procurement method, contract standards, and also performance and user satisfaction monitoring;
 - (h) consider the whole-life costs of the contract, including whether it is appropriate to specify the proportion of recycled goods and/ or the long-term environmental impact of any goods or materials supplied or used by the supplier/ contractor, in order to help meet the Council's Climate Change requirements;
 - (i) select the most appropriate procurement method, in conjunction with the Corporate Procurement Unit;
 - (j) ensure that the evidence that the above have been undertaken is available to either the Monitoring Officer or auditors upon request.
- 5.2 Where the Total Value is less than £100,000, the following documents must be kept:
- (a) any relevant Exemption Forms;
 - (b) a copy of the advertisements placed on the Council's website and on "Contracts Finder";
 - (c) The Invitation to Tender, including the Specification and the [Award Criteria](#);
 - (d) All quotations or tenders received;
 - (e) Details of the evaluation of the quotations or tenders, demonstrating reasons if the lowest price is not accepted;
 - (f) written records of communications with the successful contractor or an electronic record if a written record of the transaction would not normally be produced;
- 5.3 Where the Total Value exceeds £100,000, the following documents must be kept:
- (a) any relevant Exemption Forms;
 - (b) a copy of the Social Value Form**
 - (b) a copy of the advertisements placed on the Council's website and on "Contracts Finder";
 - (c) a copy of the OJEU Contract Notice (if applicable)
 - (d) The Invitation to Tender, including the Specification and the Award Criteria;
 - (e) All Tenders received;
 - (f) Details of the evaluation of the tenders, demonstrating reasons if the lowest price is not accepted;
 - (g) minutes of any clarification or post-tender negotiation meetings
 - (h) written records of communications with the successful contractor or an electronic record if a written record of the transaction would not normally be produced;
- 5.4 Written records required by this Standing Order 5 must be kept in accordance with the Council's Retention Policy.

6. PROCEDURES TO ENSURE COMPETITION

- 6.1 Where the total value of the contract is less than £10,000 the Officer may identify potential [Candidates](#) using the most cost-effective and reasonable methods. This may include referring to advertising, catalogues, business directories, Yellow Pages, proven track records etc.
- 6.2 All contracts for more than £10,000 must be notified to the Corporate Procurement Unit and will be advertised on the Council's web-site and on Contracts Finder. Officers should note that the European Court of Justice has confirmed in recent cases that contracting authorities must ensure a degree of advertising sufficient to ensure compliance with the Treaty's requirements for non-discrimination on the grounds of nationality, equal treatment of all potential bidders and suppliers, fair competition, proportionality and transparency. Advertising as above is likely to meet these requirements.
- 6.3 Where the total value of the contract is greater than £10,000, there is no [Approved List](#) suitable for the contract, and it is considered that suitable suppliers will be difficult to find, then tenders may also be invited by means of an advertisement in one or more trade journals as the Executive Director considers appropriate.
- 6.4 For all contracts for more than £10,000, Officers must allow at least four weeks from the date of advertising until the deadline for expressions of interest, or submission of tenders. If the contract value is over the relevant EU Threshold the EU regulation time limits apply.
- 6.5 Guidance on the requirements for advertising in the OJEU are available from either the Monitoring Officer or the Corporate Procurement Unit. Wherever an advertisement is placed in the OJEU, the information to be provided in any other publication must not exceed that placed in the OJEU.

7. APPROVED LISTS

- 7.1 As an alternative to advertising contracts, the Corporate Procurement Unit may keep Approved Lists that may be used to select Candidates. Approved Lists may be used where recurrent transactions of a similar type are likely but where such transactions need to be priced individually and cannot easily be aggregated and priced in a single tendering exercise. Approved Lists cannot generally be used where the EU Procedure applies. The advice of the Monitoring Officer should be obtained where a contract needs to be advertised by means of the EU Procedure and where the Council maintains an Approved List.
- 7.2 No person or company may be entered on the Approved List until there has been an adequate investigation into their financial standing and technical ability and, where appropriate, their Health & Safety record etc. to perform the contract, unless such matters will be investigated each time bids are invited from that list.
- 7.3 Suppliers that are members of a Framework Agreement maintained by a Buying Agency can be considered to be a legitimate Approved List for the purpose of these Contract Standing Orders. If such a Framework membership is used as an Approved List all members of that list that are capable of meeting the Council's requirements must be invited to take part in a Mini Competition for the contract. Any contract awarded by this method must be awarded against the original award criteria of the Framework and under the model terms and conditions of the Framework.

Section 3 – Conducting a Purchase or Disposal

8. COMPETITION REQUIREMENTS FOR PURCHASE, PARTNERSHIP AND DISPOSAL ARRANGEMENTS

The Officer must calculate the total value of the proposed contract having regard for the aggregation rules described in [Section 4.3](#) above.

The following procedures apply where there are no other procedures or suitable Framework Agreements available. If in doubt, Officers must seek the advice of the Monitoring Officer or Corporate Procurement Unit.

8.1 Purchasing

Where the total value of a purchase is within the values in the first column below, the award procedure in the second column must be followed. The numbers provide are the minimum requirement. [Short-listing](#) shall be done by the persons specified in the third column.

Total Value	Award Procedure	Receipt and Short-listing
Up to £5,000	One written quotation. These will be considered to be informal quotations .	Officer and, if desired, the relevant Executive Director
£5,000.01-£10,000	Three suppliers to be invited to submit written quotations. These will be considered to be informal quotations	Officer and, if desired, the relevant Executive Director
£10,000.01-£100,000	Contract advertised on the Council's web site and on Contracts Finder. Three tenders on standard tender forms from candidates who have received a formal Invitation to Tender.	The relevant Executive Director or a nominated deputy.
Above £100,000	Contract advertised as above. Four tenders on standard tender forms from candidates who have received a formal Invitation to Tender.	Returned to the Monitoring Officer and evaluated by the Officer and appropriate Executive Director.
Above EU Threshold	Contract Notice placed in OJEU. Four tenders on standard tender forms from candidates who have received a formal Invitation to Tender	Returned to the Monitoring Officer and evaluated by the Officer and appropriate Executive Director.

Where it can be demonstrated that there are insufficient suitably qualified candidates to meet the competition requirement outlined in the above table, all known suitably qualified candidates must be invited.

8.2 An Officer must not enter into separate contracts, nor select a method of calculating the total value, in order to try to avoid the application of these Contract Standing Orders or OJEU requirements. Contracts will be aggregated where appropriate in order to ensure that Contract Standing Orders and EU regulation requirements are met.

- 8.3 Where the total value exceeds the EU Threshold, the Officer must consult the Corporate Procurement Unit to determine the appropriate EU Procedure to conduct the purchase and the time-scales involved.

Prior to appointing a contractor or consultant, the Officer must ensure that potential suppliers submit for review:-

For services contracts, including consultants, and for works contracts between £1,000 and £10,000

- Health & Safety information sufficient to satisfy the Safety & Welfare Advisor that the candidate understands their responsibilities and complies with relevant regulations.
- details of relevant insurances held by the candidate.

For all contracts over £10,000, other than when procured via a Framework Agreement:

- Accounting information sufficient to allow the Corporate Procurement Unit to evaluate the financial stability and the capacity of the candidate to undertake the size of contract in hand.
- Health & Safety information sufficient to satisfy the Safety & Welfare Adviser that the candidate understands their responsibilities and complies with relevant regulations.
- details of relevant insurances held by the candidate.

This information may be obtained after the tender process from the [Preferred Bidder](#) only, without the use of a formal pre-qualification questionnaire. This policy is designed to minimise the administrative burden in tendering for smaller firms.

For all contracts over £100,000, other than when procured via a Framework Agreement, a qualification or pre-qualification questionnaire must be completed by the candidates that meets the following minimum requirements:

- accounting information sufficient to allow the Corporate Procurement Unit to evaluate the financial stability and the capacity of the candidate to undertake the size of contract in hand.
- Health & Safety information sufficient to satisfy the Safety & Welfare Adviser that the candidate understands their responsibilities and complies with relevant regulations.
- details of relevant insurances held by the candidate.
- three satisfactory technical references or the names & addresses of at least three referees who can vouch for the technical competence of the candidate;
- suitable statement of compliance with legislation as regards sex and race equality;
- details of environmental policies if appropriate.

(NB An appropriate pre-qualification questionnaire is available from the Corporate Procurement Unit).

- 8.4 Potential candidates must be advised in advance that they need to obtain an appropriate level of insurance if awarded the contract. Details of the cover required for Public Liability and Professional Indemnity insurance are given in [Appendix 6](#). Evidence that they have the continuing necessary and relevant insurance must be provided prior to the completion of the contract documentation and thereafter to the Officer responsible for managing the contract each year during the life of the contract. In addition, for contracts over £250,000 there may be a need for the successful contractor to obtain a [Parent Company Guarantee](#) or [Performance Bond](#) – see [Contract Standing Order 17](#) for further details.

- 8.5 Partnership and similar arrangements are subject to all UK and EU Procurement legislation and should follow the usual principles in Contract Standing Orders. If the Council will pay the contractor's invoice(s), Contract Standing Orders apply.

8.6 The Appointment of Consultants to Provide Services

The procedure for appointing Consultants is the same as for any other service contract but with the following additional requirements: -

- (a) The Officer must submit a written report to the Executive Director setting out:
 - the nature of the services for which the appointment of a Consultant is required;
 - the estimated total value of the services;
 - that no employee of the Council has the skills or is available to undertake the services.
- (b) After evaluating the quotations or tenders, the Officer shall submit the evaluation report to the Executive Director and recommend the appointment of the candidate who has submitted the quotation or tender with the highest score against the pre-determined and publicised award criteria.
- (c) The Executive Director may accept or reject that recommendation and shall record his/ her reason for so doing in writing and sign and date that record.

8.7 Framework Agreements

- (a) Framework Agreements are a formally-tendered arrangement where general terms and conditions are agreed that will apply to individual contracts let during the Framework period. Candidates submit prices and the appropriate Officer procures the supplies, services or works from the successful candidate(s) in unpredicted quantities at various times during the period that the agreement is in force. They are sometimes referred to as Call-off contracts. In some instances, there may be several companies that supply the goods or services, in order to provide a degree of flexibility or to allow for specialist goods or services to be provided within a more general arrangement (or Framework).
- (b) As there are specific rules that need to be followed for Framework Agreements, all Frameworks must be let in conjunction with the Corporate Procurement Unit.
- (c) The Corporate Procurement Unit maintains a central record of Framework Agreements, and will monitor compliance with them. Where a Framework Agreement exists, all Council staff are required to obtain goods or services from the agreed contractor(s)/ supplier(s) on the terms and conditions contained in the Agreement.
- (d) Contracts based on existing Framework Agreements may be awarded by either:
 - applying the terms laid down in the Agreement (where such terms are sufficiently precise to cover the particular call-off) to any or all of the suppliers specified within the Agreement without further competition; or
 - where the terms laid down in the Agreement are not sufficiently precise or complete for the particular call-off, by holding a mini-competition in accordance with the following procedure:
 - inviting all those suppliers within the Agreement that are capable of undertaking the requirements of the contract to submit written quotations;
 - Fixing a time limit which is sufficiently long to allow quotations for each specific contract to be submitted, taking into account factors such as the complexity of the proposed contract ;
 - awarding each contract to the supplier who has submitted the best quotation on the basis of the award criteria set out in the original tender for the Framework Agreement.

8.8 Disposals

Where the disposal of a Council asset is required the Officer must demonstrate that best value is obtained for the asset(s) involved. The use of a public auction is the

preferred method. [Standing Order 21.3](#) deals with property or land disposals.

9. PRE-TENDER MARKET RESEARCH AND CONSULTATION AND CONTRACT CONDITIONS

9.1 The Officer responsible for the purchase:

- (a) may consult potential suppliers prior to the issue of the Invitation to Quote or Invitation to Tender in general terms about the nature, level and standard of the supply, contract packaging and other relevant matters **provided** this does not prejudice or provide any advantage to any potential candidate, but
- (b) must not seek or accept technical advice on the preparation of a Specification from anyone who may have a commercial interest in it, if this may prejudice the equal treatment of all potential candidates or distort competition, and
- (c) should seek advice from the Monitoring Officer.

9.2 During the planning stage, the Officer responsible for the purchase should consider the desirability of opting for large contracts. Wherever practicable, the needs of a mixed economy of small to medium, as well as larger-sized businesses should be taken into consideration.

9.3 Where a principal contractor is sought, the Officer should ensure that the principal contractor can demonstrate their track record in achieving value for money through effective use of their supply chain, including the use of small to medium-sized enterprises.

Contract Conditions

9.4 Where it is considered likely that employees will transfer to a new employer as a consequence of the contract and as a consequence of the Transfer of Undertakings (Protection of Employment) Regulations 2006 (as amended) (TUPE), the following statement must be included in the Invitation to Tender:

“The Council’s preliminary view is that TUPE may apply to this contract. Nevertheless, the applicability of TUPE depends ultimately on a consideration of any proposals submitted by a contractor and that contractors may put forward proposals on a TUPE and/ or non-TUPE basis. The Council will consider any tender that is submitted whether or not the candidate’s view of the applicability of TUPE coincides with its own. The candidate, having regard to the Code of Practice on Workforce Matters in Local Authority Contracts and Government advice (found in ODPM Circular 03/2003 (as amended)) must indicate in their response whether their submission is on the basis that TUPE will apply.

If, under TUPE, the employees on this contract employed by the current contractor will transfer automatically to the new contractor on their current terms and conditions of employment, there will be no redundancies.

The workforce information is issued with this Invitation to Tender so that candidates may submit their own bid on the basis that TUPE applies, if that is their view.”

9.5 Any contract for the services of any architect, engineer, surveyor or other consultant or contractor who is to be responsible for the supervision or provision of a contract or service as an agent of the Council, shall include the following requirements:

“The contracted consultant or contractor must:

- (a) comply with the Council’s Contract Standing Orders and Financial Regulations;
- (b) at any time during the contract, produce on request to the appropriate Executive Director or the Council’s External or Internal Auditor, all the records maintained

by him or her in relation to the contract within an agreed time-scale. Alternatively, if so agreed, provide ready access for the Council's nominated officers or Auditors to examine all such records at the consultant's or contractor's offices;

- (c) provide evidence of continuing professional indemnity and other relevant insurance to the Monitoring Officer each year;
- (d) pass to the Council for audit purposes all such records, vouchers, receipts, certificates and other documents and information relating to the contract as may be in the consultant's possession but which would reasonably have been maintained by the Council had it conducted the service itself, at the time of the request by the contractor for final payment under the terms of the contract, or at an earlier date if so required by the appropriate Executive Director. All such records relating to the provision of the contract must be passed to the appropriate Executive Director as required by that Executive Director on completion of the contract."

9.6 Except where agreed by the Monitoring Officer, every contract shall include clauses enabling the recovery of damages in the event of any failure on the part of the Contractor to perform and carry out its obligations under the contract.

9.7 Unless agreed by the Cabinet or Portfolio Holder as appropriate, contracts should not include a grace period, (i.e. a period at the start of the contract that allows the contractor to meet a lower standard of supply/ work than has been specified within the contract terms).

10. STANDARDS AND AWARD CRITERIA

10.1 The Officer must ascertain which, if any, relevant British, European or International standards apply to the subject matter of the contract. Where appropriate, the Officer must include within the contract specification those standards that are necessary properly to describe the required quality. The Monitoring Officer must be consulted if the Officer proposes to use standards other than European standards.

10.2 The Officer must define award criteria appropriate to the contract. Award criteria must be designed to secure an outcome giving best value for money for the Council. The criteria may occasionally be "lowest price" but more usually will be [most economically advantageous](#), as this will provide the best overall value for money and cost-effective solution for the Council.

The applicable criteria and their relative weightings should be specified within the Invitation to Tender. Once they have been made public, these pre-agreed criteria for assessing the merits or otherwise of each of the bids cannot be changed in any way, in order to be able to demonstrate that the evaluation process has been conducted in a fair and transparent manner.

10.3 Award criteria must not include:

- (a) [Non-Commercial Considerations](#);
- (b) matters which discriminate against candidates from other EU countries or signatories to a [Government Procurement Agreement](#).

NB The evaluation criteria-setting process can be complex. Guidance should be sought from the Corporate Procurement Unit.

11. INVITATIONS TO TENDER

- 11.1 The Invitation to Tender (ITT) must include a Specification. The Specification must describe clearly the Council's requirements in sufficient detail to enable the submission of competitive and readily comparable offers. Candidates must be advised that they must prepare their submission to meet the Specification as drafted, and to not make unauthorised amendments to it when submitting their bid.
In preparing Specifications, the Officer must have regard to any guidance from the Monitoring Officer, the Corporate Procurement Unit or the Audit Manager.
- 11.2 The ITT must state that the Council is not bound to accept any tender.
- 11.3 The ITT must state that:
"The Freedom of Information Act (FOIA) came into force on 1st January 2005 and established a general right of access to all types of 'recorded' information including public contracts and procurement activity held by the Borough Council, subject to certain conditions and exemptions. Accordingly, all information submitted may need to be disclosed in response to a request under the Act.
This means that the Borough Council is obliged under the Act to release certain information about its suppliers into the public domain within certain limits and according to relevant exemptions. The main exemption relevant to procurement is commercial interests, which means trade secrets and information likely to prejudice the commercial interests of any person (including the Borough Council) holding it.
If you consider that any of the information in your tender is commercially sensitive, please explain what harm may result from disclosure if a request is received, and the time period applicable to that sensitivity. You should also be aware that, even where you have indicated that information is commercially sensitive, the Council may be required to disclose it under the Act if a request is received. Please also note that the receipt of any material marked "confidential" or equivalent by the Council should not be taken to mean that we accept any duty of confidence by virtue of the marking.
If a request is received, the Council may also be required to disclose details of unsuccessful tenders."
- 11.4 All candidates invited to tender must be issued with the same information at the same time and subject to the same conditions. Any supplementary information or changes to the specification must be given on the same basis.
- 11.5 The ITT must provide details of the address and deadline for responses and forbid submission by any electronic means (i.e. by fax or e-mail).
- 11.6 For all informal quotations over £5,000, candidates must sign the Non-Collusion/ Prevention of Corruption Certificate ([Appendix 8](#)).

For all contracts between £10,000 and £100,000, the ITT:

- (a) Must state the award criteria in objective terms, in descending order of importance and, if possible, providing precise weightings
- (b) Must include a Tender Response Form, and a Non-Collusion/ Prevention of Corruption Certificate
- (c) Must include the warning regarding the Freedom of Information Act from 11.3 above
- (d) Must either include the Council's standard contract terms or state that a Purchase Order will be issued that will be subject to the Council's standard Conditions of Purchase available on the Council's website.
- (e) Must include a warning that the Council will publish details of all payments over £500 on its website

For all contracts over £100,000, the ITT:

- (f) Must state the award criteria in objective terms and providing precise weightings
- (g) Must include a Tender Response Form, and a Non-Collusion/ Prevention of Corruption Certificate
- (h) Must include the warning regarding the Freedom of Information Act from 11.3 above
- (i) Must include the Council's standard contract terms
- (j) Must include a warning that the Council will publish details of all payments over £500 on its website
- (k) Must incorporate the Council's Whistleblowing Policy

11.7 Unless selecting candidates from a Framework Agreement or an approved list, advertisements for all contracts over £10,000 must be placed on the Council's web site by a member of the Corporate Procurement Unit.

12. SHORT-LISTING

12.1 When it is expected that a large number of candidates are likely to respond to a contract advertisement the Officer should consider setting a maximum number of candidates to invite to tender. This ensures that all candidates stand a reasonable chance of being successful in winning the contract and requires the creation of a short-list. **The use of short-listing for contracts valued below £100,000 should be kept to a minimum.**

12.2 Any short-listing must be based on responses to a Pre-Qualification Questionnaire as described in [Standing Order 8.3](#) above. The Officer should have regard to financial and technical standards and other criteria relevant to the contract. It should be noted that there must be a clear difference between qualification criteria and award criteria. Special rules apply in respect of contracts let using the EU Procedure. For guidance and advice when contemplating a contract that needs to be advertised throughout Europe, the advice of the Corporate Procurement Unit must be sought. The officers responsible for short-listing are specified in [Standing Order 8.1](#).

12.3 Officers may decide not to short-list but to send an ITT to all candidates that respond to the contract advertisement. In these circumstances, for contracts over £100,000, a qualification questionnaire should be sent with the ITT to ensure that minimum qualification standards are met. **Below £100,000 contract value a qualification question should only be used if the nature of the contract raises particular concerns over Health and Safety or financial stability or there is an overriding need to limit the number of candidates.**

13. SUBMISSION, RECEIPT AND OPENING OF TENDERS

13.1 Candidates invited to respond must be given an adequate period in which to prepare and submit a proper tender, consistent with the urgency of the contract requirement. At least **four weeks** must be allowed for submission of tenders. The EU Regulations lay down specific time periods depending upon which EU Procedure is used. If in doubt, consult the Procurement Unit. All candidates must be advised of the deadline date and time, as well as the address to which tenders are to be submitted. This must be the same for all candidates for a contract.

13.2 All tenders for contracts up to £100,000 must be returned to the relevant Executive Director, or their nominated deputy, in a plain envelope that has been securely sealed and bears the word "TENDER". The envelope must include either the name or a brief

description of the contract for which the bid relates but must not include any information whatsoever as to the identity of the person or firm submitting the tender.

All tenders for contracts over £100,000 must be returned to the Monitoring Officer in a plain envelope that has been securely sealed and bears the word "TENDER". In addition, the envelope must include either the name or a brief description of the contract for which the bid relates. **It is good practice to supply a standard form of label with the ITT for tenderers to attach to their envelope.**

- 13.3 The Officer must not disclose the names of candidates to any staff involved in the receipt, custody or opening of tenders in advance of them being opened.
- 13.4 Tenders submitted electronically (e.g. e-mail or fax) must be rejected, because when the Officer is aware of the name of the supplier and content of the offer they can be open to accusations of communicating that information to other potential suppliers. Envelopes that are not sealed, or which display information which identifies the name of the person or firm submitting the tender, must be rejected for the reason given above and will be considered [Irregular Tenders](#).
- 13.5 The Monitoring Officer shall be responsible for the safekeeping of tenders for contracts over £100,000 until opening. Receipt of each tender must be initialled and dated by the receiving officer.
- 13.6 Tenders up to £100,000 must be opened at the same time, in the presence of two officers designated for the purpose by the Executive Director responsible for the contract to which the tender relates. No such tender shall be opened until after the date and time appointed for the receipt of tenders for the proposed contract. See also [Section 13.10](#) below.
- 13.7 Tenders over £100,000 must be opened at the same time, in the presence of two officers designated for the purpose by the Executive Director responsible for the contract to which the tender relates, together with an officer designated by the Monitoring Officer. No such tender shall be opened until after the date and time appointed for the receipt of tenders for the proposed contract. See also [Section 13.11](#) below.
- 13.8 Where tenders have been invited for any proposed contract that has been estimated to exceed £100,000, the relevant Portfolio Holder or their nominated representative must be invited to the tender opening.
- 13.9 Where a tender has been received which is an Irregular tender, the Officer shall, before opening any of the tenders, submit a report to the Executive Director and the Monitoring Officer, giving details of the Irregular tender. If, having considered that report, the Executive Director and the Monitoring Officer both consider that the candidate submitting the Irregular tender has gained no advantage from its irregularity, they may determine to accept it. In this case, they may authorise that it be opened and evaluated together with any other tenders in accordance with this Standing Order 13. The Executive Director and the Monitoring Officer shall record in writing the reasons why each Irregular tender has been accepted or rejected and sign and date the record in either the Executive Director's [Quotation/tender Record Book](#), or Legal Services' [Tender Record Book](#) or as appropriate for the contract.
- 13.10 Immediately upon the opening of tenders up to £100,000:
- (a) The first page of the tender must be signed by both of the nominated representatives of the relevant Executive Director, with the date and time added;
 - (b) The name of each person or firm from whom a tender has been submitted and the amount thereof must be entered in the Record Book. Each contract should be

recorded on a separate page, with a heading briefly describing the proposed contract to which the tender relates.

- (c) The relevant page in the Record Book will be ruled off below the last tender entered and the page signed by both of the nominated officers.
- (d) If documents are found to be missing from a tender submission, the appropriate candidate should be contacted and afforded the opportunity to submit the missing information by fax within 24 hours and subsequently by post within 48 hours of the tender being opened. Any candidate who then fails to supply the required information can be rejected on the grounds that they have failed to comply with the requirements of the specification.
- (e) One of the representatives of the relevant Executive Director should retain all opened envelopes until the evaluation processes have been completed. After this they should be retained in accordance with the Council's Retention Policy.

13.11 Immediately upon the opening of tenders over £100,000:

- (a) The first page of the tender must be signed by the relevant Executive Director, or their nominated deputy, with the date and time added;
- (b) The name of each person or firm from whom a tender has been submitted and the amount thereof must be entered in the Tender Record Book. Each contract should be recorded on a separate page, with a heading briefly describing the proposed contract to which the tender relates.
- (c) The relevant page in the Tender Record Book will be ruled off below the last tender entered and the page signed by the three officers referred to in [Standing Order 13.7](#) above and countersigned by the relevant Portfolio Holder, whenever the Portfolio Holder is present at the tender opening.
- (d) If documents are found to be missing from a tender submission, the appropriate candidate should be contacted and afforded the opportunity to submit the missing information by fax within 24 hours and subsequently by post within 48 hours of the tender being opened.
- (e) The relevant Executive Director, or their nominated deputy, should retain opened envelopes until the evaluation processes have been completed. After this they should be retained in accordance with the Council's Retention Policy.

13.12 If there appears to be an error or omission in a bid or supporting information, the candidate must be invited to confirm or withdraw the bid. Where the error relates to the tendered total sum as calculated from the submitted rates and variable quantities, the bid will be regarded as the total bid and the rate adjusted accordingly. The candidate will be invited to confirm or withdraw the bid and resulting rate. This is to ensure that the subsequent evaluations or Post-Tender Negotiations are undertaken on the basis that initial bids have been submitted on an even basis and to the same specification (but see Contract Standing Order 14.1 below).

14. CLARIFICATION PROCEDURES

14.1 After opening the quotation or tender submissions, it may be apparent that one or more of the companies that have submitted bids has misinterpreted the specification. If it is clear that this was as a result of an error or ambiguity in the specification, the Monitoring Officer must be consulted as to whether all contractors should be provided with a revised specification that identifies and corrects the error or ambiguity and provides them with the opportunity to amend their bid.

15. EVALUATION, POST-TENDER NEGOTIATIONS AND CONTRACT AWARD (See also [Appendix 3](#))

- 15.1 Confidentiality of tenders and the identity of candidates must be preserved at all times. Information about one candidate's response must not be given to another candidate. This includes the situation where one part of the Council is a candidate that is being considered for a contract by another part of the Council. In such an eventuality, the two sides of the process must be clearly divided between candidate and client, with no advantage being passed to the internal candidate, in order to be able to demonstrate that the contract has been let on purely objective criteria.
- 15.2 Contracts must be evaluated and awarded in accordance with the award criteria notified in the ITT. The decision as to which contractor is successful must be made by an Executive Director, in conjunction with the relevant Portfolio Holder when required by the Council's Constitution. The contract must be completed in accordance with the requirements of [Contract Standing Order 16.3](#)
- 15.3 If a formal interview or presentation is to be sought from some or all the candidates:
- (a) Careful consideration needs to be given as to how the interview or presentation process will benefit and be incorporated into the evaluation methodology. Careful consideration of the questions, and who is to put them to the Candidates involved is required;
 - (b) If the interview panel is to comprise Members, the Members concerned should be involved in the process of deciding upon the information required from the candidates involved.
 - (c) Normally, at least two candidates should be invited to make presentations or attend interviews. Moreover if tenders submitted have been rejected to enable a presentation stage to take place then unsuccessful candidates must be notified. Ordinarily a presentation stage should be explained in the ITT.
 - (d) They must be held before the contract is awarded;
 - (e) All candidates invited to attend for interview or provide a presentation are to be considered as equals ahead of the interview/ presentation, with no preferred bidder being identified;
 - (f) Consideration needs to be given as to how (or if) new information, not previously presented by the candidates, is to be incorporated into the evaluation model.

Post-Tender Negotiations

- 15.4 Post-tender negotiation means negotiations with any candidate after submission of a tender and before the award of the contract with a view to obtaining an adjustment in price, delivery or content. It must not be conducted in an EU Procedure where this might distort competition particularly with regard to price, except where the EU Procedure permits this. For contracts being let using an EU Procedure, post-tender negotiations must not be conducted without the prior approval of the Monitoring Officer. Where post-tender negotiation results in a fundamental change to the specification, or the contract terms, the contract must not be awarded but must be re-tendered.
- 15.5 **Procedure**
- (a) Post-tender negotiations must be conducted by a Procurement Officer, together with a representative nominated by the Executive Director responsible for the contract area.
 - (b) Post-tender negotiation must only be conducted in accordance with guidance set out in [Appendix 3](#) to these Contract Standing Orders.
- 15.6 Detailed notes must be kept of the meetings and these notes must be capable of being incorporated into the contract, to clarify what was meant in the specification.

Contract Award

- 15.7 If the contract is to be let using a two-stage process (qualification followed by tenders from a restricted short-list) any candidates rejected at the qualification stage of the process should all be informed of their exclusion at the same time that the successful candidates are invited to tender.
- 15.8 All candidates must be notified simultaneously, and as soon as possible, of any contracting decision. For contracts where the total value exceeds £10,000:
- (a) The notification must be in writing, either by email or post;
 - (b) In all cases the following information should be given to unsuccessful candidates:
 - their overall score
 - the name and overall score of the successful candidate
 - the approximate value of the contract
 - (c) For contracts let using an EU Procedure the following additional information should also be given to unsuccessful candidates:
 - their score for the individual criteria used in the evaluation
 - the score of the successful candidate for the individual criteria used in the evaluation
 - the reasons for the individual scores
 - (d) Unless authorised by the Monitoring Officer, no further information should be given to unsuccessful candidates.
- 15.9 For all contracts let using an EU Procedure, a statutory standstill period of at least 10 days must be provided for between communicating the contract award decision and the successful contractor signing the contract, in order to allow the decision to be challenged by unsuccessful candidates (for further details see [Appendix 7](#)).

Section 4 – Contract and Other Formalities

16. CONTRACT DOCUMENTS

- 16.1 Every purchase over £1,000 must have either an Official Order, created through the Council's POP system, or the Council's standard Form of Contract. For contracts with a total value over £100,000 a formal contract must be used and must be sealed and signed by the Monitoring Officer (See 16.3 below).
- 16.2 Procedural and legal advice of the Monitoring Officer must be sought for the following contracts:
- where the total value exceeds £100,000;
 - those involving leasing arrangements regardless of the total value;
 - those which are complex in any other way regardless of the total value;
 - where it is proposed to use the supplier's own terms or conditions.

Contract formalities

- 16.3. Contracts shall be completed as follows:

<u>Total Value</u>	<u>Method of Completion</u>	<u>By</u>
Up to £100,000	Evidenced in writing as described in 16.1 and 16.2 above	POP order authorised at the level appropriate to the value or, formal contract signed by the relevant Executive Director or by the Monitoring Officer.
Above £100,000, or below this amount if required by the Monitoring Officer.	In writing under seal	See 16.5 below

For all contracts, no contractor or Consultant will commence work on a contract until they have met the following conditions, unless agreed otherwise in writing by the Monitoring Officer:

- the contract has been concluded formally in writing in a form approved by the Monitoring Officer, except in exceptional circumstances, and then only with the written consent of the Monitoring Officer;
- Where relevant or required for the contract and, the Monitoring Officer has received a Parent Company Guarantee or Performance Bond and Deed of Warranties in a form approved by the Monitoring Officer;
- The Monitoring Officer has received proof that the contractor has the necessary insurance cover;
- The Officer has obtained approval of the Contractor's Health and Safety Policy & Procedures from the Council's Safety and Welfare Adviser except for supply only "goods" contracts.

Note: An award letter or letter of intent is not considered to be a contract for the purpose of this clause. Such letters must state that their content does not amount to a formal acceptance of the tender and that there is no intention to create a legal relationship pending the execution of the formal contract. The letter must be approved by the Monitoring Officer.

16.4 Signature

The Monitoring Officer must ensure that the person signing for the other contracting party has the authority to bind it.

16.5 Sealing

Where contracts are completed by each side adding their formal seal, the fixing of the Council's seal must be witnessed by or on behalf of the Monitoring Officer or the Executive Director for Central Services, or otherwise in accordance with the Council's Scheme of Delegation. Every Council sealing will be consecutively numbered, recorded and signed by the person witnessing the seal. The seal must not be affixed without the authority of Cabinet, the Portfolio Holder or an Executive Director acting under delegated powers. A contract must be sealed where:

- (a) the Council may wish to enforce the contract more than six years after its end; or
- (b) the total value exceeds £100,000; or
- (c) the Monitoring Officer requires that the contract needs to be sealed, where the amount is less than £100,000.

17. PERFORMANCE BONDS AND PARENT COMPANY GUARANTEES

17.1 The Officer must consult with the [Deputy Chief Executive](#) and the Monitoring Officer in respect of all tenders where the total value exceeds £250,000 as to whether a Performance Bond and/ or Parent Company Guarantee or other similar security is required.

17.2 Where it is proposed to waive the need to require a Performance Bond or Parent Company Guarantee, the "Request to waive the requirement for a performance bond" ([Appendix 5](#)) form must be completed.

18. PREVENTION OF CORRUPTION

- 18.1
- (a) The Officer must comply with his/her Code of Conduct and must not invite or accept any gift or reward in respect of the award or performance of any contract. Council members must comply with the Councillors' Code of Conduct.
 - (b) High standards of conduct are obligatory. Corrupt behaviour will lead to dismissal or removal from office and is a criminal offence.
 - (c) Attention is drawn to the Council's Whistle-blowing Policy, which is incorporated into the Staff Handbook and is available on the Council's website and Intranet and applies to all staff, Members, contractors and consultants.
 - (d) Officers and Members must be aware of the Bribery Act 2010, which introduced four offences of bribery as detailed in Section 2.2 of the Anti-Fraud and Anti-Corruption Strategy.

18.2 All Candidates for any contract with a total value greater than £5,000 must sign the Council's standard Non-Collusion and Prevention of Corruption Certificate when submitting either a quotation or a tender. (see [Appendix 8](#)).

18.3 The Non-Collusion and Prevention of Corruption Certificate referred to in 18.2 above must be appended to any formal contract and form part of the "contract documents"

Section 5 – General

19. POST-CONTRACT MONITORING AND EVALUATION

19.1 During the life of the contract the Officer must monitor the contract/ contractor in respect of:

- (a) performance
- (b) compliance with the Specification and contract
- (b) cost
- (c) any requirements to improve Value for Money
- (d) user satisfaction and risk management

and in accordance with any corporate guidance.

19.2 Where the total value of the contract exceeded £250,000, the Officer must make a written report evaluating the extent to which the purchasing need and the contract objectives (as determined in accordance with [Standing Order 5.1](#)) were met by the contract and the contracting processes (including the application of these Contract Standing Orders). This should normally be done when the contract is completed and will provide feedback to officers and Members as to the success or otherwise of the contract and the contracting processes. Where the contract is to be re-let, a provisional report should also be available early enough to inform the approach to letting the subsequent contract.

19.3 The Officer should aim, where practicable, to ensure that payments made to a principal contractor are paid to [nominated subcontractors](#) on time and that when paying progress payments to principal contractors, the payments flow down the supply chain. (NB This is seen as good practice in providing support to Small to Medium Enterprises (SME's) by the government).

20. TECHNICAL AMENDMENTS

20.1 The Monitoring Officer has the power 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, after consulting the Deputy Chief Executive, the Audit Manager and the Corporate Procurement Unit.

Section 6 – Land and Property Transactions

21. LAND & PROPERTY TRANSACTIONS

- 21.1
- (a) This standing order applies to acquisitions and disposals of property and land and to leases for a fixed term of more than seven years.
 - (b) All valuations and negotiations in respect of transactions shall be carried out under the supervision of the Property Services Manager or a properly qualified Member of the Royal Institution of Chartered Surveyors or equivalent appointed by the Council.
 - (c) All valuations prepared for the purpose of a transaction must be accompanied by evidence of the values of comparable properties in the locality.

21.2 Acquisitions

No freehold or leasehold interest in land may be negotiated or acquired until a decision has been made by persons with delegated powers as defined in the Council's Scheme of Delegation to do so without:

- (a) A description of the property or land;
- (b) Any information which may affect the value of the property or land including, where appropriate, reports of structural or potential contamination;
- (c) The proposed purchase price or rent level, supported by any relevant evidence of comparable transactions;
- (d) Any other terms and conditions.

21.3 Disposals

21.3.1 Except as provided under 21.3.2 below land or buildings owned by the Council shall not be leased or sold other than on terms approved by persons with delegated powers as defined in the Council's Scheme of Delegation, setting out as appropriate in any particular case:

- (a) an inspection report describing the property or land and its physical characteristics and development constraints;
- (b) a report on title by the Monitoring Officer;
- (c) any information from the Council's records or those of statutory undertakers which would affect the property or land's value or development potential, including any information concerning contamination or possible contamination resulting from the previous use of the land;
- (d) an assessment of the potential for the use of the site or property by the Council;
- (e) an assessment of the development potential of the property or land by the appropriate Council Planning Officer;
- (f) an assessment of the value of the land or property being sold and a comparison between the assessed value and the price being sought from the potential purchaser, including details of any consideration, land exchange, or other pertinent fact as to the price or value of the land or property;
- (g) recommendations on the following:
 - i. issues that need to be resolved before marketing the property or land can proceed;
 - ii. the method of disposal;
 - iii. the title to be transferred;
 - iv. the price the Council must receive along with the "asking" and "reserve price";
 - v. whether legal and other costs must be recovered from the prospective purchaser and if so an estimate of their amount;
 - vi. the appointment of external advisers or agents;

vii. whether negotiations must proceed with a special purchaser.

- 21.3.2 These requirements shall not apply to the letting of the Council's industrial or commercial property or other short-term letting.
- 21.3.3 All disposals of property or land owned or leased by the Council shall be by one of the following methods:
- (a) Private Treaty
 - (b) Public Auction
 - (c) Formal Tender
- 21.3.4 In the event that it is decided to dispose of property or land by way of a tender then so far as it is practicable the procedures laid down in Contract Standing Orders continue to apply.

Appendix 1: Definitions

- "Buying Agency" - Network of public sector organisations that collectively arrange or obtain contracts for the procurement of goods or services. For example, Buying Solutions, Eastern Shires Purchasing Organisation, Central Buying Consortium and Yorkshire Purchasing Organisation. Where appropriate, EU regulations must have been complied with by the Buying Agency concerned and such bodies are themselves bound by EU Procedures in terms of their own procurement.
- "Candidate" - Any person or company who asks or is invited to submit a quotation or tender.
- "Code of Conduct" - Either the code regulating conduct of officers issued by the Chief Executive or Executive Director, Central Services or the Code of Conduct for Members as defined in the Council's Constitution.
- "Constitution" - The constitutional document approved by the Council of which these Contract Standing Orders form a part.
- "Consultant" - Someone employed for a specific length of time to work to a defined project brief with clear outcomes to be delivered, who brings specialist skills or knowledge to the role, and where the Council has no ready access to the skills, experience or capacity to undertake the work.
Where a person is employed on a temporary employment contract via Personnel Services or is employed via an Agency, such a person would NOT normally be considered to be a Consultant for the purposes of Contract Standing Orders, but will be considered to be an Officer if the work they do concerns part or all of the contracting process.
- "Contracting Decision" - Any of the following decisions:
 - composition of Approved Lists
 - short-listing
 - award of contract
 - any decision to terminate a contract.
- "Council's Standard Contractual Terms" - A standard form of written contract (available from the Monitoring Officer) or any other written contract approved by the Monitoring Officer. The terms will usually include: -
 - when the Council will have the right to terminate the contract;
 - that the contract is subject to the law as to prevention of collusion and corruption (see [Standing Order 18](#));
 - any insurance requirements (see also [Appendix 6](#));
 - data protection requirements (if relevant);
 - where agents are used to let or manage contracts, that agents must comply with the Council's Contract Standing Orders relating to contracts, as well as the Council's Financial Regulations;
 - a right of access to relevant documentation and records of the contractor for monitoring and audit purposes (if relevant).
 - details of whether variations to the specification are permitted;
 - that the contractor may not assign or sub-contract without prior written consent

- "Deputy Chief Executive" Chief - The designated Chief Finance Officer providing financial advice to the Council
- "EU Procedure" - The procedure required by the European Union procurement regulations where the total value exceeds the EU Threshold. There are essentially four main means of seeking tenders using the EU Procedure: [Open](#); [Restricted](#); Negotiated; and Competitive Dialogue. Guidance as to the different time-scales and procedures involved should be obtained from either the Monitoring Officer or the Corporate Procurement Unit.
- "EU Threshold" - The contract value at which European Union public procurement directives must be applied, currently £173,934 for the supply of goods or services and £4,348,350 for works contracts (NB figures are from 1 January 2012 and normally change every two years). If in doubt as to which threshold is appropriate or for more up to date thresholds, consult the Monitoring Officer or the Corporate Procurement Unit.
- "Financial Regulations" - The Financial Regulations issued by the Deputy Chief Executive and approved by Council
- "Government Procurement Agreement" - The successor agreement to the General Agreement on Trade and Tariffs. The main signatories other than those in the European Union are: the USA, Canada, Japan, India, Israel, South Korea, Switzerland, Norway, Aruba, Hong Kong, China, Liechtenstein and Singapore.
- "Invitation to Tender" to - Invitation to tender documents in the form required by [Contract Standing Order 11](#).
- "Irregular Tender" - A tender that is not sealed, is received after the appointed time for receipt or is in an envelope that has a mark identifying the candidate.
- "Key decision" - A decision which must be taken by Cabinet or Council.
- "Monitoring Officer" - The designated Monitoring Officer, as defined in the Constitution. Currently the Legal Services Manager.
- "Most Economically Advantageous Tender" - Tenders which are evaluated on criteria which includes non-financial criteria (such as technical merit, aesthetic and functional characteristics, after-sales service, etc.) in addition to price. The criteria used must be declared to candidates at the start of the tender exercise, in order that candidates know if lowest price is not the only basis for the decision as to which candidates will be successful. Only objective economic criteria, strictly relevant to the particular procurement activity may be used. These may include price, service, quality of goods, running costs, technical merit, previous experience, delivery date, cost effectiveness, relevant environmental considerations, aesthetic and functional characteristics (including security and control features), safety, after-sales services, technical assistance and any other relevant matters. Each criterion used should be given a percentage weighting which must include price, with price not being less than 30% of the total, with the rest of the criteria adding up to the remainder.

- "Nominated Suppliers and Sub-contractors" - Those persons specified in a main contract for the discharge of any part of that contract.
- "Non-Commercial Considerations":
- (a) the terms and conditions of employment by contractors of their workers or the composition of, the arrangements for the promotion, transfer or training of, or the other opportunities afforded to, their workforces ("Workforce matters");
 - (b) whether the terms on which contractors contract with their sub-contractors constitute, in the case of contracts with individuals, contracts for the provision by them as self-employed persons of their services only;
 - (c) any involvement of the business activities or interests of contractors with irrelevant fields of Government policy;
 - (d) the conduct of contractors or workers in industrial disputes between them or any involvement of the business activities of contractors in industrial disputes between other persons ("industrial disputes");
 - (e) the country or territory of origin of supplies to, or the location in any country or territory of the business activities or interests of, contractors;
 - (f) any political, industrial or sectarian affiliations or interests of contractors or their directors, partners or employees;
 - (g) financial support or lack of financial support by contractors for any institution to or from which the authority gives or withholds support;
 - (h) use or non-use by contractors of technical or professional services provided by the authority under the Building Act 1984 or the Building (Scotland) Act 1959.
- "Officer" - The officer designated by the relevant Executive Director to deal with the contract in question. A contractor or any person, whether an employee of the Council or not (e.g. an appointed Consultant or agent) who has been designated to manage or supervise, in whatever capacity, on behalf of the Council, is deemed to be an Officer for the purposes of these Contract Standing Orders.
- "Official Journal of the European Union" - The contract advertising medium of the European Union (frequently abbreviated to OJEU). Advertisements or "Contract Notices" are placed in the publication each day, including Saturday and Sunday. In addition, Contract Award Notices are published to inform interested parties of the details of the contract's award. There is no charge for placing a notice in the OJEU.
- "Open Procedure" - All candidates responding to the advertisement are invited to tender.
- "Parent Company Guarantee" - A contract which binds the parent of a subsidiary company as follows: If the subsidiary company fails to do what it has promised under a contract with the Council, the Council can require the parent company to do so instead.
- "Performance Bond" - An insurance policy: if the contractor does not do what it has promised under a contract with the Council, the Council can claim from the insurer the sum of money specified in the Bond (often 10% of the contract value). A Bond is intended to protect the Council against additional costs arising from the contractor's failure.

"Preferred Bidder"	- A participant in a tender exercise that comes top in the initial evaluation of the tenders. Further clarification of tender details or checks on the candidate's financial, health & safety or insurance position may be necessary prior to a contract award decision being confirmed.
"Prior Indicative Notice"	- Published indication in the OJEU of an intention that contracts will be placed. Does not guarantee that contracts will actually be awarded. Allows a reduction in the time-scale for the subsequent procurement process.
"Procurement Officer"	- A member of the Corporate Procurement Unit
"Procurement Unit"	- The Procurement manager and procurement staff.
"Purchasing Card"	- A purchase card (usually a credit card) issued to an Officer by the Council for use in purchasing goods or services on behalf of the Council.
"Quotation"	- A written quotation of price and any other relevant matter for contracts valued at less than £10,000. They can be submitted in an informal manner such as a letter or email and can be received and opened by the Officer and, if appropriate, their Executive Director.
"Record Book"	- The log kept by the Executive Director to record details of tenders up to £100,000 relating to his or her service areas
"Relevant Contract"	- Contracts to which these Contract Standing Orders apply (see Standing Order 4).
"Restricted Procedure"	- Candidates responding to the advertisement are sent a Pre-Qualification Questionnaire and a "restricted" short-list is then created based on the evaluation of the questionnaire responses.
"Service Area"	<p>- Means a unit</p> <ul style="list-style-type: none"> • to whom the decision to purchase (and budget) has been devolved • for the sole use of whom the purchase is intended, and • that takes the decision independently of any other part of the Council. <p>Generally the area managed by an Executive Director or Service Manager</p>
"Short-listing"	- Where candidates are selected to tender or to proceed to final evaluation.
"Specification"	- A detailed description of the goods, services or works to which the intended contract relates. This may include any relevant quality standards; materials required; dimensions; locations; and timing.
"Tender"	- A candidate's proposal submitted in response to an Invitation to Tender for a contract over £10,000.
"Tender Record Book"	- The log kept by the Monitoring Officer to record details of tenders over £100,000.

Appendix 2: Compilation and Maintenance of a Standing Approved List

1. The Corporate Procurement Unit may maintain Standing Approved Lists on behalf of Executive Directors, as a means of pre-vetting contractors for agreed contract categories. Alternatively, Service Area Managers may maintain the Approved List on behalf of their Executive Director.
2. When a Standing Approved List of candidates is maintained, then:
 - (a) At least four weeks before that list is first compiled, notices inviting applications for inclusion in it, from those willing and able to undertake contracts of the specified values, amounts or categories, shall be published in one or more local newspapers circulating in the Borough and in any trade or similar publication the appropriate Executive Director considers desirable.
 - (b) All such lists shall from time to time be amended as necessary, and shall in any event be fully reviewed at intervals of not more than 3 years.
 - (c) Selection from any Standing Approved List must be by rotation, allowing the widest possible choice of contractors a chance of selection over a period of time. The successful contractor from the most recently let contract of a similar nature may also be appropriate for consideration to ensure best value for money for the Authority.
 - (d) Any limitation placed on the person or firm as to the category, class, type or description or relating to the maximum amount or value of the contracts the person or firm may undertake must be noted on the list at the time of inclusion.
 - (e) Any such lists shall be available for inspection by Members and officers of the Council, at any time during normal office hours at the offices of the Corporate Procurement Unit
 - (f) Details of the Approved List must be notified to the Corporate Procurement Unit in order that a central record can be maintained and to avoid unnecessary duplication of effort.
3. Where the Council intends to select contractors from a list maintained by another Local Authority, Government Agency or Department or company, applicants for inclusion who apply to the Council shall be informed that it is the Council's intention to use such an external list and how and where to apply to be considered for inclusion on that list.
4. Where the requirements of these Contract Standing Orders in respect of selecting candidates are not complied with, advance approval by the Cabinet is required.
5. The appropriate Executive Director must notify candidates of any decision taken to exclude or suspend them from the Approved List.

Appendix 3: Post-Tender Negotiations (PTN).

Procedures for Use

1. The candidates to be involved in PTN shall be selected on the basis of evaluation of tenders against the award criteria published in the Invitation to Tender. If initial candidates are to be excluded, the decision shall be justified in writing so as to protect the Council from accusations of anti-competitiveness.
2. Unless approved by the Monitoring Officer, PTN's must not take place where the contract is subject to EU Procedures.
3. As with any form of tender evaluation, criteria other than price should be considered when undertaking PTN's, so that the Council obtains best value overall from the procurement process.
4. If [Contract Standing Order 14](#) applies Post-Tender Negotiations shall be conducted with whatever number of candidates may be considered appropriate by the Officer, in conjunction with the Executive Director responsible for the contract area and the Monitoring Officer.
5. In order to ensure that there is competition between candidates, negotiations shall be undertaken with a minimum of two candidates, unless an Exemption has been formally approved by the Monitoring Officer (see [Standing Order 3.2](#)).
6. The negotiations shall be conducted on the Council's premises or by correspondence. Under no circumstances shall negotiations take place at the premises of a candidate.
7. Negotiations shall be carried out by an officer of senior grade with appropriate technical ability, as designated by the relevant Executive Director, and a Procurement Officer.
8. Full records of negotiations shall be maintained (i.e. names of all persons present at the negotiations, candidate, dates, times, places, details of discussion and agreements reached, signatures of officer and the candidate's authorised representative). All amendments to bids shall be put in writing and signed by the candidate and included in the formal tender documents.
9. Only matters relating to the candidate's bid shall be raised in negotiations. No reference to the bids from other candidates shall be made.

Acceptance of final tender bids shall follow the procedures outlined in these Contract Standing Orders.

Appendix 4: Exemptions

RECORD OF THE EXEMPTION FROM OF THE REQUIREMENTS OF CONTRACT STANDING ORDERS

Contract name/ description:	
Contract Sum:	£
Anticipated date of Commencement of Contract:	
Anticipated date of completion of Contract:	
Contract Supervisor:	
Brief Contract Details:	
Reason(s) for being exempt from the requirements of Contract Standing Orders (i.e. details of which paragraph(s) in Standing Order 3.2 apply) :	
Signed _____ Executive Director	
Approved: _____ Procurement Officer Date:	Approved: _____ Monitoring Officer Date:

Appendix 5: Waiving of the need for a Performance Bond or Parent Company Guarantee

NB The Officer must consult with the Deputy Chief Executive in respect of all tenders where the total value exceeds £250,000 as to whether a Bond and/ or Parent Company Guarantee or other similar security is required.

Contract:	
Contract Sum £	
Date of Commencement of Contract	
Anticipated completion of Contract	
Anticipated cost to the Council of obtaining a Performance Bond £	
Contract Supervisor	
Brief Details of Contract:	
Potential loss to the Council if the Contractor fails to meet the terms of the Contract or ceases trading (include estimated costs of obtaining a replacement contractor, officer time, any difficulties in obtaining a replacement Contractor, difficulties in ascertaining progress to date on the Contract, which would require the replacement Contractor to re-perform any part or parts performed to date. Also show any other costs or difficulties, including time delays or difficulties in meeting service requirements of obtaining a replacement Contractor):	
Performance Bond Required/ NOT required (Delete as required)	
If required, value (normally 10% of the contract sum) £ _____	
Approved: _____ Date:	Executive Director

Appendix 6: Requirements for Professional Indemnity and Public Liability insurance

Introduction

There has been a continuing debate about the level of insurance that the Council asks contractors to have, and the level that the contractors say they are able to obtain in the market, although that can sometimes be read as how much they are willing to pay for insurance.

The Council has a variety of contracts. They vary from substantial contracts for building and environmental improvement schemes, to quite small building works. A contract can be for a large redevelopment scheme, such as the Walks or NORA, to a contract for software.

This Appendix gives guidance to staff when requesting insurance for public liability and professional indemnity.

The risks involved in a contract

The level of insurance should relate to the risks of the contract. The risks are the likelihood of an incident happening and the potential impact. The table below is intended as a guide to assessing the likely impact:

		IMPACT	
		Property	People
High	Value of building and/ or assets are in excess of £5m and damage could affect more than 25% of the building or assets.	and/ or	More than 5 people (members of the public and / or staff) would be put at risk of death or major injury.
Medium	Value of building and/ or assets are in excess of £2m and damage could affect more than 25% of the building or assets.	and/ or	More than 2 people (members of the public and / or staff) would be put at risk of serious injury.
Low	Value of building and/or assets are in excess of £1m and damage could affect more than 25% of the building or assets.	and/ or	One or no persons (members of the public and / or staff) would be put at risk of serious injury.
Trivial	Value of building and/ or assets are less than £1m.	and/ or	No-one, other than the contractor, could reasonably be expected to be put at risk of injury.

The appropriate level of insurance

The normal insurance that is required is £5m but contractors have often asked if a lower level is acceptable. It is likely that a contractor has obtained a higher level (£5m) just for the Council contract, which could be seen as anti-competitive.

£10m may be required for larger projects such as the Walks, or NORA

Using the simple risk matrix shown below the appropriate level of insurance can be decided:

		Likelihood		
		Remote	Unlikely	Could happen
I M P A C T	High	£5 million	£5 million	£10 million
	Medium	£2 million	£5 million	£5 million
	Low	£2 million	£2 million	£5 million
	Trivial	£1 million	£2 million	£5 million

Practical guidance

The usual contractor’s insurance will be £5m. However where Executive Directors consider the risk to be high they should consult with the Accountant responsible for insurance to decide which level is appropriate taking into account the risk, likelihood and impact. If the Executive Director considers the risk to be low and warrants a reduced insurance level (£2 million or less), this will need to be agreed with the Accountant responsible for insurance.

The Executive Director and the Accountant will consider:

- Whether the proposed value of cover is appropriate
- The insurance is valid for the dates of the contract
- Any exclusions from the policy that might cause concern are considered

In the event of any dispute on the level of insurance to be taken, the final decision will rest with the [Deputy Chief Executive](#).

The decision as to the level of insurance required needs to be taken early in the contract-letting process, in order to ensure that the subsequent documentation (e.g. Pre-qualification questionnaire, draft/ specimen contracts) is consistent and refers to the agreed limit, as this may affect the prices included within the contract.

Appendix 7: Standstill Period and Remedies Directive

1. BACKGROUND

The Standstill Period was originally introduced in response to a European Court of Justice case now commonly known as the “Alcatel Case”. For this reason the standstill period is sometimes known as the Alcatel Period.

The purpose of the standstill period is to allow unsuccessful candidates to obtain details of how the contract award decision has been made and, if they think the decision is wrong, to challenge the decision before a contract is signed and legally completed.

More recently The Public Contracts (Amendment) Regulations 2009 have amended the rules on the standstill period and introduced new remedies for aggrieved candidates in response the European Remedies Directive.

2. AFFECTED CONTRACTS

The standstill rules apply only to contracts over the EU Threshold and subject to an EU tender procedure. However, Officers may decide to use the rules for lower value contracts when they feel that it is appropriate.

3. ACTION REQUIRED

The main requirement is that, at the earliest opportunity after the award decision is made, a letter (the standstill letter) should be sent to all participants in the tender advising them of the intended award and providing the following details: -

- the Award Criteria used
- the name(s) of the winning contractor(s)
- the score on each criterion for the unsuccessful candidate in comparison to the score for the winning company.
- the reasons for the differences in the scores including the *characteristics and relative advantages of the successful tender*
- the approximate contract value
- details of the standstill process including the date on which the standstill period ends.

The standstill period must end at midnight on a working and the time is calculated as follows: -

- if the letters are sent electronically (i.e. by email) the standstill period must be at least 10 calendar days after the date of despatch of the letters
- if the letters are sent by post the standstill period must be at least 15 calendar days after the date of despatch of the letters or at least 10 days after receipt of the letters.

Clearly, sending the letters by email is the preferred method.

4. REMEDIES

The major change in the new regulations is that a remedy of “ineffectiveness” has been introduced. This means that, in addition to the damages which could be awarded previously, a contract awarded by a Council that is found to have awarded it unfairly, or where the standstill period has not been correctly applied, can be declared ineffective. (i.e the contract is cancelled). In these circumstances, not only would the aggrieved candidate be awarded damages but also, the successful contractor would be likely to bring a legal action against the Council for breach of contract.

Appendix 8: Certificate of Non-Collusion/ Prevention of Corruption

I/ We certify that:

- a) The prices, specifications and all matters relating to the enclosed Tender/ Quotation have been arrived at independently, without consultation, communication, agreement or understanding for the purpose of restricting competition, as to any matter relating to such prices, specifications and all other matters, with any other person or Organisation;
- b) Unless otherwise required by law, the prices and other information which have been quoted in the Tender/ Quotation have not knowingly been disclosed, directly or indirectly, to any other person or Organisation, nor will they be so disclosed;
- c) No attempt has been made or will be made to induce any other person or firm to submit or not to submit a Tender/ Quotation nor to withdraw or amend a Tender/ Quotation which as either already been or is intended to be submitted for the purpose of restricting competition;
- d) No attempt has been made directly or indirectly to canvass any Councillor or employee of the Borough Council of King's Lynn and West Norfolk or anyone acting on its behalf concerning the award of the contract which is the subject of this invitation to tender.

In addition, no person acting on behalf of or representing the Company has:

- a) offered, given or agreed to give to anyone any inducement, gift or reward in respect of this or any other Council contract (even if I/ we do not know what has been done);
- b) committed an offence under the Prevention of Corruption Acts 1889 to 1916 (or any amendments of them) or Section 117(2) of the Local Government Act 1972 **or the Bribery Act 2010**; or given any fee or reward, or solicited or accepted any form of money, or taken any reward, collection or charge for performing the Works, other than bona fide charges previously approved in writing by the Council;
- c) committed any fraud in connection with this or any other Council contract whether alone or in conjunction with Council members, contractors or employees. I/ we accept that any clause limiting my/ our liability shall not apply to this clause.

The Council's Whistle-blowing Policy is incorporated into this contract in order to reinforce the above requirements and encourage anyone involved in the contracting process to come forward if they have concerns as to the propriety of the Council's contract-letting processes.

I understand that the Council may cancel the contract with me/ the Company if there is evidence of any failure on my/ our part to comply with any of the above and, if necessary, take legal action against me.

Signed:

Name:

Date:

Position:

On behalf of:

(Company Name)

Appendix 9: Social Value Act Form
Public Service (Social Value) Act 2012

Procurement of

How could the goods, works or services above contribute to improvements in the following aspects of the Council's area?	What action is necessary to encourage or achieve these outcomes?
Economic well-being?	
Social well-being?	
Environmental well-being?	
How could the procurement of this contract contribute to improvements in the following aspects of the Council's area?	What action is necessary to encourage or achieve these outcomes?
Economic well-being?	
Social well-being?	
Environmental well-being?	

Signed Date Officer's Name

In order to comply with the Act, the Officer responsible for the procurement must complete this form and retain it in the contract file. The Officer must also ensure that the actions listed are included in the procurement process.

Pre-Screening Equality Impact Assessment

Borough Council of
**King's Lynn &
West Norfolk**



Name of policy/service/function	Contract Standing Orders				
Is this a new or existing policy/service/function?	Existing				
<p>Brief summary/description of the main aims of the policy/service/function being screened.</p> <p>Please state if this policy/service rigidly constrained by statutory obligations</p>	<p>Controls on purchasing and disposals designed to ensure best value for the Council and to ensure that Public Procurement Regulations are complied with.</p>				
Question	Answer				
<p>1. Is there any reason to believe that the policy/service/function could have a specific impact on people from one or more of the following groups according to their different protected characteristic, for example, because they have particular needs, experiences, issues or priorities or in terms of ability to access the service?</p> <p>Please tick the relevant box for each group.</p> <p>NB. Equality neutral means no negative impact on any group.</p>		Positive	Negative	Neutral	Unsure
Age				X	
Disability				X	
Gender				X	
Gender Re-assignment				X	
Marriage/civil partnership				X	
Pregnancy & maternity				X	
Race				X	
Religion or belief				X	
Sexual orientation				X	
Other (eg low income)				X	

Question	Answer	Comments
2. Is the proposed policy/service likely to affect relations between certain equality communities or to damage relations between the equality communities and the Council, for example because it is seen as favouring a particular community or denying opportunities to another?	No	
3. Could this policy/service be perceived as impacting on communities differently?	No	
4. Is the policy/service specifically designed to tackle evidence of disadvantage or potential discrimination?	No	
5. Are any impacts identified above minor and if so, can these be eliminated or reduced by minor actions? If yes, please agree actions with a member of the Corporate Equalities Working Group and list agreed actions in the comments section	N/A	Actions:
		Actions agreed by EWG member:
Assessment completed by:		
Name	Tony Hague	
Job title	Purchasing Officer	
Date	25 September 2012	

Please Note: If there are any positive or negative impacts identified in question 1, or there any 'yes' responses to questions 2 – 4 a full impact assessment will be required.

REPORT TO CABINET

Open		Would any decisions proposed :		
Any especially affected Wards	Operational	(a) Be entirely within cabinet's powers to decide NO		
		(b) Need to be recommendations to Council YES		
		(c) Be partly for recommendations to Council NO and partly within Cabinets powers –		
Lead Member: Cllr Adrian Lawrence E-mail: cllr.adrian.lawrence@west-norfolk.gov.uk		Other Cabinet Members consulted:		
		Other Members consulted:		
Lead Officer: Duncan Hall E-mail: Duncan.hall@west-norfolk.gov.uk Direct Dial:01553 616445		Other Officers consulted: Management Team		
Financial Implications NO	Policy/Personnel Implications YES – personnel	Statutory Implications No	Equal Impact Assessment YES: Pre-screening report attached	Risk Management Implications NO

Date of meeting: 30th October 2012

5 PERMANENT CONTRACTS FOR CARE AND REPAIR STAFF

Summary

The majority of staff in Care and Repair are employed on fixed term contracts (14 employees out of 25). Many of these contracts have run on well beyond two years. This position has reflected the prevailing external funding arrangements that are only confirmed for fixed periods of time, commonly year to year. There have been negative operational consequences of fixed term staff contracts including difficulties with recruitment and retention of staff.

Recommendation

It is proposed to:

1. Replace those fixed term contracts which have run for in excess of two years with permanent contracts of employment.
2. These positions (14 posts, 12.50 FTE) to be shown as an addition to the Council's agreed number of permanent posts, to clearly illustrate that these positions are linked to external funding.
3. To delegate authority for decisions on future staffing levels (both increases and decreases) to the Executive Director Environmental Health and Housing in conjunction with the Portfolio Holder Community and the Executive Director Central Services in conjunction with the Leader. Any future changes to staffing levels to be clearly linked to the provision of services on behalf of other Council's and associated changes in service arrangements or new business opportunities.

Reason for Decision

Although there is no additional certainty with respect to the existing external funding arrangements, there is no justification in continuing to periodically renew fixed term contracts for posts that are envisaged to continue within a permanent staffing structure. Continuous employment beyond two years gives rise to certain employment rights including redundancy payment. There seems no reason to continue extending fixed term contracts if there is no advantage in doing so.

1 Background

- 1.1 The majority of fixed term contract staff have now been employed by the Council for over 2 years, with the longest term standing at over 7 years. The service has been restructured this year to ensure that it is equipped to move forward with existing and future work demands. Valuable time and resources have been given to training. Retaining trained staff is key to the success of the service.
- 1.2 Staff have been working with the uncertainty of continual fixed term contract extensions and several valuable staff have left recently as a result of this uncertainty. The issue of fixed term contracts has been cited as a reason people give for leaving.
- 1.3 Managing a team where the majority of members are on fixed term contracts brings additional challenges with motivating staff and the proportion of management time spent on personnel issues.
- 1.4 Under the proposal all existing salary costs are within Care and Repair budgets, and the proposal will not result in any additional costs. If existing external funding streams were lost the redundancy costs associated with any possible reduction in staff numbers would not be greater if all existing contracts in excess of two years were now made permanent. Redundancy payments are triggered after two years continuous employment – whether on a fixed term or permanent contracts.

2 Policy and Personnel Implications

- 2.1 The proposal fits in with a Council policy decision relating to Civil Parking Enforcement (CPE) made in 2011 (Cabinet 8 March). The proposal is made in the same context as this decision where services are managed across different council boundaries to save costs. Matters of staff numbers and contract terms are delegated to the relevant Executive Director and Portfolio Holder to ensure that decisions can be made in a timely responsive way. Decisions on the appropriate status of a contract term, fixed or permanent will be based on whether operations are expected to continue, and whether activities are of a time limited /project basis or not.

3 Financial Implications

- 3.1 There are no additional costs associated with the proposal. Details of existing external funding contributions are contained within **Appendix A**.

4 Staffing Implications

- 4.1 The proposal will result in an additional 14 permanent contracts (12.50 FTE). It is proposed that these posts are shown as part of the Council's overall establishment in the same way as posts engaged in connection with CPE, i.e. posts directly linked to external funding/the delivery of contracts on behalf of other Authorities rather than core posts for the Borough Council of King's Lynn and West Norfolk. Such posts are not counted within the agreed capped permanent establishment.

5 Statutory Considerations

- 5.1 A key role for Care and Repair is delivery of statutory disabled adaptations.

6 Equality Impact Assessment (EIA)

- 6.1 A screening report is attached in **Appendix C**. Existing staff could claim that they are being treated unfairly if there is no reasonable justification for the continuation of fixed term contracts as outlined in the report.

7 Risk Management

- 7.1 Any costs relating to redundancy in the event that staffing number reductions are required will arise whether existing staff remain on fixed term, or permanent contracts.

Background Papers

Set out below

Appendix A

CARE AND REPAIR EXTERNAL FUNDING 2012/13

A. CORE HIA SERVICES

1. SUPPORTING PEOPLE FUNDING - £93,545 FOR 2012/13

Supporting People Norfolk County Council - £39,704 for West Norfolk service 2012/13

- Notification has just been received that the contract with SP is to be extended to 1st December 2015.

Supporting People Norfolk County Council - £22,332 for Breckland service 2012/13

- Notification has just been received that the contract with SP is to be extended to 1st December 2015.
- The Service Level Agreement with Breckland DC expires 31st March 2013 and as yet there is no news on whether the service will continue beyond that date largely because the housing services in both Breckland DC and South Holland DC are currently being reviewed.

Supporting People Cambridgeshire county Council £31,509 for Fenland service 2012/1013

- SP funding is in place for Fenland HIA service until 31st March 2014.
- However, we need to extend the Service Level Agreement with Fenland DC beyond 31st March 2013 to guarantee these resources. FDC are currently considering our request to extend the SLA up to 31st March 2014.
- Within the next 12 months or so the HIA commissioners will determine whether or not the Fenland HIA service will continue as a separate service or be included within one HIA covering all of the County.

LOCAL AUTHORITY FUNDING (EXCLUDING BCKLWN) - £58,000 for 2012/13

Breckland DC - £28,000 for 2012/2013

- No LA funding promised beyond 31st March 2013.
- Future of HIA service awaiting outcome of internal review of BDC and SHDC housing services.

Fenland DC - £30,000 for 2012/2013

- No LA funding is currently promised beyond 31st March 2013.
- See Cambridgeshire SP notes.

OTHER FUNDING PARTNERS – FOR CORE HIA SERVICE IN FENLAND- £44,860

Cambridgeshire CC Social Services - £29,100 for 2012/2013

- Continued funding is promised for 2013/2014
- See Cambridgeshire SP notes

Cambridgeshire PCT - £15, 760 for 2012/2013

- Continued funding is promised for 2013/2014
- See Cambridgeshire SP notes

B. FUNDING OF OTHER SERVICES

CARELINE/HANDYPERSON SERVICE

Norfolk PCT £50,000

- One-off contribution for 2012/13

Fenland DC – one-off contribution of up to £20,000 for 2012/2013 from Fenland core HIA reserve

- Case being made for funding from Cambridgeshire CC
- Possible use of core Fenland HIA service annual funding also under discussion

Breckland DC - £10,000 Enhance capital grant for eligible works including labour/admin costs

When used up there is the possibility of another £10,000 being released by BDC.

FIRSTSTOP HOUSING CHOICES SERVICE

Norfolk Supporting People £47,000

- Balance at 31st March 2012 was £26,000
- It is likely that this will be fully utilised by the end of 2012/13
- There is no chance of further SP funding

FirstStop - £13,000

- Balance at 31st March 2012 £6,500
- Will be spent by 30th September 2012
- No chance of further FS funding
- FD fund raiser to meet with C&R

Appendix C

**Care and Repair staffing contracts
Pre-Screening Equality Impact Assessment**

**Borough Council of
King's Lynn &
West Norfolk**



Question	Answer	Decision	Comments
<p>1. Does this policy/service impact on internal/external customers differently according to their different equality communities, for example, because they have particular needs, experiences or priorities?</p>	No	Yes/Not sure - Impact assessment required No - impact assessment not required	
<p>2. Is there any reason to believe that staff or customers could be affected differently by the proposed policy/service according to their equality community, for example in terms of access to a service, or the ability to take advantage of proposed opportunities?</p>	No		
<p>3. Is the proposed policy/service likely to affect relations between certain equality communities or to damage relations between the equality communities and the council, for example because it is seen as favouring a particular community or denying opportunities to another?</p>	No		
<p>4. Could this policy/service be perceived as impacting on communities differently?</p>	No		
<p>5. Is this policy/service rigidly constrained by statutory obligations?</p>	No		
<p>6. Is the policy/service specifically designed to tackle evidence of disadvantage or potential discrimination?</p>	Yes		There is no reasonable justification to continue granting fixed term contracts to staff whose roles are envisaged to continue, and where there is no financial or other reason for the Council to do so. Staff could claim that they are being treated unfairly to others in the organisation.
<p>Assessment completed by: Name: Duncan Hall Job title: Housing and Health Manager</p>	<p>Date:</p>		

REPORT TO CABINET

Open		Would any decisions proposed :		
Any especially affected Wards	Discretionary / Operational	(a) Be entirely within cabinet's powers to decide YES (b) Need to be recommendations to Council NO (c) Be partly for recommendations to Council NO and partly within Cabinets powers –		
None				
Lead Member: Cllr N Daubney E-mail: Cllr.nick.daubney@west-norfolk.gov.uk		Other Cabinet Members consulted:		
		Other Members consulted:		
Lead Officer: Debbie Gates E-mail: debbie.gates@west-norfolk.gov.uk Direct Dial:001553 616605		Other Officers consulted: Management Team, Personnel Services Manager		
Financial Implications YES	Policy/Personnel Implications YES	Statutory Implications NO	Equality Impact Assessment req'd NO	Risk Management Implications NO

Date of meeting: 30th October 2012

6 CORPORATE APPRENTICESHIP SCHEME

Summary

As part of Central Services Directorate Plan for 2012/13 it was agreed that Personnel would investigate the potential benefits and costs of introducing an Apprenticeship Scheme to the Council. A report was taken to Management Team in August where it was agreed that the proposal should be taken forward for consideration by Cabinet.

Recommendation

- 1) That six apprentices to be employed on 18 month Fixed Term Contracts which are supernumerary to the Fixed Term Establishment List.
- 2) That these posts be funded corporately and that the cost of the apprentices (either £13,484 or £14,795 per annum (including oncosts) depending on their age) be met from budget savings made to date in the 2012/13 year.

Reason for Decision

To support the Council's corporate objectives relating to helping people in West Norfolk maximise their potential. This proposal will enable the Council to offer employment opportunities for young people in a range of job roles. This proposal is also a clear demonstration to other local businesses of the Councils commitment to supporting young people in West Norfolk.

1. Background

1.1. Apprenticeships are a Government initiative to offer an alternative to university for people looking for a direct and affordable route to skilled jobs and careers. Apprenticeships are available to anyone over 16 years of age and who are not in full-time education and are in employment. An apprentice can therefore learn a profession in the workplace whilst being entrusted with tasks that contribute to the organisations productivity.

1.2. Apprenticeships are available at different levels; intermediate (Level 2), advanced (Level 3) or higher (level 4) and at each level there are specific additional qualifications that must be achieved by the apprentice. These qualifications cover such areas as maths, English, IT and act as back up the technical and competency qualifications the apprentice gains in the workplace.

1.3. There are a wide range of apprenticeships available with over 200 different types of apprenticeships on offer however, many of these would not “fit” with the services that the Council delivers. An assessment of available courses has been undertaken against the needs of the organisation which has resulted in the proposal to provide the six apprentice opportunities in the following areas:

- Two Business Administration apprentices based within Kings Court
- Front Office Receptionist based at Downham Market Leisure Centre
- Accountancy based at Kings Court
- Horticulture based at the Depot
- Exercise and Fitness based at Downham Market

1.4. It is normal that the training element of an apprenticeship is provided by local colleges of further education and therefore appropriate training providers have been identified to supply the required training.

1.5. The Council as employer would be required to pay an apprentice £2.65 per hour (apprentice minimum wage from October 2012) for apprentices who are either under 19 or in the first year of their apprenticeship. The National Minimum Wage is then applicable for those over the age of 19 who have completed their first year of an apprenticeship. Typically employers pay a lower starting rate and then increase pay after 6 months of service or when an apprentice has demonstrated competence in the workplace. With this in mind a pay progression scheme has been developed for the apprentices to recognise their development during the training, as follows:

16 to 20 year olds or those within first year of apprenticeship:
£2.65 per hour £2.65 for the first six months.

£3.68 per hour from six months up to twelve months.
£4.98 per hour from twelve months onwards (for those aged 16 to up to the age of 21)

This would be a cost per apprentice over an 18 month period of £13,484 (including on costs).

21 years and older and in second year of apprenticeship:
£6.08 per hour from twelve months onwards

This would be a cost per apprentice over an 18 month period of £14,795 (including on costs).

- 1.6. In addition to the cost of employing an apprentice is the cost of associated training, which is part funded by the Government. Employment costs would be off set by a grant of £1,500 payable to the Council for each apprentice (aged between 16 and 24) at their thirteenth week of employment.
- 1.7. Each apprenticeship post will need to be clearly described as a training role within the job description and any recruitment to the posts should be carried out locally via the Council Website, the Job Centre and by the College of West Anglia.
- 1.8. As an apprentice employer the Council would be able to display the employer badge as illustrated below on all Council documents, at no cost and the Council would also be able to display a certificate in Reception to recognise the commitment to the Apprenticeship Scheme.



- 1.9. The areas of work selected for apprentices, as outlined in point 1.3, roles where the Council anticipates that there will be a reasonable level of turnover, providing opportunities for the apprentices to seek permanent employment within the organization. If such opportunities are not present at the end of the apprentices training period the Council will provide appropriate support and guidance to assist the apprentice in obtaining alternative employment within the local area.

2. Policy Implications

2.1 There are no policy implications.

3. Financial Implications

3.1 There is no budget provision for the apprenticeship scheme. The costs of the posts over an eighteen month period are estimated to be £80,900 with a government grant of £9,000 reducing this cost to £71,900. It is proposed to meet this cost from the savings of £313,000 made to date in 2012/13.

3.2 Any separate costs of training will be met from the Corporate Training Budget in the relevant year.

4. Staffing Implications

4.1 There will be an additional six employees to the fixed term establishment list for a period of eighteen months. The apprentices will require support and coaching by their line management and regular mentoring. Relevant line managers will be provided with appropriate training to ensure they are able to provide the necessary support the apprentices during their training period.

5. Statutory Considerations

5.1 The apprentice posts will be required to be advertised locally through the College of West Anglia, the Council Website and the Job Centre. All advertising, recruitment and selection responsibilities will fall within the remit of the Councils recruitment procedure and be covered by all statutory employment legislation.

6. Equality Impact Assessments (EIA's)

6.1 There is no requirement for a full Equality Impact Assessment to be completed. An Equality Impact Assessment pre-screening form is attached.

7. Risk Management

7.1 Apprentices are required to be supported by the employing organisation through reviews and managers will be expected to act as coaches with each apprentice. Appropriate training will be provided to managers in this position and clear training frameworks will be produced for each apprentice. The Personnel Office will act as the workplace learning mentor and scheme co-ordinator.

8 Background papers

Report to Management Team



Question	Answer	Decision	Comments
<p>1. Does this policy/service impact on internal/external customers differently according to their different equality communities, for example, because they have particular needs, experiences or priorities?</p>	No	Yes/Not sure - Impact assessment required No - impact assessment not required	
<p>2. Is there any reason to believe that staff or customers could be affected differently by the proposed policy/service according to their equality community, for example in terms of access to a service, or the ability to take advantage of proposed opportunities?</p>	No		
<p>3. Is the proposed policy/service likely to affect relations between certain equality communities or to damage relations between the equality communities and the council, for example because it is seen as favouring a particular community or denying opportunities to another?</p>	No		
<p>4. Could this policy/service be perceived as impacting on communities differently?</p>	No		
<p>5. Is this policy/service rigidly constrained by statutory obligations?</p>	Yes		Employment Legislative Requirements
<p>6. Is the policy/service specifically designed to tackle evidence of disadvantage or potential discrimination?</p>	No		
<p>Assessment completed by: Name: Janet Flood Job title: Personnel Officer</p>	<p>Date: 20th September 2012</p>		

REPORT TO CABINET

Open		Would any decisions proposed :		
Any especially affected Wards	Operational	(a) Be entirely within cabinet's powers to decide YES (b) Need to be recommendations to Council NO (c) Be partly for recommendations to Council NO and partly within Cabinets powers –		
Lead Member: Cllr Nick Daubney E-mail: nick.daubney@west-norfolk.gov.uk		Other Cabinet Members consulted:		
		Other Members consulted:		
Lead Officer: Becky Box, Personnel Services Manager E-mail: becky.box@west-norfolk.gov.uk Direct Dial: 01553 616502		Other Officers consulted: Management Team, Executive Director Finance & Resources, Procurement Officer, Executive Director Central Services		
Financial Implications NO	Policy/Personnel Implications NO	Statutory Implications NO	Equal Impact Assessment NO	Risk Management Implications YES

Date of meeting: 30th October 2012

7 OUTSOURCED PAYROLL CONTRACT

Summary

In September 2012 Cabinet considered a report outlining the tendering process being undertaken to award the contract for outsourced payroll provision from 1st April 2013. The tendering exercise has now been completed and the assessment process is underway to identify the successful contractor. The results of the process will be reported to the meeting.

Recommendation

That Cabinet approve the awarding of the outsourced payroll contract to a tenderer to be confirmed prior to the meeting.

Reason for Decision

In accordance with the Council's contract standing orders it is necessary for the contract awarded to the successful supplier to be approved by Cabinet.

1. Background

1.1 In September 2012 Cabinet considered a report outlining the process being undertaken to award the contract for outsourced payroll provision. This included information on the timetable for the award and implementation of the contract, the pre-qualification questionnaire stage of the procurement process and the award criteria that would be used to identify the successful supplier.

2. Invitation to Tender

- 2.1 Six companies were invited to tender for the contract. Tenders were received by the deadline of 12th September. Following an assessment of the tender documentation, companies were invited to make formal presentations to relevant Officers during the week commencing the 8th October 2012.

3. Contract Award

- 3.1 The results of the tender evaluation and recommendation for the successful tender will be reported to the meeting.

4. Policy Implications

- 4.1 This procedure is consistent with the Council's contract standing orders for contracts of a value exceeding £250,000.

5. Financial Implications

As per Cabinet report of 4th September.

6. Staffing Implications

As per Cabinet report of 4th September.

7 Statutory Considerations

As per Cabinet report of 4th September.

8 Equality Impact Assessments (EIA's)

Not applicable

9 Risk Management

As per Cabinet report of 4th September

10 Background Papers

Cabinet Report 4th September 2012.

REPORT TO CABINET

Open		Would any decisions proposed :		
Any especially affected Wards King's Lynn	Discretionary /	(a) Be entirely within Cabinet's powers to decide YES		
	Operational	(b) Need to be recommendations to Council NO (c) Be partly for recommendations to Council NO and partly within Cabinets powers –		
Lead Member: Cllr Alistair Beales E-mail: Cllr Alistair.Beaales@west-norfolk.gov.uk		Other Cabinet Members consulted: Cllr Brian Long Cllr Adrian Lawrence		
		Other Members consulted:		
Lead Officer: Dale Gagen E-mail: dale.gagen@west-norfolk.gov.uk Direct Dial: 01553 616505		Other Officers consulted: Management Team, Duncan Hall, Matthew Henry, Ostap Paparega and Alan Gomm		
Financial Implications YES	Policy/Personnel Implications NO	Statutory Implications YES	Equal Impact Assessment NO If YES: Pre-screening/ Full Assessment	Risk Management Implications YES

Date of meeting: 30 October 2012

8 PROPOSAL FOR A LARGE SCALE HOUSING DEVELOPMENT ON SOME OF THE COUNCILS LAND HOLDINGS

Summary

This report shows how a significant housing development could be progressed on the Councils housing land under arrangements that would see the Council retaining an equity investment in the development rather than simply disposing of the assets. It sets the current market scene shown from the Housing, Property, Regeneration and Planning perspective and then considers the reasons why such a scheme would be good for the local economy as well as the Council, whilst demonstrating how any risks to the Council can be mitigated.

Recommendation

That Cabinet

- 1. Approves a budget of £30,000 to take the project through to the procurement stage.**
- 2. Requires a further report which updates members on progress made and how the procurement is to be evaluated prior to it being advertised in the European Journal.**

Reason for Decision

To help the Authority meet the housing needs of resident population, producing a capital receipt and help stimulate the local economy and jobs market.

1. Background

1.1 Officers have been investigating ways in which the Council can encourage the development of its Housing sites. Development not only helps the Authority meet the housing needs of the Borough, but could also produce a capital receipt and help to stimulate the local economy and jobs market.

1.2 Over the last six months officers have met with a number of private sector developers and registered providers of social housing in relation to this proposal for a joint venture development on land owned by the Council. Genuine interest has been expressed in the proposal, with common sentiment that the traditional speculative development model relying entirely on personal mortgage finance is not working well. It is commonly held that alternative approaches that include homes built to rent and homes for sale should be favoured given lending conditions and increasing demand for privately rented homes. There is every reason to think that this interest will be translated into participation in a tender process.

1.3 This report shows how a significant housing development could be progressed on the Councils housing land. It considers the reasons why such a scheme would be good for the Local Economy as well as the Council, whilst demonstrating how risk to the Council can be minimised. It then shows how this scheme can be progressed through the procurement stage at which time Members will need to decide if the scheme progresses further. The report also considers the drivers that make this type of model work and suggests how changing these drivers will effect the financial, housing and regeneration impact of the scheme.

2. The Development Proposal

2.1 The proposal is to develop 500 to 700 housing units over a four year period. The sites comprising, Marsh Lane part of the LynnSport housing site, an Affordable Housing site on Columbia Way, a possible Retirement Development on the Puny Drain (HCA land) and the Rosemary Coaches site.

2.3 The main aim is to ensure that these units are built over a four year period, to meet the housing needs of the resident population, to produce a capital receipt and help stimulate the local economy and jobs market. Given current market conditions, which are expected to last for many years to come the deal is likely to take the form of a 'Special Purpose Vehicle (SPV) Joint Venture, with a number of companies created to manage the building, selling and renting of the units.

2.4 The model we are exploring builds all the units over a four year period with 15% affordable units being provided in line with current policies. A case will be made at the planning stage to provide in an exceptional way all the required affordable housing on one site at Columbia Way, subject to planning approval.

2.5 The developer would then sell as many of these units each year as possible. At the time of writing this report an estimate of 50 units per year seemed reasonable; income from these units would be used to help fund the rest of the scheme, whilst not flooding the market and depressing it further. The remaining units would be let and dripped back into the sales market over a period of years.

3. The Housing Perspective

3.1 It is clear King's Lynn mirrors national trends when it comes to demand pressures on housing. The private rented sector has faced significant demand pressures compounded by 'would be' purchasers being unable to buy because of high deposits needed and constraints on lending to first time buyers particularly. The Council's housing teams are seeing more people struggling to secure private rented homes because supply cannot meet demand. Housing teams are also seeing more complaints relating to poor conditions, management practices, and overcrowding in the private rented sector. Any increase in the supply of good quality rented accommodation will ease demand pressures

3.2 Headline information from the 2011 census indicates a population increase of 9% for West Norfolk. Previous local housing research suggests that the area is subject to significant levels of in-migration of retiring households from outside the area.

3.3 The government in its National Housing Strategy (Laying the Foundations: A Housing Strategy for England 2011).reaffirms the need to boost the supply of new homes. It also sets out its commitment to a strong private rented sector "*The private rented sector is continuing to grow in size and importance – that is why we are supporting landlords and investors to invest..... We are also supporting new Build to Let models of development, where homes are built specifically for the private rental market, with funding from investors with a medium to long term interest.*" Whilst the obvious benefit of this is to help house the expanding population it is also seen as a key driver for economic recovery. The strategy refers to the opportunity to boost supply through making use of public land (40% of all deliverable sites being in public ownership). Developing in this way on the Councils land not only meets this national government aim, but also contributes to the local regeneration aims of the town, and significantly improves the quality of the built environment.

3.4 The supply of privately rented homes is an increasingly significant factor in relation to the Council's work in the prevention of homelessness. As the supply of new affordable housing starts to reduce, access to an adequate supply of private rented options is important if the need for temporary accommodation is to be avoided. Whilst this proposed development aims to deliver high quality rented accommodation; the impact of increasing supply and competition should result in the existing stock also being improved. This should result in an overall increase in the quality of the housing stock within the Borough.

3.5 The Government commissioned research into barriers to institutional investment in private rented homes 'The Montague Review' was commissioned to look at the barriers to institutional investment in private rented homes, recognising the under-developed and fragmented nature of this market in the UK compared to many other comparable economies. The evidence heard, made a strong case for developments designed for private rent, which could deliver real benefits for communities and could also be an attractive investment proposition.

3.6 From a housing perspective this scheme would be good for the Council as it will increase the number of houses available within the Borough and thus reduce housing market pressures and the demand for social housing. From recent publications strong connections have been made between the availability of good housing and the start up of new businesses. This has been said to be because there is no point in building a new business if there is a shortage of good quality housing; both for rent or sale, within the local area for your staff.

4. The Property Perspective

4.1 Since the on-set of the national, and indeed global, economic crisis in 2008/9 housing markets have been severely impacted in the United Kingdom. At present the lack of available mortgage finance, the cost of mortgage finance, the requirement for larger deposits and the general nervousness of the national house-builders has dramatically slowed the delivery of new housing stock. The consequence of this situation is:-

- there is a lack of supply in both the market and affordable housing exacerbating the housing needs issue – even before 2008 there was consensus that the supply of housing was not keeping pace with demand
- first-time buyers find it difficult to acquire their first home which impacts on the ability for others to “trade-up”
- there is a lack of activity in the construction industry which in turn impacts upon the associated/related supply chain
- there is a lack of spend associated with a more buoyant housing market with a higher turnover in the housing stock ie spend on fees, furniture, white goods, carpets, décor etc

4.2 The demand for housing has not diminished and, owing to some of the factors stated above, the market has shifted towards the private rented sector. Inevitably the increase in demand in this sector has impacted upon the price, and rents in this sector have improved over the past 2-3 years. With residential capital values being suppressed and rental values and strength of demand improving – this has inevitably had a positive impact upon the rates of return on this form of investment. The combination of strong

demand, improving returns and the potential for capital growth when the housing market improves means that this form of investment is becoming a more attractive prospect for investors.

4.3 Prior to the global downturn house-builders were more willing to risk acquisition of large areas of land owing to the buoyant demand for housing and the accessibility mortgage finance. There is however growing opinion that the housing development market may have changed permanently and that developers/house-builders may seek to de-risk developments by entering into a more partnership arrangement with landowners. Inevitably this will mean that the landowners will need to share some of the risk with the developers and it is anticipated that the likely development model will release capital in smaller more frequent chunks of capital as a development progresses ie the landowner may need to receive much of their land value on the sale of completed units.

4.4 The model being promoted within this report seeks to take advantage of the existing market conditions and in simple terms it means delivering housing and taking its capital receipts over a period of time, during which time it is hoped that the housing market will improve thereby providing an improved capital receipt position overall.

4.5 The Council still has significant land holdings in the King's Lynn area. However there is a real risk that if this land is not developed in the next few years it will be overtaken by new sites identified in the recent Planning Core Strategy , which are considered more desirable by developers. This could result in us being unable to sell our site for many years to come.

4.6 Currently due to the economic climate it is unlikely that anyone would be willing to buy our land and develop it in the next few years at the value we would wish to realise. This is because most developers still have considerable land banks behind them and because the current practice is to build only 20 to 30 units per year. However there is no advantage at this stage to rule out this method of disposal and officers will continue to investigate any leads that may arise.

4.7 From a property perspective this scheme would be good for the Council as it will result in a phased capital receipt as the buildings are sold. This should mean, subject to the final deal, that the council should see an enhanced capital receipt once the market turns again. It will also ensure that these sites are sold / developed before more favourable sites come on to the market, reducing the risk that these sites remain undeveloped into the future. This is important as the longer term capital programme is reliant on land such as this being sold.

5. The Regeneration Perspective

Impact on the local economy

5.1 The proposal to deliver a major housing development can have a number of positive impacts on the local economy. Nathaniel Lichfield & Partners have published an analysis of economic benefits that residential developments bring to the local economy.¹ Their example evaluated the impact of building 300 homes on the local economy. Below are the key findings:

- Building 300 family homes would generate 245 temporary jobs during construction stage and 29 permanent equivalent jobs could be supported in the supply chain
- Construction of 300 family homes would generate an estimated additional expenditure of £430,000 per annum in the local area
- Construction of 300 family homes would generate £3.5m GVA (Gross Value Added)

5.2 Housing developments also enhance the economic performance and place competitiveness of a locality and wider & quality housing choice can influence the recruitment and retention of skilled workers. Investment in new housing also generates revenue from intermediary fees, repairs and maintenance and increased consumption spending on housing services such as rent, service charges and utility services.

5.3 The impacts of new housing investment vary by tenure. Private renting, which this development is largely based on, provides a more flexible tenure which can contribute importantly to labour mobility whereas levels of mobility in social renting and owner-occupied sector are relatively low,²

6. The Planning Perspective

6.1 This section of the report looks at the LDF situation including the relationship to the Core Strategy and the Site Allocations documents.

6.2 The Core Strategy Adopted in July seeks to provide for 16,500 dwellings across the Borough in the period 2001 to 2026. As at mid 2009 there are sites with permission or there have been completions amounting to some 9,500 houses. This leaves about 7,000 to find as new allocations. In Kings Lynn the Core Strategy makes provision for about 5,000 of those allocations. The overall proportion of new housing (commitment / completions and allocations) coming to Kings Lynn is around 45%. Applying this to the averaged completion projection of 600pa to 2026 we could expect to see some 270 houses per year constructed in the town.

¹ Nathaniel, Lichfield & Partners, *eValueate:Housing* (March 2012), www.nlplanning.com

² Whitehead at al, *What does the literature tell us about the social and economic impact of housing* (2010), www.scotland.gov.uk/socialresearch

6.3 Individual site identification / allocations will be made in the Site Specific Allocations and Policies plan, which is currently in a consultation phase. Two of the sites being discussed are identified in the plan as redevelopment opportunity sites. The third – NORA already has an existing planning permission and would have been counted in the existing commitments (albeit that we know amendments to those permissions are likely).

6.4 Given that the sites within the town are potentially acceptable as they stand, they are different from ‘green field’ edge of town sites. We need to positively allocate the latter. However the sites need to have some certainty of coming forward to count towards the 2026 total.

6.5 Broadly the numbers are:

Site	Assumption in plan	Proposed element	Notes
NORA	765	155	Lesser part of the overall site. Note that full site numbers likely to be less in long term as well.
Marsh Lane	154	166	
Lynnsport	437	266	Lesser part of the site
Total	1356	587	

6.6 By 2026 the three sites (on current assumptions) are anticipated to have provided 27% of the completions in the town, or 8% of total borough completions. They are therefore significant sites. On a per annum basis it is anticipated that the proposal would develop the sites out over 4 years. Therefore when the development is occurring (approx 150 units p.a.) it could amount to 55% of annual completions in the town.

7. The Drivers for the Scheme

7.1 From above it has been demonstrated that this proposal fits well with both the Councils local policies and the Governments national policies relating to Housing Growth, Regeneration and Stimulation of the Economy. However the financial impact of this proposal will change considerably depending on the weighting given to certain drivers when taking the proposal forward. These drivers and the possible effect they have on the scheme are listed below : -

- Type of Sale (Straight Sale or Joint Venture)
- Level of Capital receipt
- Scale of Affordable units left on the site when sold out
- Build Quality (Code Level)
- How the scheme is funded
- Scale of the development

- Jobs / Apprentices facilitated by the works

7.1.1 Type of sale – There are several ways that a site may be disposed of these include :-

- Straight sale
- Development Licence
- Joint Venture

Each of these can include other mechanisms such as claw back agreements, phased payment arrangements etc to ensure that the risks and rewards associated with the development are shared in a way that both contracting organisations get what they expect from the contract, whilst factoring in the risks associated with the proposal and reducing them where possible.

- Straight Sale - Due to the current economic climate it is unlikely that anyone would be willing to build out as large a scheme as this within four years. This is demonstrated in the local market, where current practice is to build only 20 to 30 units per year. However there is no advantage at this stage to rule out this method of disposal.
- Development Licence – There can be many other clauses associated with a development licence, however use of this type of agreement does not always result in the land being developed within the expected time scales. Depending on the terms of the agreement and the financial penalty if the scheme does not progress as planned, the site may just stand for several years, until the developer is either forced into development as a result of the option coming to an end or handing it back and accepting the penalty agreed within the terms. The development only taking place, if the developer can see a profit from the development model they are using. Again at this stage there is no advantage to ruling out this type of sale.
- Joint Venture – The advantages of this type of agreement are many especially on a proposal that will mature over a 12 year plus period. This is mainly due to the fact that a developer normally achieves their best profit margins at the end of a development and the Council could share part of this extra value. The Council would also have more control on how and when the development is delivered. But it must also accept the responsibility of sharing both the risks and rewards associated with the

proposal. Again at this stage there is no advantage to ruling out this type of sale.

- 7.1.2 The Level of Capital Receipt – To some extent this driver will determine the interest of parties willing to take part in the venture and the level of the other drivers. The higher the initial receipt is set the less likely the project is to attract a range of proposals. It will also impact on the level of achievement that the other drivers have.

From our preliminary investigations with the Homes and Communities Association (HCA) and a National Developer we would expect to be able to achieve a receipt of between, £8 to £10 million. This is likely to be spread in proportion to the sales profile and will vary according to the level of importance associated to the other drivers and the model the contracting party is using.

- 7.1.3 Scale of Affordable units left on the site when sold out – The more affordable units, the less viable the scheme becomes. This is due to the cost associated to the developer in providing such units without any subsidy from the HCA. This has been demonstrated previously which has resulted in the Councils current position of only requiring developers to make a 15% provision for 'Affordable Units'. At this stage it is proposed to set the minimum level of 'Affordable Units' at 15%

- 7.1.4 Build Quality (Code Level) – Most developers will only build to current building regulation standards. These govern not only the quality of materials used and their heat conductivity qualities but also space requirements and use of renewable energy and water savings devices. As such the higher the code level the more expensive the build cost and the less profit gained by the development.

The current Building Regulations equate roughly to code level 3 minus, where as the current proposals for NORA are at code level 4. From negotiations with the HCA we have determined that 'Millennium Community Standards' equate roughly to a mix of 25% code 4 and 75% code 3.

As practices improve and the cost of new technologies reduce and the difference in cost of the various code levels also reduce. Also as a direct result of the current economic difficulties the build costs are currently very low and this also seems to have reduced the additional cost between the different code levels.

The main risk of this proposal will be associated with the sales and rental revenue associated with the proposal. The main risk being what else is competing with it in the King's Lynn market. If we are able to build at a higher code level (say code 4) and build all the units now when build costs are low, we should have a better chance of selling or

letting the units than other more traditional units which will be both smaller and less energy efficient than ours.

By building to code level 4 using traditional building methods we are more likely to be building sustainable units and communities, which will last into the future. It is therefore recommended that the proposal should ask that all units are built to code level 4 and be tenature blind.

7.1.5 How the scheme is funded – The funding mix to some extent will determine the tenature mix of the development. It also effects both the viability and the amount of risk associated with the project. In the current economic situation it is likely that this scheme will only happen if parties are able to come up with a new model partly funded by institutional investors which will help reduce the risks associated writhing the venture as the scheme would be partly funded by these organisations using significantly lower levels of interest. As a result of this it is not proposed to restrict how the scheme is funded but to take this into account as part of the selection process.

7.1.6 Scale of the development – There is currently little interest in the housing market other than for small scale and small risk projects, which sell immediately into the market. This scheme requires the developer to build their proposal out within 4 years and allows for a mixture of sales, private rented and affordable units to be built. The only constraints that should be put on the scheme is a minimum number of units and the order in which the three sites should be developed.

For the scheme to deliver the benefits outlined in the report, the number of units should not be less than 500 and Logically the sites should be developed in the order of Marsh Lane and Columbia Way due to financing reasons followed by LynnSport and the NORA Land both of which will require more time to get ready for development.

7.1.7 Jobs / Apprentices facilitated by the works – As it is proposed to build the scheme out over a four year period, the scheme lends itself to providing apprentices, that could even be cost neutral over the life of the scheme. As such we should state that any proposed scheme should have an apprentice element and that this will be taken into account as part of the overall appraisal of the submissions.

8 The Next Stage

8.1 Currently this authority is ahead of the pack in its thinking as evidenced by the Montague report. However many other authorities in more desirable areas are now likely to start looking at this type of proposal following the publication of the Montague report. It is therefore important, if we are to progress this idea further to design a procurement and evaluation pack to secure the necessary partners and funding for the scheme. It is important to note that no commitment is made by the authority until after a preferred

partner is found and the Council decided that it still wants to go ahead with the project.

9 Policy Implications

9.1 Any policy implications will be identified after the procurement stage of the project at which time the full implications of the proposed scheme will be known.

10 Financial Implications

10.1 To allow a procurement and evaluation package to be developed specialist advice will be needed from tax, housing and legal experts in this field. As such officers have estimated that a sum of £30,000 would be needed to take this project to the final stage, prior to advertising it in the European Journal.

10.2 This scheme, if taken to completion will mean that in excess of £70 million will be spent in the local economy over the next 5 years. This will result in jobs being safeguarded in the local building trade and the creation of new apprentices post for local people. The knock on effect should be felt in much of the local economy from shopping to leisure and hotels as the multiplier effect takes hold.

10.3 As the properties are sold or let the Council will also receive additional Council tax and New Homes Bonus (whilst the scheme continues).

10.4 The decision making process outlined in this report is split into three phases.

10.4.1 The first phase authorises officers to develop a procurement package for approval by Members prior to the proposal being advertised in the European Journal. This comes at a cost of £30,000 as mentioned previously.

10.4.2 The second phase is the procurement process itself, which will draw on staff resources and the cost of the procurement exercise itself. It is currently estimated that the cost of this will be contained within the £30,000.

10.4.3 The final phase would then entail the project going forward to development. Before this can happen a full and detailed financial appraisal and risk analysis will be presented to Members. Only after this will the Council be committed to the scheme if approved by the full Council.

10.5 The full financial return to the Council will be dependent upon the terms within the preferred bidders tender. This will be fully appraised and presented to Members prior to any financial commitment to the scheme.

11 Staffing Implications

11.1 There are no direct staffing implications associated with this report.

12 Statutory Considerations

12.1 If the development of this land is to be facilitated by means of a Joint Venture agreement with a Private Company then a procurement exercise will need to be carried out. This procurement exercise will need to comply with the European Legislation covering this area.

13 Equality Impact Assessments (EIA's)

13.1 There are no detrimental impacts from equality impact assessment scoping undertaken in relation to this proposal.

14 Risk Management

14.1 At this stage of the project the only risk associated to the scheme is the budget of £30,000.

14.2 A detailed risk analysis of the proposal will be completed as part of the next phase when the procurement and evaluation package is developed. This will be reported as part of the next report to Members when authority will be sort to take this procurement to market.

14.3 A final appraisal will then be carried when the Council has a preferred bidder so that it can decide if it wants to progress to the building phase.

15. Background Papers

The Montague Report
DTZ's response to the Montague Report

REPORT TO CABINET

Open		Would any decisions proposed :		
Any especially affected Wards South & West Lynn	Operational	(a) Be entirely within cabinet's powers to decide YES		
		(b) Need to be recommendations to Council		NO
		(c) Be partly for recommendations to Council and partly within Cabinets powers –		NO
Lead Member: Cllr Alistair Beales E-mail: cllr.alistair.beales@west-norfolk.gov.uk		Other Cabinet Members consulted:		
		Other Members consulted:		
Lead Officer: Jemma Curtis E-mail: Jemma.curtis@west-norfolk.gov.uk Direct Dial: 01553 616716		Other Officers consulted: Ray Harding, Geoff Hall, Ostap Paparega, Dale Gagen.		
Financial Implications NO	Policy/Personnel Implications YES	Statutory Implications (incl S.17) NO	EIA req'd NO	Risk Management Implications NO

Date of meeting: 30th October 2012

9 MILLENNIUM COMMUNITIES AGREEMENT: PROCESS FOR AGREEING VARIATIONS

Summary

The Council entered into the Millennium Communities Agreement (MCA) in 2006 with English Partnerships (now the Homes and Communities Agency), East of England Development Agency (EEDA) and Morston Assets. The agreement set out the obligations, outputs and funding contributions from each of the partners to facilitate the construction of the Nar Ouse Regeneration Area (NORA). In light of the changing economic and policy environment, some variations to the outputs and obligations of all the partners are required in order to facilitate viable developments on the NORA site. This report recommends a procedure to be put in place to manage the request for variations between the partners in a timely manner in order to progress development of the NORA site.

Recommendation

1. Delegated authority is granted to the Chief Executive in consultation with the Portfolio Holder for Regeneration and Commercial Services to authorise requests to vary the terms of the MCA with the NORA partners.
2. That requests for variations from the NORA partners are dealt with by completion of a variation request form (document template in appendix 1).

Reason for Decision

To facilitate development of the Nar Ouse Regeneration Area in line with the corporate business plan.

1. Background

- 1.1 The NORA site in South Lynn was designated as one of seven Millennium Communities in England in 2001. The Borough Council secured funding to deliver the Millennium Community from the English Partnerships (now the Homes and Communities Agency – HCA) and EEDA. The funding was for site infrastructure, community facilities and to deliver housing to higher standards of design quality and utilising environmentally friendly techniques and materials. The strategic design statement (NORA masterplan) received outline planning consent in 2005 and sets out how the millennium community could be achieved on NORA.
- 1.2 The purpose of the MCA was to capture the obligations and outputs (i.e. number of housing units, provision of community facilities) required to be delivered by each of the NORA partners based on the uses and densities contained in the strategic design statement, in return for the funding contributions from the HCA. Since the MCA was signed in 2006, the economic climate and national policy environment has changed significantly which now means some of the uses and densities originally proposed and agreed in the agreement are sometimes not achievable.
- 1.3 It is recognised that a more flexible approach to respond to market demands is required on order to stimulate development on the site. However, the MCA is a legally binding document and at present, any variation to the terms of the agreement requested by any of the NORA partners requires cabinet approval. This can sometimes add unnecessary delays to the development process when the requests from the other NORA partners are of little or no financial or commercial impact to the Council and its land holdings at NORA.
- 1.4 In order to ensure the Council is able to assess and respond to variations to the terms, obligations and outputs requests in an efficient and timely manner, it is recommended that any variation to the MCA is dealt with through delegated authority to the Chief Executive in consultation with the Portfolio Holder for Regeneration and Commercial Services. A MCA variation request must be submitted by the NORA partner by completing the variation request template (appendix 1). Each request will set out the description of the variation, justification and impact (financial, environmental, commercial etc). Each variation must be approved by all of the partners and in the Council's case; each request must be signed by the chief executive and portfolio holder

2. Policy Implications

- 2.1 The development of the NORA is a council priority in the corporate business plan.

3. Financial Implications

- 3.1 The council already has funding committed to the development of NORA in the capital programme. A separate report to cabinet will be submitted for consideration if the financial impact of any variation request exceeds the limits of delegated authority and requires a change to the council's budgets or policy.

4. Statutory Consideration

- 4.1 Any variations requested and approved by the NORA partners does not override any statutory processes that may be required in order to implement the approved variation i.e. planning consent. However, approval of the variation from the partners is recommended to be in place prior to the submission of any applications.

5. Risk Assessment

- 5.1 Without seeking approval from the partners to vary the obligations and outputs of the MCA, the council could find itself in breach of the agreement and open to legal challenge from the other NORA partners. There is also the risk that if the council does not comply with the MCA without the approval of the other signatories to the MCA that the funding received would have to be repaid. Equally, having an agreed process in place to manage variations between the partners (who are also landowners on the site) ensures the development of NORA remains coordinated and ensures each land owner does not disadvantage the other by developing the site for an alternative use to that set out in the strategic design statement.

6. Access to Information

Appendix 1: MCA Variation Request template

**Request for a Variation to the
Strategic Design Statement / Planning Permissions
*Millennium Community Agreement***

Variation number	
Date	
Author	

Description of Variation (what is the proposed change)

Justification of Variation (reasons / why)

Impact of Variation (financial, environmental, commercial etc)

Decision (approval / rejection of variation & reasons)	
Decision date	

Partner Organisation	
Approved by	
Signature	
Date	