



CAMBRIDGESHIRE AND PETERBOROUGH COMBINED AUTHORITY BOARD	AGENDA ITEM No: 1.6
30 SEPTEMBER 2020	PUBLIC REPORT

CAMBRIDGESHIRE AND PETERBOROUGH COMBINED AUTHORITY CONSTITUTION

1.0 PURPOSE

- 1.1 This report presents to the Combined Authority Board a series of proposed changes to the Combined Authority Constitution for review and invites the Board to adopt the recommended changes.

<u>DECISION REQUIRED</u>	
Lead Officer: Robert Parkin, Chief Legal Officer and Monitoring Officer	
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RECOMMENDATIONS: The Combined Authority Board is recommended to: <ol style="list-style-type: none">1. To approve, and adopt the revisions to the Constitution detailed in this report with effect from 1 November 20202. To authorise the Monitoring Officer to update the Constitution with the recommended revisions and to make any consequential amendments.	Voting arrangements A majority of at least two thirds of all Members (or their Substitute Members) present and voting

2.0 BACKGROUND

- 2.1 The Monitoring Officer is required to monitor and review the operation of the Constitution on an annual basis.

- 2.2 The Audit and Governance Committee, which is responsible for keeping under review the governance arrangements of the Combined Authority, such as the Constitution is empowered to make recommendations to the Combined Authority Board. By the time of the Combined Authority Board meeting on 30 September, the Audit and Governance Committee shall have considered the proposed revisions to the Constitution described in this report, and have recommended them to the Combined Authority Board for adoption. The suggested amendments and recommendations of the Combined Authority Audit and Governance Committee are added in this addendum to the original published report at 4.0 in this report. Minor amendments to the appendices from the previously published version are indicated in red type.
- 2.3 Officers have worked with various stakeholders in preparing these proposed revisions, including the Corporate Management Team of the Combined Authority, a workshop of the Audit and Governance Committee on 17 September, and by way of a comprehensive review of the Constitutions of other Combined Authorities, and a consultation exercise.
- 2.3 The consultation exercise involved the distribution of a questionnaire to officers and members.
- 2.4 While the questionnaire, with a total of 13 questions, was widely distributed and followed up with prompts to participants, the response was low. The following themes and points arose:
- Some level of concern over there being sufficient publicity about the rights of the public to ask questions at the CA Board and Committees and present petitions.
 - The effectiveness of pre-scrutiny was questioned. In particular in relation to whether the right people were in attendance at committee to ask questions which might, ultimately, shape policies and plans
 - There were no concerns expressed over the current meetings procedure rules
 - The Committee system, operating within the Combined Authority, is considered to be effective although inconsistencies in agendas were raised
 - Although it was commented that the distinction between the different roles of the Mayor and the Combined Authority could made clearer it was generally accepted there is enough done to present the understanding of the roles
 - The role of the Business Board within the Combined Authority should be more clearly communicated to ensure that it is understood by the wider community

- All responding felt that enough is done to promote to the public access to the Forward Plan and Agenda Reports, and to provide information on how to attend meetings and ask questions
- Also, all responding felt that the Combined Authority's key documents are well, and accessibly presented, although they could be made easier to find on the website
- There was a mixed response on whether the Constitution should include a foreword and a longer introduction
- There was unanimity as to the facility of call-in by the Combined Authority Board being necessary.

3.0 MAIN ISSUES

- 3.1 Commentary is presented below on the new and revised documents recommended for adoption, including a description of the principle amendments:

Code of Conduct

- 3.1.1 This is a new document based upon the Local Government Association's draft Model Code of Conduct, which was out to consultation until 17 August 2020. The draft Model Code reflected the recommendations of the Committee on Standards in Public Life (CSPL) and includes content which would require changes in the law. The Code of Conduct recommended to members does not include any elements which would be in conflict with the law as it now stands. The proposed changes in the law include a proposal to have a presumption that members are acting in an official capacity in their public conduct, including on social media. One of the CSPL's main concerns about the current regime for member conduct is the absence of sanctions for misconduct, however it would take a change in primary legislation to provide local government bodies, such as the Combined Authority, with the power to apply sanctions where a breach of the Code of Conduct is found.
- 3.1.2 The proposed Code of Conduct replaces the duty to treat others with respect with duty to treat other members and members of the public with civility, which is defined as "politeness and courtesy in behaviour, speech and in the written word". The recommended Code provides greater clarity on when members with interests should leave the meeting room than that provided by the current Code.
- 3.1.3 The recommendation is to adopt the recommended Code in advance of the outcome of the LGA consultation process with a view to re-visiting the content of the Code as and when the Model Code has been finalised or the changes in the law proposed by the CSPL have been enacted.

Gifts and Hospitality Protocol

- 3.1.4 This is a new document which supplements the recommended new Code of Conduct. It seeks to provide clarity to members as to how to deal with offers of gifts and hospitality. The appropriate treatment of gifts and hospitality is key element in maintaining public confidence in the Combined Authority and in local government generally.

Members' Use of Resources and Code of Recommended Practice on Publicity

- 3.1.5 This is a new document which supplements the recommended new Code of Conduct. It seeks to provide clarity to members as to the use of Combined Authority resources and sets out the requirements of the Code of Recommended Practice on Local Authority Publicity.

Officer Employment Procedure Rules

- 3.1.6 This is a revised version of the current document at chapter 18 of the Constitution. The revisions relate to the following issues:
- To tidy up the procedural requirements for the appointment of senior officers. The requirements included are those set out in the Local Authorities [Standing Orders] Regulations 1993, which do not apply to combined authorities. However, the requirements of the 1993 Regulations are in line with good practice and it is therefore recommended that they continue to be applied by the Combined Authority. This will also have the advantage of keeping the senior officer appointment procedures of the Combined Authority in line with those of its constituent councils.
 - To set out the arrangements for the appointment of senior officers on an interim basis. Any interim appointment extending beyond nine months or which is intended to last more than nine months would require the approval of the Employment Committee, or in the case of the statutory officers, the Combined Authority Board. The intention is to enable senior officers to be recruited at short notice, either to cover the interval between a senior officer leaving the Combined Authority and a permanent replacement being recruited or to cover a period during which a senior officer is unable to perform their duties. All appointments of statutory officers, whether interim or permanent, require the approval of the Combined Authority Board
 - To confirm that the Head of Paid Service [Chief Executive] is to be responsible for all appointments at or below Deputy Chief Officer level
 - To confirm that, as set out above for the Employment Committee, it is recommended that the Combined Authority apply the statutory protections for statutory officers, although it is not a legal requirement for combined authorities. The procedure for dismissal of a statutory officer for disciplinary reasons is set out in Annex 3 to the Rules

- To confirm that no member who has as made a decision as to the dismissal of a Chief Officer, or a recommendation to the Combined Authority Board as to the dismissal of a statutory officer, may sit as a member of the Combined Authority Board when it considers such a recommendation or hears an appeal against dismissal by a Chief Officer

Protocol on Appointments within the Mayoral Office [Annex to Officer Employment Procedure Rules]

- 3.1.7 The Protocol, which was adopted by the Combined Authority Board in September 2019, has been amended to provide that posts within the Mayoral Office, with the exception of the Personal Assistant role, are to be subject to political restriction. This follows discussions with the Ministry for Housing, Communities, and Local Government, whose interpretation of the application of political restriction rules was at variance to that provided to the Combined Authority by leading counsel.

Employment Committee

- 3.1.8 This is a revised version of the current chapter 12 of the Constitution. The revisions relate to the following issues:
- The expansion of the membership of Employment Committee to match the membership of the other Executive Committee
 - Clarification of the way in which disciplinary procedures involving the Head of Paid Service, Monitoring Officer and Section 73 Officer are to be handled. The statutory rules providing additional employment protections to these statutory officers, which are set out in the Local Authorities (Standing Orders) (England) Regulations 2001 (as amended), do not apply to the Combined Authority. The Committee on Standards in Public Life is supportive of the statutory protections and has recommended that the protections be extended. The recommendation is therefore that the Combined Authority apply the statutory protections notwithstanding that they are not a legal requirement, on the basis that the statutory officer roles at the Combined Authority raise the same issues as the same roles in the Combined Authority as their equivalents in the constituent councils and warrant the same protections. This requires the establishment of a Statutory Officer Investigatory Panel because the statutory protections include recommendations on the dismissal of statutory officers being made by a panel which includes two or more independent persons, so the Employment Committee itself would not be able to make those recommendations
 - To set out the definitions of a Chief Officer, Deputy Chief Officer and disciplinary action which were previously in the Officer Employment Procedure Rules in order to provide a clearer approach to the relationship between these two elements of the Constitution

- To provide greater clarity about the suspension of senior officers and appeals procedures
- To remove the appointment and dismissal of Deputy Chief Officers from the remit of the Employment Committee. The management structure of the Combined Authority, which is flat in comparison to other local authority bodies, brings a significant number of officers within the Deputy Chief Officer designation

Virtual/Hybrid Meetings

- 3.1.9 This is a new document, developed in line with the Government guidance on social-distancing and the Covid-19 virus and it not being possible to hold physical meetings of the Combined Authority Board and the Combined Authority's Executive Committees for the time being. The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020 allows formal local government meetings to be held on a virtual basis, without elected members being physically present together in the same place. Meetings will, therefore, be held on a virtual basis so this protocol sets out the procedures for virtual, and where applicable, hybrid meetings.

Webcasting

- 3.1.10 This is a new document following the agreement of the Combined Authority that meetings of the Combined Authority Board, Executive Committees, Audit & Governance Committee and Overview & Scrutiny Committee can be transmitted live on the internet (webcast), and the recordings made available on the website for 12 months.

Contracts Procedure Rules

- 3.1.11 The Combined Authority is obliged by law to maintain standing order in relation to the appointment of contracts. The revised Contract Procedure Rules, attached, are a re-write of the existing rules, aimed at referencing up to date legislation, and providing clearer process, as well as separating out guidance from the rules themselves.
- 3.1.12 They also introduce a Procurement Gateway Process for higher value or complex procurements in which officer stakeholders with the support of the Legal, Finance, and Procurement teams can agree commissioning and route to market strategy, and monitor the effectiveness of procurement and contracting arrangements.

Other Textual Amendments to the Constitution

- 2.1.16 In addition to consequential amendments in the body of the Constitution to ensure consistency with the above referenced content, the Constitution has been generally reviewed for repetition and clarity. Changes include

amendments to ensure the clarification of Standard Orders of Committees.
A table with these consequential and minor amendments is below:



Table 1: Table of Consequential and Minor Amendments:

Location in Constitution	Page in Constitution	Description	Current Wording	Proposed Wording	Purpose
Chapter 4 Combined Authority Board Functions	p18	To confirm the power of the Combined Authority Board to reserve to itself decisions which would otherwise be taken by Executive Committees	None	14 The Combined Authority Board shall have the power to reserve decisions to itself which would otherwise be taken by the Executive Committees.	To formalise current arrangements
Chapter 5 Proceedings of Meetings	p21	Arrangements for virtual meetings	1.1 These rules apply to Combined Authority Board meetings and, where appropriate, to any committees or sub-committees of the Board.	1.1 These rules apply to Combined Authority Board meetings and, where appropriate, to any committees or sub-committees of the Board. For as long as the Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020 or other legal provision having a like effect remain in force the Virtual / Hybrid Meeting Protocol at Annex A to this Chapter shall apply and any conflict between the Protocol and this Chapter shall be resolved in favour of the Protocol.	To align the arrangements for meetings with the Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales)

					Regulations 2020
Chapter 5 Proceedings of Meetings and Chapter 11 Procedure Rules of Executive Committees	p21 and p75	Application of standing orders to executive committees	Chapter 5 1 Introduction 1.1. These rules apply to Combined Authority Board meetings and, where appropriate, to any committees or sub-committees of the Board.	Chapter 5 Replace paragraph 1.1 with: 1.1. These rules apply to Combined Authority Board meetings and, subject to the limitations set out in section 8 of Chapter 11 of this Constitution [Procedure Rules of Executive Committees], to any committees or sub-committees of the Board. Chapter 11 Add: 8 Application of Chapter 5 [Proceedings of Meetings] to Executive Committees 8.1 The following rules from Chapter 5 [Proceedings of Meetings] shall apply to the meetings of Executive Committees with any necessary modification - Rule 4 [Ordinary Meetings and Urgency], Rule 6 [Notice of Meetings and Agendas], Rule 7 [Public Access], Rule 8 [Attendance], Rule 9 [Notice of Substitute Members], Rule 12 [Declaration of Interests], Rule 13 [Rules of Debate], , Rule 17 [Minutes], Rule 18 [Questions by the Public and Questions by Members] [not including rules on Petitions from the public], Rule 19 [Conduct at	To clarify the application of standing orders to Executive Committees

				Meetings] and Rule 21 [Photography, Audio/Visual recording of Meetings and Blogging/Tweeting]	
Chapter 5 Proceedings of Meetings	p35	Arrangements for webcasting meetings	21. Photography, Audio/Visual recording of Meetings and Blogging/Tweeting 21.1. Please see Transparency Rules Forward Plan and Key Decisions (see Chapter 6 - Transparency Rules, Forward Plan and Key Decisions)	Add: 21.2 The Protocol on the Webcasting of Meetings which forms Annex B to this Chapter shall apply to the webcasting of the meetings of the Combined Authority and its committees.	To introduce the new revised Protocol on the Webcasting of Meetings
Chapter 14 Audit and Governance Committee	pp94-95	Responsibility for the grant of dispensations under the Localism Act 2011	7.2.1. When matters are referred by the Monitoring Officer granting dispensations to Members and Co- opted Members allowing them to: (a) participate in the debate; and/or (b) vote on any matter in which they have a disclosable pecuniary interest;	Delete paragraph 7.2.1 and renumber following paragraphs accordingly.	To resolve a conflict between the power to grant dispensations delegated to the Monitoring Officer and wording on the functions of the Audit & Governance Committee's Hearing Panel

Chapter 17 Officer Scheme of Delegation and Proper Officers	p162	Delegation of staffing functions to Chief Executive. To make the Chief Executive responsible for staffing decisions in relation to Deputy Chief Officers	4.4 To be responsible for the appointment and grading of staff up to Deputy Chief Officer level.	4.4 To be responsible for the appointment, and grading and dismissal of staff up to and including Deputy Chief Officer level.	To align with revised Officer Employment Procedure Rules
Chapter 17 Officer Scheme of Delegation and Proper Officers	p167	To require the Monitoring Officer to keep a register of gifts and hospitality	None	6.13 To keep a register of gifts and hospitality in accordance with the Protocol on Gifts and Hospitality and to arrange for its publication on the Authority's website.	To align with new Protocol on Gifts and Hospitality
Chapter 19 Member Code of Conduct and Complaints Procedure	p182ff	To make provision for the revised Member Code of Conduct, the new Protocol on Gifts and Hospitality and the new Protocol on Member Use of Resources and the Code of Recommended Practice on	Parts 1 to 3 of Chapter 19 set out the current Member Code of Conduct	To delete Parts 1 to 3 and replace with: "Part 1 Member Code of Conduct and Protocols 1.1 The Member Code of Conduct forms Annex 1 to this Chapter 1.2 The Protocol on Gifts and Hospitality forms Annex 2 to this Chapter 1.3 The Protocol on Member Use of Resources and the Code of Recommended Practice on Local Authority Publicity forms Annex 3 to this Chapter"	To introduce the revised Code of Conduct and new Protocols

		Local Authority Publicity		And to renumber Part 4 [Complaints Against Members of the Combined Authority] as Part 2	
Appendix 7 Glossary	P259ff	To delete the Glossary	The Glossary is at pp259 to 261 of the Constitution	To delete the Glossary	To make the Constitution more self- explanatory with each element comprehensible on its own terms.



3.2 The content below is presented in revised form as Appendices 1-9:

- Code of Conduct
- Gifts and Hospitality
- Members use of Resources and Code of Recommended Practice on Publicity
- Officer Employment Procedure Rules which includes and Annex on the Protocols on appointments within the Mayoral Office
- Employment Committee
- Virtual/Hybrid meetings
- Webcasting
- Contract Procedure Rules

4.0 AUDIT AND GOVERNANCE COMMITTEE RECOMMENDATIONS TO THE COMBINED AUTHORITY BOARD

4.1 The following was **RECOMMENDED** by the Audit and Governance Committee:

- 1. The Code of Conduct was agreed and recommended to the CA Board**
- 2. With the addition of a reference to the officer Gifts and Hospitality policy the Gifts and Hospitality Protocol was agreed and recommended to the CA Board**
- 3. The Members use of Resources and Code of Recommended Practice on Publicity, which supplements the recommended revised Code of Conduct, was agreed and recommended to the CA Board**
- 4. That reference be made to the requirement for the participation of the Mayor in any majority decision within the Officer Employment Procedure Rules. With such an addition the revision was agreed and recommended to the CA Board. The protocol on appointments within the Mayoral Office (Annex to the OEPRs) was also agreed and recommended to the CA Board**
- 5. A note to the CA Board that the Employment Committee may wish to reserve to themselves second and third-tier appointments which would otherwise fall to the Head of Paid Service. With this the revision to the Employment Committee section within the Constitution was agreed and recommended to the CA Board**
- 6. With the amendment to a typographical error, and the addition of a reference to participation via telephone, the protocol on Virtual/Hybrid meetings was agreed and recommended to the CA Board.**
- 7. The Webcasting protocol was agreed and recommended to the CA Board**
- 8. With the amendment of a typographical error the Contract Procedure Rules was agreed and recommended to the CA Board**

9. The consequential and minor amendments to the Constitution were noted and agreed

4.2 The following **recommendations** were also agreed:

- 1. The Monitoring Officer to be requested to develop a Member/Officer protocol to be brought back to the Audit and Governance Committee**
- 2. The Constitution should include an introduction and pre-amble which refers to mandatory and optional content within the Constitution**
- 3. The Monitoring Officer to be requested to develop a protocol on the appointment of third-parties to CA Boards, Committees, Commissions and Working Groups**
- 4. The Committee would RECOMMEND to the CA Board that a letter is sent to Whitehall which expresses concern with the quoracy rules (which require two thirds of the members) of Combined Authority Committees**

5.0 FINANCIAL IMPLICATIONS

5.1 The proposals contain no financial implications.

6.0 LEGAL IMPLICATIONS

6.1 The Combined Authority is obliged to adopt and maintain a constitution and standing orders.

7.0 APPENDICES

7.1 Appendix 1: Code of Conduct

Appendix 2: Gifts and Hospitality

Appendix 3: Protocol on Member use of Resources and the Code of Recommended Practice on Local Authority Publicity

Appendix 4: Officer Employment Procedure Rules includes and Annex on the Protocol on Appointments within the Mayoral Office

Appendix 5: Employment Committee

Appendix 6: Virtual/Hybrid Meetings

Appendix 7: Webcasting

Appendix 8: Contract Procedure Rules

<u>Source Documents</u>	<u>Location</u>
Audit and Governance Committee: 24 September 2020	<u>CA Audit & Governance Committee: 24 September 2020</u>
Combined Authority Board Meeting: September 2019	<u>Combined Authority Board: September 2019</u>
Local Government Association Draft Model Code of Conduct	<u>LGA Draft Code of Conduct</u>

CODE OF CONDUCT

Purpose

The purpose of this Code of Conduct is to assist members in modelling the behaviour that is expected of them, to provide a personal check and balance, and to set out the type of conduct against which appropriate action may be taken. It is also to protect yourself, the public, fellow members, Authority officers and the reputation of local government. It sets out the conduct expected of all members and a minimum set of obligations relating to conduct. The overarching aim is to create and maintain public confidence in the role of member and local government.

Application of the Code

The Code of Conduct applies to you when you are acting in your capacity as a member, co-opted member, member of the Business Board or representative of your Authority, although you are expected to uphold high standards of conduct and show leadership at all times. The Code applies to all forms of member communication and interaction, including written, verbal, non-verbal, electronic and via social media. Model conduct and expectations is for guidance only, whereas the specific obligations set out instances where action will be taken.

The seven principles of public life

Everyone in public office at all levels – ministers, civil servants, members, Authority officers – all who serve the public or deliver public services should uphold the seven principles of public life. This Code has been developed in line with these seven principles of public life, which are set out in appendix A.

Model member conduct

In accordance with the public trust placed in me, on all occasions I will:

- act with integrity and honesty
- act lawfully
- treat all persons with civility; and
- lead by example and act in a way that secures public confidence in the office of member

In undertaking my role, I will:

- impartially exercise my responsibilities in the interests of the local community
- not improperly seek to confer an advantage, or disadvantage, on any person
- avoid conflicts of interest
- exercise reasonable care and diligence; and

- ensure that public resources are used prudently and in the public interest

Specific obligations of general conduct

This section sets out the minimum requirements of member conduct. Guidance is included to help explain the reasons for the obligations and how they should be followed. These obligations must be observed in all situations where you act as a member, including representing your Authority on official business and when using social media

As a member I commit to:

Civility

1. Treating other members and members of the public with civility.

2. Treating Authority employees, employees and representatives of partner organisations and those volunteering for the councils with civility and respecting the role that they play.

Civility means politeness and courtesy in behaviour, speech, and in the written word. Debate and having different views are all part of a healthy democracy. As a member you can express, challenge, criticise and disagree with views, ideas, opinions and policies in a civil manner. You should not subject individuals, groups of people or organisations to unreasonable or excessive personal attack.

In your contact with the public you should treat them courteously. Rude and offensive behaviour lowers the public's expectations and confidence in its elected representatives.

In return you have a right to expect courtesy from the public. If members of the public are being abusive, threatening or intimidatory you are entitled to close down any conversation in person or online, refer them to the Authority, any social media provider or if necessary, the police. This also applies to members, where action could then be taken under the Member Code of Conduct.

Bullying and harassment

3. Not bullying or harassing any person.

Bullying may be characterised as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient. The bullying might be a regular pattern of behaviour or a one-off incident, happen face-to-face, on social media, in emails or phone calls, happen in the workplace or at work social events and not always be obvious or noticed by others.

The Equality Act 2010 defines harassment as '*unwanted conduct related to a relevant protected characteristic, which has the purpose or effect of violating an individual's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual*'. The relevant protected characteristics are

age, disability, gender reassignment, race, religion or belief, sex, and sexual orientation.

Impartiality of officers of the Authority

4. Not compromising, or attempting to compromise, the impartiality of anyone who works for, or on behalf of, the Authority.

Officers work for the Authority as a whole and must be politically neutral (unless they are political assistants). They should not be coerced or persuaded to act in a way that would undermine their neutrality. Although you can question officers in order to understand, for example, their reasons for proposing to act in a particular way, or the content of a report that they have written, you must not try and force them to act differently, change their advice, or alter the content of that report, if doing so would prejudice their professional integrity.

Confidentiality and access to information

5. Not disclosing information given to me in confidence or disclosing information acquired by me which I believe is of a confidential nature, unless I have received the consent of a person authorised to give it or I am required by law to do so.

6. Not preventing anyone getting information that they are entitled to by law.

Local authorities must work openly and transparently, and their proceedings and printed materials are open to the public except in certain circumstances. You should work on this basis but there will be times when it is required by law that discussions, documents and other information relating to or held by the Authority are treated in a confidential manner. Examples include personal data relating to individuals or information relating to ongoing negotiations.

Disrepute

7. Not bringing my role or Authority into disrepute.

Behaviour that is considered dishonest and/or deceitful can bring your Authority into disrepute. As a member you have been entrusted to make decisions on behalf of your community and your actions and behaviour are subject to greater scrutiny than that of ordinary members of the public. You should be aware that your actions might have an adverse impact on other members and/or your Authority.

Your position

8. Not using, or attempting to use, my position improperly to the advantage or disadvantage of myself or anyone else.

Your position as a member of the Authority provides you with certain opportunities, responsibilities and privileges. However, you should not take advantage of these opportunities to further private interests.

Use of Authority resources and facilities

9. Not misusing Authority resources.

You may be provided with resources and facilities by the Authority to assist you in carrying out your duties as a member. Examples include office support, stationery and equipment such as phones, and computers and transport. These are given to you to help you carry out your role as a member more effectively and not to benefit you personally. You should familiarise yourself with the Authority's Protocol on Member Use of Resources and the Code of Recommended Practice on Publicity.

Interests

10. Registering and declaring my interests.

You need to register your interests so that the public, Authority employees and fellow members know which of your interests might give rise to a conflict of interest. The register is a document that can be consulted when (or before) an issue arises, and so allows others to know what interests you have, and whether they might give rise to a possible conflict of interest. The register also protects you. You are responsible for deciding whether or not you should declare an interest in a meeting, but it can be helpful for you to know early on if others think that a potential conflict might arise.

It is also important that the public know about any interest that might have to be declared by you or other members, so that decision making is seen by the public as open and honest. This helps to ensure that public confidence in the integrity of local governance is maintained. Discuss the registering and declaration of interests with your Monitoring Officer and more detail is set out in appendix B.

Gifts and hospitality

11. Not accepting significant gifts or hospitality from persons seeking to acquire, develop or do business with the Authority or from persons who may apply to the Authority for any permission, licence or other significant advantage.

12. Registering with the monitoring officer any gift or hospitality with an estimated value of at least £25 within 28 days of its receipt.

You should exercise caution in accepting any gifts or hospitality which are (or which you reasonably believe to be) offered to you because you are a member. However, you do not need to register gifts and hospitality which are not related to your role as a member, such as Christmas gifts from your friends and family, or gifts which you do not accept. However, you may wish to notify your monitoring officer of any significant gifts you are offered but refuse which you think may have been offered to influence you. You should familiarise yourself with the Authority's Protocol on Gifts and Hospitality.

Breaches of the Code of Conduct

Most members conduct themselves appropriately and in accordance with these standards. Members have both individual and collective responsibility to maintain these standards, support expected behaviour and challenge behaviour which falls below expectations.

Section 27 of the Localism Act 2011 requires relevant authorities to promote and maintain high standards of conduct by members and co-opted members of the authority. Each local authority must publish a code of conduct, and it must cover the registration of pecuniary interests, the role of an 'independent person', and sanctions to be imposed on any members who breach the Code.

The 2011 Act also requires local authorities to have mechanisms in place to investigate allegations that a member has not complied with the Code of Conduct, and arrangements under which decisions on allegation may be made.

Failure to comply with the requirements to register or declare disclosable pecuniary interests is a criminal offence. Taking part in a meeting or voting, when prevented from doing so by a conflict caused by disclosable pecuniary interests, is also a criminal offence.

Political parties may have its own internal standards and resolution procedures in addition to the Member Code of Conduct that members should be aware of.

Code Appendix A

The principles are:

Selflessness

Holders of public office should act solely in terms of the public interest.

Integrity

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.

Objectivity

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias. Accountability Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

Accountability

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this

Openness

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing. Honesty Holders of public office should be truthful.

Honesty

Holders of public office should be truthful.

Leadership

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

Code Appendix B

Registering interests

1. Within 28 days of this Code of Conduct being adopted by the Authority or your election or appointment to office (where that is later) you must register with the Monitoring Officer the interests which fall within the categories set out in Table 1 (Disclosable Pecuniary Interests) and Table 2 (Other Registerable Interests).
2. You must ensure that your register of interests is kept up-to-date and within 28 days of becoming aware of any new interest in Table 1 or 2, or of any change to a registered interest, notify the Monitoring Officer.

Declaring interests

3. Where a matter arises at a meeting which directly relates to an interest in Table 1, you must declare the interest, not participate in any discussion or vote on the matter and must not remain in the room unless granted a dispensation. If it is a 'sensitive interest', you do not have to declare the nature of the interest.
4. Where a matter arises at a meeting which directly relates to an interest in Table 2, you must declare the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to declare the nature of the interest.
5. Where a matter arises at a meeting which directly relates to your financial interest or well-being (and is not a Disclosable Pecuniary Interest) or a financial interest or well-being of a relative or close associate, you must declare the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to declare the nature of the interest.
6. Where a matter arises at a meeting which affects –
 - a. your own financial interest or well-being;
 - b. a financial interest or well-being of a friend, relative, close associate; or
 - c. a body covered by table 1 belowyou must disclose the interest.
7. Where the matter affects the financial interest or well-being to a greater extent than it affects the financial interests of the majority of inhabitants of the ward affected by the decision and a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest you must declare the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a

dispensation. If it is a 'sensitive interest', you do not have to declare the nature of the interest.

Table 1: Disclosable Pecuniary Interests

Subject	Description
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	<p>Any payment or provision of any other financial benefit (other than from the Authority) made to the member during the previous 12-month period for expenses incurred by him/her in carrying out his/her duties as a member, or towards his/her election expenses</p> <p>This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.</p>
Contracts	<p>Any contract made between the member or his/her spouse or civil partner or the person with whom the member is living as if they were spouses/civil partners (or a firm in which such person is a partner, or an incorporated body of which such person is a director* or a body that such person has a beneficial interest in the securities of*) and the Authority —</p> <p>(a) under which goods or services are to be provided or works are to be executed; and</p> <p>(b) which has not been fully discharged</p>
Land and Property	<p>Any beneficial interest in land which is within the area of the Authority.</p> <p>'Land' excludes an easement, servitude, interest or right in or over land which does not give the member or his/her spouse or civil partner or the person with whom the member is living as if they were spouses/civil partners (alone or jointly with another) a right to occupy or to receive income.</p>

Licences	Any licence (alone or jointly with others) to occupy land in the area of the Authority for a month or longer
Corporate Tenancies	Any tenancy where (to the member's knowledge)— (a) the landlord is the Authority; and (b) the tenant is a body that the member, or his/her spouse or civil partner or the person with whom the member is living as if they were spouses/civil partners is a partner of or a director* of or has a beneficial interest in the securities* of.
Securities	Any beneficial interest in securities* of a body where— (a) that body (to the member's knowledge) has a place of business or land in the area of the Authority; and (b) either— i) the total nominal value of the securities* exceeds £25,000 or one hundredth of the total issued share capital of that body; or (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the member, or his/ her spouse or civil partner or the person with whom the member is living as if they were spouses/civil partners has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

*'director' includes a member of the committee of management of an industrial and provident society.

*'securities' means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

Table 2: Other Registerable Interests

Any Body of which you are a member or in a position of general control or management and to which you are appointed or nominated by the Authority;

- Any body -
- (a) exercising functions of a public nature;
 - (b) directed to charitable purposes; or

(c) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union)

of which you are a member or in a position of general control or management.

Protocol on Gifts and Hospitality

1 Introduction

1.1 This protocol applies to the Mayor, Combined Authority Board Members, Business Board Members and Members of the Combined Authority's Committees and Boards when they act in that capacity. It also applies to co-opted members of the Combined Authority's Committees who are not elected members of the Combined Authority's constituent councils. It should be read in conjunction with the Member Code of Conduct. For the purpose of dealing with any complaints about the conduct of Members this Protocol is deemed to form part of the Member Code of Conduct.

2 Gifts and Hospitality

2.1 Gifts and Hospitality will include any gift, hospitality, offer or favour which is offered to a Member personally, whether or not the gift or hospitality is accepted. The definition includes gifts and hospitality offered to either a Member or to the family and friends of Members which arise from the position of the Member and common examples would be:

- Any offer of a gift of goods or services without payment;
- Any offer of goods or services at a discount not available to the public;
- Any offer of food, drink, travel or accommodation;
- Any invitation to attend a cultural or sporting event without payment or at a discounted rate;

2.2 If you accept gifts and hospitality when it is not appropriate to do so it can damage both your own reputation and the reputations of the Combined Authority and any constituent council of which you are a member. In some circumstances, as set out in paragraph 3 below you may commit a criminal offence by accepting gifts or hospitality. As set out in the Member Code of Conduct, you should avoid placing yourself under any obligation to people or organisations that might try to influence you inappropriately in your work for the Combined Authority.

2.3 The decision on whether to accept a particular offer of a gift or hospitality is a matter for you. Whether you should accept a gift or hospitality will depend upon all the circumstances in which the offer is made but you should also consider how the acceptance of the gift or hospitality will be perceived by others. If in doubt you should always seek advice from the Combined Authority's Monitoring Officer or the Chair of the Combined Authority's Audit & Governance Committee.

2.4 The kind of gifts or hospitality it may be appropriate to accept would include:

- Gifts worth less than £25 such as calendars, diaries, pens and flowers;
- Gift and hospitality provided by a public body;
- Simple refreshment provided at a meeting such as tea, coffee and biscuits;
- A simple working meal at which business is discussed;

But whether an individual offer should be accepted will always depend on all the circumstances and you should note the rules set out in paragraph 4 below about registration of gifts and hospitality. You must never solicit any gift or hospitality as a Member.

2.5 The kind of gifts it would not be appropriate to accept would include:

- Any gift in the form of cash or another form of direct payment;
- Any gifts in the form of holidays, including accommodation or travel arrangements;
- Any gift or hospitality intended to influence what you do as a Member or to put you under an obligation to the donor. In particular you should not accept any offer from a person or organisation which is involved in, or which may become involved in the future in
 - Any procurement exercise being run by the Combined Authority;
 - Any application for a grant, loan or other financial assistance from the Combined Authority;
 - Any legal dispute with the Combined Authority;
- Any gift or hospitality that is of significant value or where the value is disproportionate in the circumstances;

2.6 If you suspect that the motive behind an offer of a gift or hospitality is an inducement for you to make a particular decision or a reward for doing so you must decline it. Similarly, if accepting a gift or hospitality would be open to misinterpretation you should decline it.

2.7 This protocol only applies to gifts and hospitality you may receive in your capacity as a Member of the Combined Authority and does not apply to gifts and that are not related to your position as a Member, such as birthday or Christmas gifts from family and friends. If you are also an elected member of one of the Combined Authority's constituent councils you will also be subject to your council's Code of Conduct and rules on gifts and hospitality.

3 The Criminal Law

3.1 Under the Bribery Act 2010 it is a criminal offence to request, agree to receive or accept a financial or other advantage as a reward for the improper performance of any function of a public nature.

3.2 If you believe a person or organisation may have been offered a bribe, you should immediately report the matter to the Combined Authority's Monitoring Officer or to the Police.

4 Registration of Gifts and Hospitality

4.1 You must register any offer of a gift or hospitality with an estimated value of at least £25 with the Combined Authority's Monitoring Officer within 28 days of its receipt. The registration must include details of the source of the gift or hospitality, a description, its estimated value, whether the gift or hospitality was accepted and what the Member has done with a gift.

4.2 If you are offered gifts or hospitality with a total value of at least £100 from the same source over a twelve month period you should register them with the Monitoring Officer regardless of whether any individual offer had an estimated value of at least £25.

4.3 If you are not sure of the value of the gift or hospitality it is good practice to register it anyway.

4.4 The Register of Gifts and Hospitality will be published on the Combined Authority's website.

5 Breaches of this Protocol

5.1 Breaches of this Protocol will be dealt with as breaches of the Member Code of Conduct. The Audit & Governance Committee has oversight of the Member Code of Conduct and responsibility for hearing complaints about Member conduct which have been referred to them by the Combined Authority's Monitoring Officer.

5.2 Allegations of any breach of this Protocol should be made in writing to the Combined Authority's Monitoring Officer.

6 Advice and Support

6.1 You should seek advice from the Combined Authority's Monitoring Officer or the Chair of the Audit & Governance Committee if you are uncertain how to deal with an offer of a gift or hospitality.

PROTOCOL ON MEMBER USE OF RESOURCES AND THE CODE OF RECOMMENDED PRACTICE ON LOCAL AUTHORITY PUBLICITY

1 Introduction

- 1.1 The Combined Authority provides resources to its elected members and to members of the Business Board in order to assist them in performing their duties. These resources include:
- Office Premises
 - Stationery, postage, telephones, copying facilities
 - Administrative and Secretarial Support
 - Laptops
 - Email accounts
- 1.2 The Combined Authority's Member Code of Conduct includes the following on use of the Authority's resources:

As a member I commit to:

9. Not misusing Authority resources.

You may be provided with resources and facilities by the Authority to assist you in carrying out your duties as a member. Examples include office support, stationery and equipment such as phones, and computers and transport. These are given to you to help you carry out your role as a member more effectively and not to benefit you personally. You should familiarise yourself with the Authority's Protocol on Member Use of Resources and the Code of Recommended Practice on Publicity.

Any breach of the requirements of this protocol will be deemed to be a breach of the Member code of Conduct. If any elected member wishes to have advice on the use of the Authority's resources they should contact the Authority's Monitoring Officer.

2 Use of Information and Communications Technology

- 2.1 All use of ICT by elected members is subject to the Authority's ICT policies which govern the use of laptops, the Authority's networks and mobile devices provided by the Authority. These policies also apply to the Authority's officers.

3 The Code of Recommended Practice on Local Authority Publicity

- 3.1 Section 2 of the Local Government Act 1986 states:

2.— Prohibition of political publicity.

(1) A local authority shall not publish [, or arrange for the publication of,] any material which, in whole or in part, appears to be designed to affect public support for a political party.

(2) In determining whether material falls within the prohibition regard shall be had to the content and style of the material, the time and other circumstances of publication and the likely effect on those to whom it is directed and, in particular, to the following matters—

(a) whether the material refers to a political party or to persons identified with a political party or promotes or opposes a point of view on a question of political controversy which is identifiable as the view of one political party and not of another;

(b) where the material is part of a campaign, the effect which the campaign appears to be designed to achieve.

(3) A local authority shall not give financial or other assistance to a person for the publication of material which the authority are prohibited by this section from publishing themselves.

This prohibition applies to all publicity produced by the Authority but is of particular importance during the period before elections.

- 3.2 This prohibition applies to the Authority and the government has issued the Code of Recommended Practice on Local Authority Publicity under section 4 of the 1986 Act. Section 6 of the 1986 Act defines “publicity” as:

“any communication in whatever form, addressed to the public at large or a section of the public”

And the Code confirms that this will include paid advertising and leaflet campaigns, publication of free newspapers and newssheets and maintenance of websites – including the hosting of material which is created by third parties.

- 3.3 The Code states that local authority publicity should:

- be lawful
- be cost effective
- be objective
- be even-handed
- be appropriate
- have regard to equality and diversity
- be issued with care during periods of heightened sensitivity

The Code confirms that, except during periods of heightened sensitivity, it is acceptable for local authorities to publicise the work done by individual members of the authority, and to present the views of those individuals on

local issues. However publicity material produced by local authorities relating to a particular member must not seek to affect public support for that individual.

- 3.4 The Code refers to periods of heightened sensitivity before elections and referendums and requires local authorities to pay particular regard to the legislation on publicity during such periods. The Code states:

During the period between the notice of an election and the election itself, local authorities should not publish any publicity on controversial issues or report views or proposals in such a way that identifies them with any individual members or groups of members. Publicity relating to individuals involved directly in the election should not be published by local authorities during this period unless expressly authorised by or under statute. It is permissible for local authorities to publish factual information which identifies the names, wards and parties of candidates at elections.

- 3.5 It is therefore not permitted for members to use the Authority's resources for political purposes such as promoting a particular candidate or political party in an election or a particular outcome in a referendum.

4 Personal Use of the Authority's Resources

- 4.1 Personal use of ICT equipment and resources is covered by the policies referred to at paragraph 2.1 above.
- 4.2 As above at paragraph 1.2, the Member Code of Conduct reminds members that resources and facilities provided to them by the Authority are provided to help them carry out their roles as members more effectively and not to benefit them personally.

Chapter 18 - Officer Employment Procedure Rules [Bold type indicates unchanged wording]

1 Introduction

- 1.1 **These rules set out how officers are appointed and dismissed and the role that Elected Members have in officer appointments and dismissals.**

2 Definitions

- 2.1 For the purpose of these rules the definitions of “Chief Officer”, “Deputy Chief Officer”, and “Disciplinary Action” are as set out in Chapter 12 of this Constitution [Employment Committee].

3 Appointment of Head of Paid Service, Monitoring Officer, Section 73 Officer and Chief Officers

- 3.1 Where the Combined Authority proposes to appoint a Head of Paid Service (Chief Executive), Monitoring Officer, an officer with the responsibilities set out in Section 73(1) of the Local Government Act 1985 (Chief Finance Officer) or Chief Officer the Employment Committee will draw up a statement specifying:

- (a) the duties of the Officer concerned; and
- (b) any qualifications or qualities to be sought in the person to be appointed.

Where it is not proposed that the appointment be made exclusively from among the Combined Authority’s existing officers the Committee will make arrangements for:

- (c) the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and
- (d) for a copy of the statement referred to above to be sent to any person on request

Where a post has been advertised in accordance with paragraph (c) above the Committee will:

- (e) interview all qualified applicants for the post, or select a short list of such qualified applicants and interview those included on the short list.

Where no qualified person has applied the Committee will:

- (f) make further arrangements for advertisement in accordance with paragraph (c) above.

The Combined Authority Board will approve the appointment of the Head of Paid Service (Chief Executive), the Monitoring Officer and the officer with the responsibilities set out in section 73(1) of the Local Government Act 1985

(Chief Finance Officer) (“the statutory officers”) following the recommendation of the Committee.

Appointments of Chief Officers will be made by the Committee.

- 3.2 Where it is proposed to appoint a Monitoring Officer, Section 73 Officer (Chief Finance Officer) or Chief Officer on an interim basis and such an appointment is to last for a period of less than nine months pending the appointment of a permanent Monitoring Officer, Section 73 Officer (Chief Finance Officer) or Chief Officer, the Chief Executive will make all necessary arrangements in connection with the appointment subject to the designation of any officer as the Monitoring Officer or Section 73 Officer on an interim basis being reserved to the Combined Authority Board.
- 3.3 Where it is proposed to appoint a Head of Paid Service [Chief Executive] on an interim basis and such an appointment is to last for a period of less than nine months pending the appointment of a permanent Head of Paid Service, the Mayor will make all necessary arrangements in connection with the appointment subject to an such appointment being reported to the next meeting of the Combined Authority Board for ratification. No appointment of an Interim Head of Paid Service shall take effect until it has been ratified by the Combined Authority Board.
- 3.4 Where it is proposed to appoint a Head of Paid Service (Chief Executive), Monitoring Officer, Section 73 Officer (Chief Finance Officer) or Chief Officer on an interim basis and such an appointment is to last for a period of more than nine months or such an appointment was originally made under paragraphs 3.2 or 3.3 above but is to extend beyond nine months, the Employment Committee will make all necessary arrangements in connection with the appointment or the extension of the appointment as the case may be. Any such decision as to the appointment or the extension of the appointment of an interim Head of Paid Service (Chief Executive), Monitoring Officer or Section 73 Officer (Chief Finance Officer) shall be by way of recommendation to the Combined Authority Board.
- 3.5 When making decisions as to the appointment or dismissal of statutory officers and Chief Officers the Employment Committee shall include the Mayor or Deputy Mayor in their place.
- 3.6 The appointment of officers at or below Deputy Chief Officer level shall be the responsibility of the Chief Executive or of any officer nominated by them in relation to a particular appointment.

4 Avoiding Conflicts of Interests in the Appointment Process

- 4.1 **Any person seeking appointment as an Officer of the Combined Authority shall be required to state in writing whether they are the parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece (“relative”) of an existing Member or Officer or the partner of such persons.**

- 4.2 **No candidate related to a Member or Officer as described above will be appointed as Head of Paid Service or as a Chief Officer without the agreement of the Mayor.**
- 4.3 **An Officer or Member must not be involved in the appointment or any other decision relating to the discipline, promotion, pay or conditions of an officer, or prospective officer who is a relative, partner, partner of a relative or friend. Friendship connotes a relationship going beyond regular contact with colleagues in the course of employment.**
- 4.4 **Any applicant who directly or indirectly seeks the support of any Member for any appointment within the Combined Authority will be disqualified from the recruitment process.**
- 4.5 **No Member of the Combined Authority shall seek support for any person for appointment with the Combined Authority. This shall not be interpreted to mean that Members and officers are precluded from giving a written reference for a candidate for submission with an application for employment as appropriate.**

5 Dismissals and Disciplinary Action

- 5.1 Only the Combined Authority Board may dismiss the Head of Paid Service (Chief Executive), the Section 73 Officer (Chief Finance Officer) or the Monitoring Officer (“the statutory officers”) as a result of disciplinary action following the recommendations of the Statutory Officer Investigatory Panel. A statutory officer may not be dismissed by the Combined Authority unless the relevant procedures set out in these Rules, including Annex 3 to these Rules, have been complied with.
- 5.2 The Statutory Officer Investigatory Panel shall have authority to take disciplinary action falling short of dismissal against the statutory officers and to suspend and keep under review any suspension of those statutory officers.
- 5.3 The Employment Committee will have authority to dismiss Chief Officers. Any Chief Officer so dismissed shall have a right of appeal to the Combined Authority Board in accordance with the Authority’s Appeals Procedures.
- 5.4 The Mayor or the Deputy Mayor in their place shall be a member of the Statutory Officer Investigatory Panel which meets to consider a dismissal or recommendation for dismissal under paragraph 5.1 or 5.3.
- 5.5 Members will not be involved in the dismissal of any officer at or below Deputy Chief Officer level except where such involvement is necessary for the investigation or inquiry into alleged misconduct through the Combined Authority’s disciplinary procedures as adopted from time to time.

6 Avoiding Conflicts of Interest in Dismissals and Disciplinary Action

- 6.1 No member or substitute member who has sat as a member of the Statutory Officer Investigatory Committee or Employment Committee when a recommendation or decision has been made as to the dismissal or disciplining

of an officer under Section 5 above shall sit as a member of the Combined Authority Board when it considers any such recommendation or an appeal by the officer against any such decision.

7 Employee Code of Conduct

- 7.1 All officers are required to sign an agreement to be bound by the Employee Code of Conduct and all Chief Officers and Deputy Chief Officers are required to complete a register of interests form in accordance with the Code.

8 Officer Appointments to the Mayoral Office

- 8.1 **Certain designated posts within the Mayoral office will be subject to the protocol at Annex 1. These posts are:**

(a) Chief of Staff

(b) Mayoral Adviser and

(c) Senior Policy Adviser.

9 Political Restriction

- 9.1 **Certain posts are “politically restricted” for the purposes of Part I of the Local Government and Housing Act 1989. The Protocol on Political Restriction at Annex 2 sets out the rules which apply to such posts.**

ANNEX 3

DISCIPLINARY PROCEDURES IN RELATION TO THE HEAD OF PAID SERVICE, MONITORING OFFICER AND SECTION 73 OFFICER

- 1 The procedures for disciplinary action and dismissal of the Head of Paid Service [Chief Executive], Monitoring Officer and Section 73 Officer [“the statutory officers”] match the requirements of the Local Authorities (Standing Orders) (England) Regulations 2001 [as amended] which apply to the Combined Authority’s constituent councils.
- 2 Only the Combined Authority Board may dismiss the statutory officers following the procedure set out in this Annex and following the recommendation of a Statutory Officer Investigatory Panel constituted as set out below.
- 3 In any case where disciplinary action, as defined in Chapter 12 of the Constitution (Employment Committee) is to be taken against one of the statutory officers the Employment Committee shall establish a Statutory Officer Investigatory Panel to deal with the matter. The Panel shall have the authority to take disciplinary action short of dismissal against a statutory officer and to recommend to the Combined Authority Board that a statutory officer be dismissed.
- 4 The Statutory Officer Disciplinary Panel shall be made up of all the members of the Employment Committee or their substitute members, including the Mayor or Deputy Mayor acting in their place, together with at least two independent persons appointed by the Combined Authority or by other local authorities in England under section 28(7) of the Localism Act 2011 subject to the rules on appointment of independent persons to the Panel set out in Schedule 3 to the Local Authorities (Standing Orders) (England) Regulations 2001 [as amended].
- 5 Before the taking of a vote at the relevant meeting on whether or not to approve such a dismissal, the Combined Authority Board must take into account, in particular—
 - (a) any advice, views or recommendations of the Panel;
 - (b) the conclusions of any investigation into the proposed dismissal; and
 - (c) any representations from the relevant officer.
- 6 Any remuneration, allowances or fees paid by the Authority to an independent person appointed to the Panel must not exceed the level of remuneration, allowances or fees payable to that independent person in respect of that person’s role as an independent person under the 2011 Act.
- 7 The Panel must be appointed at least 20 working days before a meeting of the Combined Authority Board to consider whether or not to approve a proposal to dismiss a statutory officer.

ANNEX TO THE OFFICER EMPLOYMENT PROCEDURE RULES
CAMBRIDGESHIRE AND PETERBOROUGH COMBINED AUTHORITY
PROTOCOL ON APPOINTMENTS WITHIN THE MAYORAL OFFICE

General

There are three posts within the Mayoral Office which are appointed on a different basis to other Combined Authority posts. In particular:

- (i) The contracts of employment for these posts automatically end on the expiry of the Mayor's term of office
- (ii) The individuals are accountable for the performance of their duties to the Mayor
- (iii) The individuals are subject to additional requirements as to their conduct, as set out below, which do not apply to other Combined Authority officers.

The Legal Basis of Mayoral Appointments

Political assistants are an established part of the local government landscape and are provided for in legislation including:

- Section 9 of the Local Government and Housing Act 1989;
- The Local Authorities (Elected Mayor and Mayor's Assistant) (England) Regulations 2002; and
- The West of England Combined Authority Order 2017

There is no specific statutory authority for the appointment of political assistants in the Combined Authority. These posts within the Mayoral Office are appointed by the Mayor using the general power of competence conferred on him by Article 12 of the Cambridgeshire and Peterborough Combined Authority Order 2017.

The posts are subject to political restriction on the basis that the duties of the postholders consist in or involve giving advice on a regular basis to the Mayor themselves. The statutory provision at section 2(3) of the Local Government and Housing Act 1989 refers to giving advice to the "authority" and does not refer to advising a Mayor, but in the context of a Mayoral Combined Authority the reference to the "authority" can be taken to include the Mayor.

These posts are subject to additional restrictions as to the conduct of the postholders over and above those which apply to officers of the Combined Authority whose posts are politically restricted. . The purpose of these additional restrictions is to ensure that any potential conflict between the postholders being paid from public funds and having access to public resources and with their participation in party politics is managed.

Provided appropriate safeguards are in place the appointment of these officers is a legitimate and lawful use of the general power. These officers perform a valuable role in allowing the Mayor to obtain political advice without compromising the impartiality of other officers.

Duties

These postholders' duties include the following:

- a) Reviewing papers going to the Mayor, drawing attention to any aspect which they think has particular implications for the Mayoralty;
- b) Ensuring that sensitive political points are handled properly;
- c) Giving policy guidance on behalf of the Mayor on any aspect of the Combined Authority's business relating to their job description and give advice to the Mayor accordingly;
- d) Asking questions of relevant officers, probing, checking facts and research findings;
- e) Preparing policy papers which can generate long-term policy thinking within the Combined Authority;
- f) Contributing to policy planning within the Combined Authority, including ideas which extend the existing range of options available to the Mayor with a political viewpoint in mind;
- g) Helping to brief Members of the Board, MPs and external officials on issues of Mayoral policy; liaising with outside interest groups; representing the Mayor at meetings and elsewhere;
- h) Speechwriting and related research, including adding a greater degree of political content to material prepared by other Combined Authority officers;
- i) Representing the views of the Mayor to the media, only where they have been authorised by the Mayor to do so (NB For the sake of clarity this means that these officers may not speak on behalf of the authority or the Mayor to journalists or broadcasters, except in exceptional circumstances);
- j) Managing other mayoral appointees and Combined Authority staff appointed by the Chief Executive who provide administrative or clerical support to the Mayoral Office but the dismissal of staff, determining grievances raised by them or altering their terms and conditions of employment are the responsibility of the Chief Executive.
- k) Attending interview panels for senior Combined Authority staff, as observers, but decisions to appoint rest with the Chief Executive or the Director for that employee. Such attendance to be with the consent of the Chair of the Employment Committee.

Additional Requirements as to Conduct

These postholders are subject all codes, protocols, guidance and agreements which apply to the conduct of officers of the Combined Authority and the restrictions which apply to politically restricted posts. In addition, they are subject to the following requirements:

- a. Officers appointed directly by the Mayor should conduct themselves with integrity and honesty. They should not deceive or knowingly mislead the Mayor, the Board, other officers or the public. They should not misuse their official position or information acquired in the course of their official duties to further their private interests or the private interests of others. They should not receive benefits of any kind which

others might reasonably see as compromising their personal judgement or integrity. They should not without authority disclose official information which has been communicated in confidence or received in confidence from others.

- b. All officers appointed directly by the Mayor should not use Combined Authority resources for party political activity. They are employed to serve the objectives of the Authority; it is this which justifies their being paid from public funds and being able to use public resources and explains why their participation in party politics is carefully limited. They should act in a way which upholds the political impartiality of public servants. They should avoid anything which might reasonably lead to the criticism that people paid from public funds are being used for party political purposes.
- c. In order to provide effective assistance to the Mayor, officers appointed directly by the Mayor should work closely with the senior managers in the Authority and establish relationships of confidence and trust, and should develop effective professional relationships with Members of the Combined Authority Board.
- d. Any individual terms and conditions agreed as part of the interview process cannot amend or preclude these terms and conditions but additional terms and conditions may be agreed between the Mayor and the prospective employee, subject to consultation and agreement with the Chief Executive.
- e. Following receipt of any item or hospitality of a value of £25 or more, all Mayoral appointees should, within 28 days, update the register of gifts and hospitality accordingly. The register will be placed on the CPCA website. The Audit & Governance Committee is responsible for monitoring and reviewing the register through the Annual Governance Statement.
- f. In advising the Mayor on issues in relation to a particular functional body, Mayoral appointees should be mindful of potential conflicts of interest and the need to register and declare any and all relevant interests.

Process for Mayoral appointments

The following sets out the process which will be applied to the appointment of officers within the Mayoral team:

- Appointments must be made on merit. Recruitment to these posts must be by way of public advertisement and interview.
- The process for selection of suitable candidates must be clear and test that an individual's knowledge, skills, experience and attributes meet the requirements of the role. In order to do this, a job description and person specification will be prepared for each role. An interview process to assess candidates' suitability for the role is required and each candidate must be assessed against the job description and person specification.

- The Mayor should be satisfied that the individual is competent to perform the required role, based on the contents of the job description and on an assessment of candidates' skills and experience.
- All job descriptions will be evaluated to independently assess the salary level for the role.
- Guidance will be given to candidates during the recruitment and appointment process, and to appointees following their appointment, explaining the implications of these political restrictions.
- Offers of employment will be subject to the standard employment checks.
- The Mayor must report the appointments to the Board at the next scheduled meeting (this has historically been done through a Mayoral announcement at the beginning of the meeting)
- In all other regards, appointees will have the same basic terms and conditions of employment as CPCA staff appointed by the Head of Paid Service.
- In the event that any grievance or disciplinary issue arises in respect of Mayoral appointees this will be considered and, as necessary, investigated through arrangements decided by the Chief Executive, who is responsible for taking any further action as he / she deems necessary.

Chapter 12 Employment Committee [Bold type indicates unchanged wording]

1 Governance

- 1.1 The Combined Authority has appointed an Employment Committee. The Committee is an executive committee of the Combined Authority Board.**

2 Terms of Reference

- 2.1 The functions of the Employment Committee are:

- 2.1.1 To make recommendations to the Combined Authority Board on the appointment of the Head of Paid Service (Chief Executive), Monitoring Officer and Chief Finance Officer (“the statutory officers”).
- 2.1.2 To appoint Chief Officers.
- 2.1.3 To establish, as required, a Statutory Officer Investigatory Panel with authority to make recommendations to the Combined Authority as to the dismissal arising from disciplinary action [as defined at paragraph 2.2 below] of any of the statutory officers. The membership of this Panel shall be as set out in the Officer Employment Procedure Rules.
- 2.1.4 To take disciplinary action falling short of dismissal against the statutory officers and to suspend and keep under review any suspension of those statutory officers.
- 2.1.5 To take disciplinary action against Chief Officers in circumstances capable of resulting in the dismissal of those officers and to suspend and keep under review any suspension of those officers.
- 2.1.3 To determine appeals by Chief Officers against decisions made in relation to grievance proceedings.
- 2.1.4 To determine employment procedures for the officers of the Combined Authority, including dismissal procedures.
- 2.1.5 To determine local terms and conditions of employment for officers of the Combined Authority.
- 2.1.6 **To consider, and recommend appropriate actions where necessary, in response to proposals relating to changes within a Department’s /Division’s structure which involve substantial changes in the responsibilities of the Head of Paid Service [Chief Executive] and Chief Officers.**
- 2.1.7 **To promote and pursue a policy of equal opportunities in employment.**
- 2.1.8 To determine policies relating to local government pensions and discretionary compensation for early termination of employment. Upon

the commencement of the Restriction of Public Sector Exit Payments Regulations to approve applications for waivers under the Regulations.

2.2 For the purposes of paragraph 2.1:

2.2.1 “Chief Officer” means:

(a) a person for whom the head of the authority's paid service (Chief Executive) is directly responsible;

(b) a person who, as respects all or most of the duties of his post, is required to report directly or is directly accountable to the head of the authority's paid service (Chief Executive); and

But a person whose duties are solely secretarial or clerical or are otherwise in the nature of support services shall not be regarded as a Chief Officer.

2.2.2 “Deputy Chief Officer” means:

“a person who, as respects all or most of the duties of his post, is required to report directly or is directly accountable to one or more of the statutory or non-statutory chief officers.”

But a person whose duties are solely secretarial or clerical or are otherwise in the nature of support services shall not be regarded as a Deputy Chief Officer.

2.2.3 “Disciplinary Action” means:

“means any action occasioned by alleged misconduct which, if proved, would, according to the usual practice of the Combined Authority, be recorded on the member of staff's personal file, and includes any proposal for dismissal of a member of staff for any reason other than redundancy, permanent ill-health or infirmity of mind or body, but does not include failure to renew a contract of employment for a fixed term unless the Combined Authority has undertaken to renew such a contract”

3 Membership

3.1 The Committee shall comprise eight members to include the Mayor or his/her nominee and a Board Member from each of the seven constituent councils or their nominee. The Chair must be a Board member.

3.2 The Combined Authority Board shall appoint the members of the Committee, and their substitute members. With the exception of the Chair, Board members may nominate another member from their constituent council to be a member of the Committee in their place. The Board member shall also nominate a named substitute member. Nominations are in consultation with the Mayor and subject to approval by the Board. In principle, neither the Mayor nor the Board will seek to exercise their voting rights to veto or vote

against the appointment of constituent council members to the Committee or the Sub-Committees.

- 3.4 The Procedure Rules of Executive Committee Meetings at Chapter 11 of this Constitution shall apply to the proceedings of the Committee.

VIRTUAL/HYBRID MEETING PROTOCOL

1. INTRODUCTION

- 1.1 [Local Authorities and Police and Crime Panels \(Coronavirus\) \(Flexibility of Local Authority and Police and Crime Panel Meetings\) \(England and Wales\) Regulations 2020](#) make provision for remote attendance at, and remote access to Local Authority meetings held on or before 7 May 2021.
- 1.2 The Regulations enable **a Local Authority** to hold meetings without all, or any, of the members being physically present in a room. They allow for remote meetings through electronic and digital means at virtual locations using video and telephone conferencing, live webcast and live interactive streaming.
- 1.3 The “place” at which the meeting may be held may be a council building, or where the organiser of the meeting is located, or an electronic, digital or virtual location, a web address or a conference call telephone number.
- 1.4 In order for members to be able to attend meetings of the local authority remotely, they need not be physically present, provided they are able to hear and be heard (and where practicable, see and be seen by) other members and members of the public attending remotely or in person.
- 1.5 While the procedure rules in this protocol take precedence over the Combined Authority standing orders in relation to the governance of remote meetings, all other current standing orders not mentioned in the protocol remain effective.
- 1.6 In line with the Regulations, this protocol is designed to provide a guide to virtual formal committee meetings involving members, officers and the public during the Covid-19 crisis. It will be kept under regular review.

2. DECISIONS OF FORMAL MEETINGS OF THE COUNCIL

- 2.1 Monitoring or information items will be circulated to the relevant committee via e-mail outside of formal meetings.

3. MEETINGS OF THE COMBINED AUTHORITY BOARD, EXECUTIVE COMMITTEES, OVERVIEW & SCRUTINY COMMITTEE AND AUDIT & GOVERNANCE COMMITTEE

- 3.1 Meetings will take place using the Zoom software platform. A detailed briefing note for the Chair to manage the meeting electronically will be provided. Confidential items may take place using a different software platform.

Public Questions

- 3.2 The Combined Authority will continue to take questions from the public as set out in the Constitution. The member of the public asking the question will receive access details from the meeting clerk hosting the meeting to access the Zoom meeting.

3.3 ***Petitions***

During the Covid-19 crisis it will not be possible to accept paper petitions. An electronic petition will be acceptable provided it meets the requirements as set out in the Constitution. The member of the public presenting the petition will receive access details from the meeting clerk hosting the meeting to access the Zoom meeting.

Voting

- 3.4 Voting will be managed by the Chair supported by the meeting clerk. If an item requires a recorded vote, or if problems arise with the electronic poll system, the Chair will ask all Members to turn their microphones on. The Chair will then read out the name of each Member in turn in alphabetical order and ask them how they wish to vote. Once a Member has given their vote then microphones should be muted again. The meeting clerk will record the outcome of the voting and announce it upon conclusion of the voting procedure. If an item does not appear to be contentious, the Chairman will ask Members whether any Member disagrees or wishes to abstain. This will be actioned by the Member clicking on the “raise your hand” icon. If nobody objects the motion will be taken as carried.

4. RUNNING A VIRTUAL/HYBRID MEETING

Members Joining a Virtual/Hybrid Meeting

- 4.1 Members are encouraged to join the meeting promptly (i.e. at least ten minutes before the scheduled start time) in order to resolve any issues with joining and avoid disrupting the meeting. The Chair will remind members to mute their microphones when not speaking. This is done in order to reduce feedback and background noise.

4.2 Access to documents

The Combined Authority will publish the agenda and reports for committee meetings on the Authority’s website and will notify members by email. Printed copies will not be circulated and nor will they be available for inspection at the Combined Authority offices.

Public Access

- 4.3 The following wording will be added to the Combined Authority's website as well as to the meeting page for each committee meeting.

Due to Government guidance on social-distancing and the Covid-19 virus it will not be possible to hold a physical meeting of the XXX on XXX. Arrangements are being made for the press and public to follow the decision-making via Zoom. Details of how to watch the meeting will be published at the foot of the meeting page under the 'meeting documents' heading.

The requirement to ensure meetings are open to the public includes access by remote means, including video conferencing, live webcast and live interactive streaming. Where a meeting is accessible to the public through such remote means, the meeting is open to the public whether or not members of the public are able to attend the meeting in person.

Recording Meetings

- 4.4 The Zoom software platform has a facility for recording meetings. All virtual meetings will be recorded.

Registering Attendance and Meeting Etiquette

- 4.5 At the start of the meeting, the Chair will carry out a roll call of all members present. Confirmation will be given by each member switching their video on and unmuting their microphone to confirm they are present.
- 4.6 All members and officers except the Chair are asked to keep their microphones on mute unless invited to speak. Any member returning after a disconnection is asked not to interrupt when returning to announce their return.

Protocol for councillors speaking at meetings

- 4.7 Members who wish to speak during a meeting will need to click on the "raise your hand" icon. The Chair may ask each person in turn if they have any points they wish to raise on a particular item before completing the discussion on that item. When referring to reports or making specific comments, councillors should refer to the report and page number in the agenda document pack so that all members have a clear understanding of what is being discussed at all times.

Dealing with technical difficulties

- 4.8 In the event that the Chair or the meeting clerk hosting the meeting identifies a failure of the remote participation facility, the Chair may declare an adjournment while the fault is addressed.
- 4.9 If it is not possible to address the fault and the meeting is inquorate, the meeting will be abandoned until such time as it can be reconvened. If the meeting is quorate, the Chair will decide if this meeting should continue, depending on the

difficulties being experienced, or whether it should be adjourned until a later time or date.

PROTOCOL ON THE WEBCASTING OF MEETINGS

The Combined Authority has agreed that meetings of the Combined Authority Board, Executive Committees, Audit & Governance Committee and Overview & Scrutiny Committee can be transmitted live on the internet (webcast), and the recordings made available on the website for 12 months.

Other meetings may also be webcast, as and when required, subject to the approval of the Chairman and members present. Fixed cameras will be located in meeting rooms for this purpose. This protocol has been produced to assist the conduct of webcast meetings and to ensure that in doing so the Combined Authority is compliant with its obligations under the Data Protection Act 1998 and the Human Rights Act 1998. Accordingly, the following will apply to all meetings to be webcast by the Authority:

1. The Mayor/Chairman of the meeting has absolute discretion to terminate or suspend the webcast at any time and for any reason which the Mayor/Chairman deems reasonable. This may include public disturbance or other disruption of the meeting.
2. No exempt or confidential agenda items shall be webcast and no part of any meeting will be webcast after the Authority has voted to exclude the press and public because there is likely to be disclosure of exempt or confidential information.
3. Subject to (4) below, all archived webcasts will be available to view on the Combined Authority's website for a period of 12 months.
4. Archived webcasts or parts of webcasts may be removed from the Combined Authority's website if, in the reasonable opinion of the Monitoring Officer, it may prejudice the Authority's or the public's interests. Content may also be removed if the Monitoring Officer considers it necessary because all or part of the content of the webcast is or is likely to be in breach of any statutory provision or common law, for example Data Protection and Human Rights legislation or provisions relating to confidential or exempt information.
5. If the Monitoring Officer has decided to take such action he/she must notify all elected Members in writing as soon as possible of his/her decision and the reasons for it. The Combined Authority anticipates that the need to exercise this power will occur only on an exceptional basis.
6. Any elected Member who is concerned about any webcast should raise their concerns with the Monitoring Officer.
7. At the start of each meeting to be recorded, an announcement will be made to the effect that the meeting will be webcast and the Mayor/Chairman will make the following statement: 'May I remind everyone present that this meeting will be broadcast live via the internet and the record will be archived for future viewing.'
8. As part of the process for asking public questions residents will be advised that the meeting will be streamed on the internet and a copy of the meeting

retained on the website. If an attendee (other than an elected member) does not wish to be filmed whilst addressing the meeting (unless they are included in the proceedings) ordinarily if members of the public are participating the meeting Clerk will provide advice on the best place to position themselves to ensure no image of the attendee is taken and the webcast operator will focus the camera on the Mayor/Chairman.

9. At the front of each agenda and on signs to be displayed inside and outside the meeting room there will be the following notice:- **WEBCASTING NOTICE**
Please note: this meeting may be filmed for live broadcast via the Combined Authority's website with recorded content available to view on the its website for a period of 12 months.

By entering the meeting room and using the public seating area you are consenting to being filmed and to the possible use of those images and sound recordings for webcasting and/or training purposes. If members of the public do not wish to have their image captured they should notify the Mayor/Chairman at the start of the meeting and sit out of range of the cameras.

Any queries regarding the webcasting of meetings should be referred to the Monitoring Officer.

Members of the public are permitted to film or record Councillors and officers at any Combined Authority meetings that are open to the public and press. The Combined Authority permits photography and social media reporting of all its public meetings.

Chapter 12 – Contract Procedure Rules

Procurement Overview

Procurement Definition

Public Sector procurement is the process of acquiring goods, services and works for the delivery of an Authorities obligations to its residents and regional visitor. The process must be carried out within a specific legal framework and based on principles of equal treatment, transparency and non-discrimination such that for contracts over a specified value or specific social interest may be tendered for by any interested and appropriately qualified organisation. This to ultimately achieve the optimal solution that also provides value for money across the whole-life of the process and contract.

Governing Legislation

The Local Government Act 1972 section 135 requires Public Bodies to have standing orders for how it enters into contracts. These Contract Procedure Rules (“Rules”) set out how the Combined Authority will deliver against this obligation.

All Procurements for Contracts, by Combined Authority staff or members (including where managed by an external organisation or public body on the Authority’s behalf), MUST comply with these Rules, the Combined Authority’s Financial Regulations and all applicable EU and UK Legislation; specifically (but not limited to):

1. The Local Government Act 1972
2. Public Contract Regulations 2015
3. Concession Contracts Regulation 2016
4. Equality Act 2010
5. Bribery Act 2010
6. Localism Act 2011
7. Social Value Act 2012
8. Modern Slavery Act 2015
9. General Data Protection Regulation 2018
10. Freedom of Information Act 2000
11. Transparency Code 2015

Where there is a discrepancy between these rules and any Procurement legislation, the Procurement legislation is the dominant Authority.

Where there is a conflict between the Procurement Legislation and any other relevant legislation as listed above (or otherwise identified during the process) the Monitoring Officer must be consulted immediately to carry out a legal, project risk assessment.

Central Government guidance (Procurement Policy Notes (PPNs)) should be considered for best practice but do not override these rules or legislation.

Non-compliance with these rules may constitute grounds for disciplinary action

Application of the Rules

These rules govern

- a) **ALL purchases of works, goods and services** (including consultancy requirements and equipment hire or lease through rental agreements) across the whole Combined Authority, **regardless of value**, as covered by Chapter 1 & 2 of the PCRs and not excluded by Regulation 10, PCR2015.
- b) The use of external frameworks and Dynamic Purchasing Systems
- c) Procurements under the Light **Touch** Regime Procurements, as covered by Chapter 3 of the PCRs
- d) Below threshold Procurements under Chapter 8 of the PCRs
- e) The procurement of Concession contracts, as set out in the CCRs 2016.
- f) ALL collaborative procurements with other public bodies
- g) The Disposal of Assets or goods by the Combined Authority.

They DO NOT apply to:

- a) Supply of works, goods and services by the Authority to another authority, subject to the agreement of the Procurement and Contracting Manager
- b) Purchases through local authorities, government bodies or public agencies, (e.g. police, health or other similar authorities) where the procurement rules of that organisation have been approved by the Procurement and Contracting Manager as complying with these Rules, or the contract is agreed in cooperation or partnership. E.g. section 75 agreements.
- c) Public body to Public body co-operation - Contracts with other public bodies where the parties come together to deliver a public service, under the following conditions;
 - (i) achieve objectives which are common to both parties; and
 - (ii) the arrangement is solely for the public interest; and
 - (iii) the parties perform less than 20% of the services covered by the arrangement on the open market.
- d) In-house awards (this is where the Combined Authority awards a contract to an entity it controls). This exemption will only apply if all of the following conditions are met;
 - (i) The Combined Authority exercises a similar control on the entity as it does with its own departments;
 - (ii) The entity carries out more than 80% of its activities for the Combined Authority;
 - (iii) There is no private sector money in the entity.
- e) Employment contracts;
- f) Sponsorship agreements;
- g) Purchases made at public auction or of goods sold due to insolvency
- h) Land contracts (including leases, licences and transfers);
- i) Grants of money, these cannot be contracts as there is no consideration and they are not services required to be delivered by the Authority;
- j) Funding or financing arrangements;

- k) Any other arrangements excluded by the PCRs
- l) **Services excluded under Regulation 10 PCRs**
 - (i) Legal Advice that may lead to or is in preparation for Judicial Proceeding, or representation at judicial proceedings
 - (ii) Arbitration or Conciliation
 - (iii) the purchase or sale of any interest in land, (including leasehold interests);
 - (iv) Financial advice for the sale, purchase or transfer of sureties
 - (v) Audio-visual/ radio broadcasts
 - (vi) Arbitration/ legal advice for either the preparation or representation in legal proceedings that may result in a court hearing.
 - (vii) Loans
 - (viii) Employment contracts between an individual and the Combined Authority
 - (ix) Public transport by rail or metro
 - (x) Political campaigns
 - (xi) Civil Defence.

Where there is any doubt as to whether the procurement is covered by these rules, officers are required to seek advice from the Procurement and Contracting Manager.

Procurement Objectives (TFEU)

The Combined Authority seeks to achieve more than just the practical element of the contract from the procurement process; as such, every contract must be let in consideration of the following objectives

- a) **Regulatory Compliance (open markets and equal opportunity for all providers, fair & transparent process TFEU and Regulation 18 PCRs)**
- b) Accountability
- c) Value for Money (proportionality, efficiency and economy)
- d) Efficient Procurement Process
- e) Support of Horizontal Policies such as implementing social, environmental and industrial commitments, at a proportionate level, in accordance with the Combined Authority's Policies and Procurement Guidance Document.

Excluding item 1 – the level of priority of each of the other objectives is to be set by the Combined Authority, as detailed in this document.

Roles & Responsibilities

The following lists detail the various procurement activities and where the responsibilities for each sit.

Procurement & Contracting Manager (directly or through delegation)

- a) Responsibility for the Contract Procedure Rules, guidance documents and procurement templates
- b) Design, implementation and management of a Procurement Gateway Process
- c) Provision of Procurement Advice and assistance on all expenditure, including route to market and contract choice
- d) Overview and management of any frameworks and Corporate contracts
- e) Oversee all exemptions to the PCRs and these rules
- f) Organising and running market engagement events
- g) Provision of advice on commercial structure and evaluation methodology
- h) Appointment of external legal support for complex procurements
- i) Management of the e-tendering portal
- j) Tender Moderation

- k) Signing off All Regulation 84 Tender Reports for process compliance
- l) All formal Procurement correspondence
- m) Collating/ populating all Contract Documents and ensuring signature
- n) Oversee contract monitoring and all contract variations
- o) Attendance at bi-annual contract management meetings
- p) Management and monitoring the Contract Register
- q) Forward Planning of cyclical requirements

Chief Finance Officer (directly or through delegation)

- a) Development and implementation of the Financial Regulations
- b) Approving budgets for procurement of contracts
- c) Signing of All Regulation 84 Tender Reports for budgetary compliance

Monitoring Officer (directly or through delegation)

- a) General advice as required
- b) Lawfulness and Governance of complex procurement decisions taken
- c) Provision of any legal document requirements and support managing external legal services
- d) Signing of All Regulation 84 Tender Reports for governance compliance
- e) Approval off all Contract documents before signature
- f) Approval of all Waivers to these rules
- g) Approval of any Contracts awarded under Regulation 32

Directors

- a) Project Approval and authority to proceed
- b) Signing of All Regulation 84 Tender Reports for Award Approval

Contract managers

- a) To following the instructions of the Procurement and Contracting Manager and Monitoring Officer
- b) Development of Project Initiation Documents and Gateway reports
- c) Confirmation of Project Budget & Authorisation to Procure
- d) Creation of Contract Specification and Contract Management requirements
- e) Managing any technical enquiries during a procurement process
- f) Evaluation of tender returns
- g) Complete the tender report
- h) Manage the delivery of the contract in accordance with the specification, tender return and the contract management processes included in the contract

All officers must:

- a) Comply with the Combined Authority's Financial Regulations
- b) Declare any gifts or hospitality received either before, during or after the procurement to the Head of Procurement;
- c) Not disclose any confidential information to unauthorised persons;
- d) Conduct the procurement process in a fair, open and transparent manner;
- e) Ensure the process delivers value for money;

Use of Consultants

Where the Combined Authority requires the technical input of industry experts/ consultants to either resource and/ or manage a procurement or inform a specification, or deliver a particular process; officers are required to ensure the following is applied:

- a) The service is for a discrete (or multiple discrete) pieces of work and/ or is not backfilling a Combined Authority post
- b) The consultants are procured in accordance with these Rules

- c) The Consultant is experienced in and fully understands all Public Procurement Legislations and agrees to be bound by them

There is a clear specification of requirements and responsibilities set out in their appointment, including adherence to these rules and that this is documented in the form of contract used.

Procurement Process Planning

As part of the initial procurement planning process, officers are required to consider the impact of legislation, financial and time constraints along with any of project specific requirements.

Category of Spend

The Procurement process to be applied is firstly determined by the category of spend and then the contract value, such that before beginning the process this needs to be ascertained.

The Categories of spend are

- a) **Goods** (supplies or products),
- b) **Services** (labour, consultants or technical resources),
- c) **Works** (Construction Projects),
- d) **Light Touch Regime** Services (Hospitality/ Catering, Education/ Training, Security, Legal Services)
- e) **Concession Contracts** (contracts where the supplier's revenue is through the exploitation of an asset e.g. running a café owned by the authority)
- f) **Regulation 32** (Non-competitive Direct Awards)
- g) **Regulation 10** Excluded Contracts
- h) **Regulation 14** Research & Development

Contract Value Estimation

The estimated value of a contract is based on either; the money to be paid by the Authority to the successful tenderer (Regulation 6, Public Contract Regulations 2015) or the value to the market (Regulation 8, Concession Contracts Regulation 2016) of the contract.

A contract value should be calculated as follows:

- a) a lump sum contract – this is a one-off, capital project, only used by one project/ team where the contract value is the total budget available (including any contingency);
- b) a periodic contract – this is where there is an annual, regular, potentially on-going requirement, by the authority – the contract value is the potential annual spend (across the whole Authority) multiplied by the number of years the contract is to run (including any extensions).
- c) A concession Contract – this is a term contract over a number of years whereby the revenue is paid based on usage levels, and usually by the service users, without any guarantee of full recompense or profit.

The value of any contract is the TOTAL maximum, potential or reasonably foreseeable spend over the whole duration of the contract (including extensions) for a given requirement.

The Authority MUST NOT disaggregate or sub-divide like or similar requirements for the purpose of avoiding the procurement from being Regulated. (Regulation 5, PCR2015 or Regulation 7, CCR2016). Procurements below these thresholds are still subject to delivering value for money but the nature of the procurement process may be defined by the authority and needs to be proportionate to the value, effort and market interest in consideration to the nature of the purchase.

See Schedule 1 for current thresholds across all relevant legislations

Partnership Arrangements

The Authority has entered into a number of arrangements with partner authorities for the purchase of various back office services; officers are required to liaise with procurement before commencing an external procurement to ensure that those arrangements are not breached or cause relationship problems across the Authority's partners.

Procurement Gateway Process

The Procurement and Contracting Manager in consultation with the Monitoring Officer, shall publish and oversee a gateway process that reviews and approves the approach to procurement and ensures that these rules, legislation and best practice are adhered to along with monitoring the delivery of value for money and social obligations. This process to be monitored by an officer board based on value and/ or complexity. The details of the Procurement Gateway Process will be maintained on the Combined Authority internal website.

Pre-Procurement Contract Approvals

Where the procurement is not required to be monitored under the gateway process the project officer must still provide evidence to the Procurement and Contracting Manager that they have the necessary director, committee or board approvals to procure and subsequently award a contract based on specified value.

The Project Officer must also liaise with the Governance team to ascertain if the procurement is a Key decision and based on this, place the contract on the Forward Plan in accordance with the Authority's Constitution.

Procurement Timescales

Officers should allow the following minimum timescales for each of the identified routes

- 1) Single quote – approx. two weeks
- 2) Three quotes – approx. six weeks
- 3) Below threshold tender – approx. ten weeks
- 4) Above threshold tenders – OPEN procedure – approx. 14 weeks
- 5) Negotiated Procurement - at least 26 weeks.

Application of Non-Procurement Legislation

Officers are required to consider whether the procurement process and decisions are affected by other relevant legislation. A list of the more obvious ones to be considered and their impact on procurement are available in the procurement guidance documents and will need to have been

considered as part of the Gateway process to ensure a holistic approach is adopted and transparently procured.

Conflicts of Interest (Regulation 24)

The Public Procurement Legislations are designed to prevent corrupt practices and the application of any preferential treatment or discrimination of any UK or EU supplier. As such the following rules apply:

All members, officers, contract managers or organisations procuring on behalf of the Combined Authority must avoid any potential conflict between their own (or family/ friends) interests and the interests of the Combined Authority as detailed in the Combined Authority's Code of Conduct.

Where an interest (financial or personal) is identified this must be reported to the Head of Procurement such that any identified risks can be minimized. Where such a conflict is identified and cannot be suitably mitigated to the Head of Procurement & Contract's satisfaction, that person may not participate in the procurement or evaluation process.

Separation of Duties

A procurement, contract, purchase order or waiver cannot be raised and approved by the same person.

Where a contract manager completes the practical element of a procurement process, a procurement form or makes another recommendation, the award must be agreed by a Director.

Risk Assessment

Officers are required to complete a risk assessment for approval by finance and legal on all procurements that are deemed high risk based on the following

- a) Is of political or public interest;
- b) is over the EU threshold;
- c) is being awarded under Regulation 32 PCRS; or
- d) is being varied/ extended under Regulation 72 PCRS
- e) includes the setting up of a Special Purpose Vehicle
- f) Includes a lease arrangement, advance payment or holding funds on behalf of another entity
- g) Is for a duration over five years
- h) Includes design liability, intellectual property rights or a requirement for collateral warranties

Officers should use the Combined Authority's standard templates and ensure they are added to the corporate risk register before the procurement commences and then monitored throughout the process and life of the contract.

Bonds & Parent Company Guarantees

The requirement for a bond or parent company guarantee (and its value) is at the discretion of the relevant Director

An optional requirement for a Bond or Parent Company Guarantee should be included as part of all procurements over £250k such that it creates both; a means to assess the financial stability of a tenderer and an option to mitigate any identified performance risks of the preferred supplier. Evidence of the bond's availability (even if not required) should be obtained before award.

Where the project or a contractor is deemed as a high risk for failure (likelihood and/ or impacts), advice should be sought from Procurement, Finance and Governance in deciding if the provision of the bond is required.

Where a bond or parent company guarantee is deemed necessary – this should be in a form acceptable to the Combined Authority and in consideration of the form of contract being used.

Routes to Market

The route to market is selected based on a number of considerations as set out below.

Where Possible, **Officers are recommended to consider whether to use either an existing framework (or one procured by a partner authority) so as to minimise procurement costs and process time.**

Where the value is below threshold or it has been agreed with procurement that the requirement is non-standard, or a framework may not deliver the optimal solution, be that because the supplier base is unsuitable or too limited, framework rates do not offer value for money or the requirement requires an ability to negotiate, then alternative routes should be considered in conjunction with procurement and legal or through the 'gateway' process.

These processes available are as set out below.

Process Types

Procurements can be split into two categories; regulated and non-regulated.

Non-Regulated (below Threshold) Procurements

These can, in addition to using the regulated routes, be used based on value

- a) **Direct Award** – a single supplier quote from a local/ SME supplier who is selected based on previous knowledge, a recommendation or a local supplier list (where one exists).
- b) **Quotes Process** – between 3 and 5 suppliers are selected to provide a quote detailing how they will deliver a project and the costs. Suppliers to be selected based on being local/ SMEs with either previous knowledge, on a recommendation or from a local supplier list (where one exists)

Regulated (above EU Threshold - OJEU) Procurements

- c) **OPEN Tender (Regulation 27) – DEFAULT ROUTE** - single stage, advertised process. This route is for standard purchases where the requirements are clear – it does **not** include any scope for negotiation of any of the element of the tendered information. All compliant submissions must be evaluated.
- d) **RESTRICTED Process (Regulation 28)** – two stages, advertised process. This route is for standard purchases where the requirements are clear – it does **not** include any scope for negotiation of any of the element of the tendered information. Suppliers are shortlisted to tender following an initial supplier qualification process. This route is most suited to extensive markets to ensure proportionality of process and cost
- e) **COMPETITIVE PROCESS with NEGOTIATION (Regulation 29)** – multi-stage, advertised process. Includes the ability to negotiate on predefined elements. Suppliers are shortlisted to tender following a supplier qualification process, and then following each round of negotiations based on the predefined scoring criteria. This is used where the desired outcome of the procurement is known but how it is to be achieved is less clear.
- f) **COMPETITIVE DIALOGUE (Regulation 30)** – multi-stage, Advertised process. Includes the ability to discuss and define any unknown requirements. Suppliers are shortlisted to tender following a supplier qualification process, and then following each round of dialogue based on the predefined scoring

criteria. This is used where the desired outcome of the procurement is unclear as is how it is to be achieved.

- g) **INNOVATIVE PARTNERSHIP (Regulation 31)** – multi-stage this is used where you want to purchase something that isn't already available in the market and needs to be created. The procurement process is based on a set of minimum requirements and desirable outcomes – the process can only be used with the approval of Procurement.
- h) **FRAMEWORK (Regulation 33)** – This can be procured through any on the procedures in this list and is an arrangement with one or more suppliers to provide the requirements on an as required basis with no fixed commitment. The Framework has a maximum duration of 4 years and subsequent awards can be made either by a direct award based on the framework prices or through further competition and evaluation – depending what has been specified in the Framework Agreement. Contracts awarded under the framework can run past the framework end date where set up to facilitate this.
- i) **DYNAMIC PURCHASING SYSTEM (DPS) (Regulation 34)** - this is an approved list, on to which suppliers can be added at pre agreed intervals. Suppliers are added based the completion of the first stage of a RESTRICTED procedure and their demonstration of technical ability and previous experience. All subsequent awards must be through further competition and price/ quality evaluation.
- j) **FURTHER COMPETITION** (from an existing framework) – this is where you are inviting the suppliers already on a compliantly procured framework or DPS to submit a qualitative proposal and price for your specific requirements. (where this is from a framework the prices/ rates are capped at the framework prices.
- k) **BESPOKE COMPETITIVE PROCESS** – this can only be used under the Light Touch Regime and will be defined and managed by procurement. **(Regulation 76, PCR or Regulation 36 CCR)**
- l) **DESIGN COMPETITION (Regulation 80)** - These are for the design of unique construction projects
- m) **NEGOTIATED PROCEDURE WITHOUT ADVERTISEMENT – (Regulation 32)** – this route can only be used in exceptional circumstances and must be agreed by Procurement and the Monitoring Officer and documented on a waiver. Potential for use include; lack of competition, urgency or exclusive rights.

Below Threshold Requirements

The procurement process is to be selected based on its category and its value, this is to ensure that the process is proportionate, transparent and can demonstrate value for money in consideration of the project requirements and other constraints such as urgency or protected rights.

Goods & Services Contracts

- a) Single quote up to £9,999
- b) Three quotes between £10,000 and £49,999 (RFQ process)
- c) Advertise on Contracts Finder between £50,000 and EU threshold (Tender Process)

Recruitment Consultant appointments

- a) Single quote up to £24,999
- b) Three quotes between £25,000 and £99,999 (RFQ process)
- c) Advertise on Contracts Finder between £100,000 and EU threshold (Tender Process)

Works and Concession Contracts

- a) Single quote up to £49,999

- b) Three quotes between £50,000 and £499,999 (RFQ process)
- c) Advertise on Contracts Finder between £500,000 and EU threshold (Tender Process)

Light Touch Regime (training, legal requirements)

- a) Single quote up to £49,999
- b) Three quotes between £50,000 and £199,999 (RFQ process)
- c) Advertise on Contracts Finder between £200,000 and EU threshold (Tender Process)

Quotes Process

Where requests for quotations are made, these should be from local suppliers where possible, either from a known local list or identified through the e-tendering portal of registered suppliers. Where none are known, the opportunity may be advertised at the officer's discretion.

Contracts Finder (Tender Process)

Where an opportunity is to be advertised based on the above, or is published in any other way (e.g. on the e-tendering portal, through an industry magazine or some form of social media) it must also be advertised on Contracts Finder. Any advertised, below threshold procurement, must follow that of a single stage/ Open tender with no option for shortlisting.

Waivers

Where a below threshold contract, based on value, requires a competitive process under any of 3.2.1 to 3.2.4 above and there is an urgency, protected right, technical expertise or other reason that is accepted by the Monitoring Officer and Chief Finance Officer as delivering best value to the Authority, a Waiver may be used to enable the officer to seek a single quote and carry out a direct award to that organisation. This process is set out in the procurement guidance documents.

Above Threshold Requirements

All Above threshold procurements must be advertised (unless procured under Regulation 32) on the e-tendering portal, Contracts Finder and TED.

The choice of which route to market should apply depends on the likely number of interested participants, the contract requirements and complexity and the need to negotiate, in accordance with **Regulation 26**. Further information is available in the procurement Guidance documents

Single Stage process - Open

This route considers and evaluates everything listed in the 'two stage process' in one stage.

Two Stage process - Restricted

This route includes two distinctive stage, the shortlisting stage of a Standard Selection Questionnaire (SSQ) and then an Invitation to Tender (ITT) stage.

Multi-Stage process - Negotiated

This route builds on the Restricted process two stages and includes an option to negotiate and can have as many stages as necessary to achieve the optimal outcome.

Use of Frameworks

Where the decision is to utilise an existing Framework for the appointment of consultants or routine requirements, the choice of methodology should be based on the rules of the framework, the options being

- a) Direct Award applying the framework selection criteria up to a cap of £200k unless otherwise agreed by the Monitoring Officer.
- b) Further competition where the requirement is over £200k or the requirements need further scoping or there is an opportunity to achieved improved value for money through competition.

Advertisement (Regulation 48, 49, 52& 106)

Where a direct award/ or quotes process is not permitted by these rules or by exception under either these rules or the Regulations; and where the award is not via an approved framework, the procurement opportunity must be advertised as follow

- a) Contracts Finder (**Regulation 52 & 106**) - where specified in this document or where they are regulated under any of the public procurement legislations
- b) Tenders Electronic Daily (TED) – where they are regulates/ value exceed the values as set out in Schedule 1.
- c) Authority e-tendering portal – where an advert is placed under one of the above requirements it must also be advertised on the e-tendering portal
- d) Additional adverts – where the opportunity is advertised, officers may also place adverts on the Authority website, trade publications or social media.

Market Engagement (Regulation 40)

Where an advertised process is to be used, and before commencing a process, it is essential to understand the market make up and possible supply options, specifically

- a) Is the Market a Monopoly or is it saturated?
- b) Is the requirement able to be delivered by a single supplier or does it require sub-contracting?
- c) Can the contract requirements be met by local SMEs?
- d) Is the contract suitable for a consortia solution?

All engagement must be overseen by Procurement and participants should be invited through an advertisement on the e-tendering portal and carried out in a transparent manner (e.g. supplier days) that treats all possible procurement participants equally and without discrimination such that the activity is artificially restricts or impairs competition.

Procurement Processes

All procurements are to be issued using either the authority's standard templates or the templates provided by the framework's owner as applicable.

Additional information on the following processes and documents is available within the procurement templates, policy documents and through the procurement guidance documents

Direct Award

This option does not require officers to create a specification or a set of tender documents; instead, they should discuss their requirements with the selected organisation and these should then be written up, priced and submitted by that organisation to the authority for approval. Once agreed, they should then be attached to the authority's standard Purchase order or Service terms and conditions and awarded as set out below.

Request for Quotation (RFQ)

This option uses a single procurement document to set out the contract and specification requirements along with how the submission will be qualitatively and financially assessed. This to be requested from the three selected companies. The submissions should be evaluated in accordance with this document and then a contract concluded with the successful organisation using the terms and conditions attached to the RFQ in accordance with the award process below.

Advertised Tender

The documents needed for an advertised procurement will depend on the contract value and the selected route to market; the tender pack will include some or all of the following

Due Diligence Document

Where a tender is unregulated and thus an SSQ cannot be used, the due diligence (financial and company status) checks must be used to ensure that the successful tenderer is commercially capable and stable to deliver the contract.

Standard Selection Questionnaire (SSQ)

This document is only used for above threshold tenders and has three parts; Parts 1 & 2 are set down by central government and cannot be amended. Part 3 can be populated with the qualitative requirements of the project and used as a mechanism to shortlist in a multi staged process **(Regulations 57, 58 65)**

Invitation to Tender (ITT) (or ITN or ITN Final) (Regulation 54)

This document sets out the details of the procurement process and the process requirements along with the rules that interested (or shortlisted) tenderers must follow to ensure that their bid is compliant. Further guidance and adaptation of the standard template should be sought from procurement

Specification (Regulation 42)

This document must clearly and concisely set out the Authority's specific contract requirements and depending on whether these are input, output or outcome based, the details by which these may be deemed to be achieved or demonstrated.

When using an input specification, officers should ensure that they are suitably up to date with current technology and developments. Specifications should be based on performance or industry standards and only use a brand, model or part number where it is impossible to sufficiently define the requirement any other way. Where this is relied on the specification must state 'or equally approved'.

Where the technical expertise is absent or dated, an output or outcome specifications should be used to ensure that an up to date solution is achieved along with value for money

Where social or other policies are to be considered, these must be clearly specified and where possible, hyperlinks to their location included in the procurement documents.

Terms of Business/ Contracts

The choice of contract shall be in a form approved by the Legal team and will be based on the nature of the spend and the project complexity along with the route to market, officers must engage with the Legal team at the concept of the procurement to enable sufficient time for consideration and drafting.

Where the selected procurement process does not allow for negotiations, officers are advised to ensure that the requirements identified to Legal are not prohibitive or anti-competitive such that they may limit competition and the ability to achieve a successful, value for money outcome.

Tender Submission Document

ALL Tenders MUST be evaluated using the principle of Most Economical and Advantageous Tender (MEAT).

Quality Requirements - Method Statements – (Regulation 67)

Officers are recommended to use a split of 60% Price and 40% Quality. Where this is not felt to be the best means by which to select the most suitable supplier, this may be adjusted to an 80:20 split in either direction following a discussion with Procurement.

Method Statement Questions should be drafted to elicit responses that supplement the specification and in consideration that the responses become part of the contract and performance requirements.

The weighting (importance) of each method statement question must be clearly set out as must the requirements of the 0-5 scoring criteria.

The questions, as a minimum should seek to understand the skills of the delivery team, the timescales for delivery, any quality or health and safety considerations and how the contract can be used to support the local economy, protect the environment or deliver other social benefits.

Pricing Requirements

The tender documents must set out how the price should be calculated and evaluated. This could be a lump sum or a schedule of requirements/ bill of quantities. Where a schedule is used and exact quantities are unknown the document must include details of estimated quantities (unless part of the submission is for them to quantify a resource) to ensure that the evaluation is fair and transparent. Where a schedule of pricing is used, officers may weight particular elements if they are more significant to the success and delivery of the project; where this is required officers must liaise with procurement and finance to ensure the pricing model is fair and representative of the contract requirements.

Form of Tender

Along with the method statement and pricing submission, tenderers are required to confirm that they have no conflicts of interest with the authority and that they have not colluded or otherwise engaged in unethical or illegal practices in order to collate their submission.

Use of/ Reliance on Subcontractors (Regulation 63 & 71)

The authority must allow a tenderer to rely on subcontractors for economic or technical capacity, experience or professional qualifications unless the task that they seek to subcontract is deemed a critical task; specifically where this would dilute accountability or the performance management of essential elements of the contract.

The authority, when setting out its procurement requirements, may stipulate that where subcontracting is relied on that the tenderers sets out the share of the contract to be subcontracted and where they are to be relied upon, may insist that all such subcontractors complete an SSQ or the authority's Due Diligence document (where applicable) to enable the authority to assess their suitability to deliver an Authority contract.

Tender Communications (Regulation 22 & 51)

All procurement processes (except for direct awards) must be managed electronically through the authority's e-tendering portal. All notices, tender documentation and awards must be published through the portal and all communications (Q&A) must be published openly unless deemed commercially sensitive.

Evaluation Process & Clarifications - Regulation 56

Due Diligence

These checks should be completed before the price and quality evaluation process as they assess the financial stability of a tenderer. Where a concern is identified this should be referred to finance and legal for consideration and a decision made as to whether they should be disqualified to protect the successful performance of the contract

Standard Selection Questionnaires (Regulation 57 & 58)

Where this is provided in a single stage process this should be assessed before the qualitative or pricing submission. Any concerns identified should be clarified with the tenderer before deciding if they should be disqualified

Where this document is used to shortlist in a two or multi-stage process the Part 1 & 2 elements should be assessed first and any concerns identified should be clarified with the tenderer before evaluating part 3 and shortlisting

Quality Submissions

These must be evaluated by at least three, suitably skilled individuals using the predefined criteria and the specification.

Evaluators must make notes as to the rationale for each individual score and provide question specific feedback to be used in the moderation process and ultimately shared with the unsuccessful tenderer.

Where the information is unclear or incomplete a clarification process must be carried out.

Pricing Submissions

This must be carried out separately to the quality evaluation, in accordance with the process set out in the tender documentation and must be verified by the relevant member of the finance team to validate its accuracy.

Where the pricing is incomplete or excessively low, a clarification process must be completed with the support of procurement

Post tender Clarifications

Submitted information may be clarified or explained but not amended or supplemented

Missing information

Where information is missing, this may be confirmed to the tenderer but may not be supplied by them. Where this has an impact on the total price, tenderers must either honour the total price submitted or withdraw.

Price calculation errors

Where an arithmetical error is identified and can be corrected without the need to seek clarity or additional information, this should be done and advised to the tenderer for agreement. Where this has an impact of increasing the total price, tenderers must either honour the initial total price submitted or withdraw their offer.

Abnormally low pricing (Regulation 69)

Where a tenderer's price is significantly lower than anticipated by the authority or in comparison with other tenders received; the authority must seek clarity from the tenderer on how they have priced the tender at this level and demonstrate that it is commercially viable and sustainable. Where such

assurances are either not provided or not plausible then the authority should disqualify the submission.

Post Tender Negotiations

Post Tender Negotiations shall not be used to degrade the original tender requirements or price unless

- a) ALL the received tenders came in over budget
- b) Other special circumstances

In these circumstances, all tenderers that have submitted a tender shall be given the opportunity to resubmit against a revised or reduced specification

All other negotiations shall only be undertaken in accordance with Law and in agreement with Procurement and Legal.

Moderation

Following the individual scoring of the quality method statement responses, the evaluation panel, overseen by procurement, must meet and agree a common score for each question along with an agreed justification for the scores and question specific feedback for the tenderer.

AWARD Process

Where a formal gateway process has been used to commence and decide on the procurement process, a further review should be completed before the decision to award. In all case, the following stages must be completed.

Tender Report (Regulation 84)

All advertised tenders must, before award, have a completed tender report approved by procurement, legal and finance before any notifications are sent or contracts collated.

Notifications (Regulation 55 & 86) & Standstill (Regulation 87)

All notification or outcome letters must be approved by procurement and signed by the Procurement and Contracting Manager.

All tenderers (successful and unsuccessful) must be notified, in writing, of the outcome of the evaluation process at the same time. Unsuccessful tenderers must be provided with feedback which details the relative advantages of the successful tenderer.

Where the procurement is regulated (and even on below threshold processes where advised by procurement) the Authority must issue and apply a standstill period with the award letters not being issued until after this period has expired.

Supplier De-briefing

Following the notification of the procurement outcome, unsuccessful tenderers may request feedback in addition to that provided in the letters; this must be agreed and supported by procurement to ensure that only allowed information is shared and that it is done so in a non-discriminatory manner.

Letters of Intent

Letters of intent give the contractor the authority to proceed prior to the execution and dating of contract; however, they should only be used where there is a genuine need and genuine benefit to the Authority, such as to:

- a) facilitating the ordering of goods where there are long lead times
- b) enable design work to commence immediately where not doing so would have an adverse effect on the overall project deadlines and planning requirements
- c) Facilitate TUPE requirement

All letters that fall under the points above must be agreed with legal and signed by the relevant Director. Where a letter of intent is required for any other reason it must be agreed by the Monitoring Officer

Where a letter of intent is issued it must specify its intent and include a maximum liability, which cannot exceed £100,000 unless otherwise agreed by the Monitoring Officer

Contract Award

All tender processes must be concluded by way of a duly signed or executed document.

Contracts MUST not be awarded until all checks have been completed and evidence of any qualifications and certificates provided.

The award must be as per the specification issued and the tender received (including any clarifications) and not a conditional or counteroffer.

Contract Approval

Contracts must be executed by signature or as a deed as follows

Goods & Service

- a) Up to £25k – Responsible Officer
- b) Up to £100k – Finance
- c) Up to £250k – Project Director
- d) Up to £500k – Monitoring Officer, Chief Finance Officer, Chief Executive

All works contract to be executed as a deed to ensure a 12-year latent defect period is applied.

Copies of all executed contracts must be provided to the Procurement and Contracting Manager for inclusion in the contracts register

Contract Award notices (Regulation 50)

Award Notices must be published in accordance with the following decisions.

- a) Where an new Framework or Contract is let and it is over the EU threshold – in the OJEU and on Contracts Finder

- b) Where the procurement is via a mini competition from a framework and is over £25k – on Contracts Finder
- c) Where the Procurement value is over £25,000 but under the EU threshold – on Contracts Finder

Contract Register & Transparency Code

All contracts over £5,000 must be published on the Authority's contract register, this to include a scanned copy of the completed contract and any waiver/ decision or process approval documentation.

Document retention

All documents issued and received via the e-tendering portal will be stored indefinitely on the portal.

Any other information not held on the portal will be in accordance with the Council's retention policy.

Contract Management

The Authority is committed to ensuring that in addition to procuring its contracts compliantly, effectively, economically and in consideration of the community it serves; that they will be appropriately performance managed to ensure the intention and benefits promised are delivered and within the contracted value.

Contract Performance Management

The Contract owner must ensure that performance management meetings are held at appropriate intervals and that these meetings and any decisions made are properly documented and formally recorded such that they can be relied on.

Supplier Payment

Generally

As a responsible authority, payments against contracts should be managed efficiently and without detriment to the suppliers and at most, within 30 days on receipt of the invoice in accordance with government guidance

Construction contracts

Payments on construction contracts must comply with the form of contract used and where practical, should comply with the Construction Supply Chain Partner as far as reasonable possible to do so

Late Payments

Where payments are late, suppliers are entitled to claim statutory late payment interest unless otherwise documented in the contract.

Contract Review

Where a formal gateway process has been used in the initial decision making and subsequent award decision, a further review should be carried out to consider contract performance against the initial

advertised requirements and budget and to monitor ongoing compliance with these rules and legislation.

Performance Failures

Where a Performance failure is identified the following must be applied

- a) Legal are consulted as to permissible measures under the contract
- b) Management meetings are held more frequently with the interval being based on the severity of the failure
- c) A remedial plan is agreed and signed
- d) Revised, intermediate performance targets are set out and monitored to ensure improvement and performance failure resolution within the agreed timescales

Where the above measures do not deliver the required improvements within the required timescales, legal should be consulted to escalate the remedial requirements or initiate the termination of the contract.

Contract Termination for Performance

Where performance failure under the contract cannot be remedied or where there has been a case of insolvency or other organisation failure, the officer should seek advice from legal and agreement by the Monitoring officer to terminate the contract

Contract Variations/ Extensions (Regulation 72)

A Contract should only be extended or varied in accordance with any options specifically included in the original procurement documentation.

Where no such provision exists; a contract can only be extended or varied with the agreement of the Director and/ or Monitoring Officer (depending on value) and documented through the approval of a waiver, as follows

- a) The additional requirement is still in scope of the original specification and does not equate to a new requirement or something that is materially different to that advertised such that it requires a new process
- b) The extension or variation does not present an unacceptable risk to the authority; e.g. had the changes been known, others would have participated in the opportunity or a better price could have been achieved
- c) The additional requirement does not take it over the EU threshold when it was procured using a below EU process
- d) The additional value does not exceed more than 10% if goods & services or 15% if works of the original, advertised value (This can be approved by the Director subject to available funds)

- e) The additional value of any extension or variation is not a material change, the need was unforeseeable, there is a proprietary right or there is urgency and the change does not exceed more than 50% of the original, advertised value (Monitoring Officer).

The application of any extension or variation

- a) must be in the council's best interest ;
- b) must demonstrate value for money;
- c) cannot be until after a new Due Diligence Check has been completed.

Once approved, Legal must be engaged to provide the necessary legal documentation to record the variation or extension and then the signed version of this and the waiver must be added to the contract register.

Lessons Learned

At the close of the contract, the gateway process must be concluded with a lessons learned exercise and this information should be shared to ensure ongoing process improvements and best practice.

Other Procurement considerations

Procurement on behalf of Partner Authorities

Where the authority is required under its own powers or at the request of a partner authority to procure on its behalf, those procurements must comply with legislation, these rules and the other authority's rules.

Where there is a conflict between these rules and the other authority's rules then the following apply

- a) Financial, procurement or other approvals to procure or award must be the those of the authority for which the contract is let
- b) Contract signatory requirements to be those of the authority signing the contract
- c) Procurement Process to be followed will be these in compliance with the relevant legislation

Purchase Cards

The Authority operates a purchase card facility; these are available, with the approval of the Finance.

Purchase cards are to be used for low value or one-off incidental spend where it is not efficient to carry out a competitive process. Purchase cards **MUST NOT** be used to bypass corporate contracts or these rules without the express permission of Procurement and the appropriate Director.

The principle of disaggregation applies to spend on purchase cards both in relation to the individual and the Council as a whole.

Grants (law)

Where a grant is issued, it must be awarded in accordance with the Council's process for advertising, selecting, awarding and monitoring grants

All Grants over £25,000 MUST be executed as a Deed.

Community Right of Challenge

The Local Government Act permits relevant bodies (charities, community bodies, town & parish Council Services and Staff) to submit Expressions of Interest to provide Council Services. Corporate Services shall maintain and publish a timetable for the submission of interest. Any such expressions shall be forwarded to the Transformation Team.

Disposal of Goods & Assets (council requirement)

Where the Council has goods or assets that are no-longer required these are to be disposed of through a closed-bid auction process. The Council has an eBay account for this purpose and any department wishing to use it needs to do so through the Procurement team.

Procurement Schedules

Please see schedule 1 for threshold by procurement category

Please see Schedule 2 for a summary table of procurement rules by category and value.

Waivers

Where an officer seeks to deviate from the requirements of this document a waiver must be completed and approved in accordance with the following rules

Exemptions to the requirement to carry-out a quotes process

This must be drafted by the responsible officer and agreed by procurement and legal

Exemptions to the requirement to advertise on Contracts Finder

This must be drafted by the responsible officer and be approved by procurement, legal and Director with budget responsibility

Exemptions to the requirement to carry out an advertised EU process

This must be drafted by the responsible officer and be approved by procurement, the relevant Director and the Monitoring Officer

Requests to vary a contract in value or time

This must be drafted by the responsible officer and be approved by procurement, the relevant Director, the Chief Finance Officer and the Monitoring Officer

Waiver Contract Documents

Once a waiver has been agreed, a formal contract or variation instruction completed and signed/executed. The completed documents must be added to the contract register.

