



Leicester  
City Council

## **MEETING OF THE AUDIT AND RISK COMMITTEE**

**DATE: WEDNESDAY, 20 NOVEMBER 2019**

**TIME: 5:30 pm**

**PLACE: Meeting Room G.01, Ground Floor, City Hall, 115 Charles Street, Leicester, LE1 1FZ**

### **Members of the Committee**

Councillor Pantling (Chair)

Councillor O'Donnell (Vice-Chair)

Councillors Bajaj, Joshi, Kaur Saini, Dr. Moore and Rahman

One Non-Group vacancy (to be notified)

Members of the Committee are summoned to attend the above meeting to consider the items of business listed overleaf.

for Monitoring Officer

**Officer contact: Ed Brown**  
*Democratic Support, Democratic Services*  
*Leicester City Council,*  
*City Hall, 115 Charles Street, Leicester, LE1 1FZ*  
*Tel. 0116 454 3833*  
*Email. [Edmund.brown@leicester.gov.uk](mailto:Edmund.brown@leicester.gov.uk)*

## Information for members of the public

### Attending meetings and access to information

You have the right to attend formal meetings such as full Council, committee meetings & Scrutiny Commissions and see copies of agendas and minutes. On occasion however, meetings may, for reasons set out in law, need to consider some items in private.

Dates of meetings and copies of public agendas and minutes are available on the Council's website at [www.cabinet.leicester.gov.uk](http://www.cabinet.leicester.gov.uk), from the Council's Customer Service Centre or by contacting us using the details below.

### Making meetings accessible to all

Wheelchair access – Public meeting rooms at the City Hall are accessible to wheelchair users. Wheelchair access to City Hall is from the middle entrance door on Charles Street - press the plate on the right hand side of the door to open the door automatically.

Braille/audio tape/translation - If you require this please contact the Democratic Support Officer (production times will depend upon equipment/facility availability).

Induction loops - There are induction loop facilities in City Hall meeting rooms. Please speak to the Democratic Support Officer using the details below.

Filming and Recording the Meeting - The Council is committed to transparency and supports efforts to record and share reports of proceedings of public meetings through a variety of means, including social media. In accordance with government regulations and the Council's policy, persons and press attending any meeting of the Council open to the public (except Licensing Sub Committees and where the public have been formally excluded) are allowed to record and/or report all or part of that meeting. Details of the Council's policy are available at [www.leicester.gov.uk](http://www.leicester.gov.uk) or from Democratic Support.

If you intend to film or make an audio recording of a meeting you are asked to notify the relevant Democratic Support Officer in advance of the meeting to ensure that participants can be notified in advance and consideration given to practicalities such as allocating appropriate space in the public gallery etc.

The aim of the Regulations and of the Council's policy is to encourage public interest and engagement so in recording or reporting on proceedings members of the public are asked:

- ✓ to respect the right of others to view and hear debates without interruption;
- ✓ to ensure that the sound on any device is fully muted and intrusive lighting avoided;
- ✓ where filming, to only focus on those people actively participating in the meeting;
- ✓ where filming, to (via the Chair of the meeting) ensure that those present are aware that they may be filmed and respect any requests to not be filmed.

### Further information

If you have any queries about any of the above or the business to be discussed, please contact Edmund Brown, **Democratic Support on (0116) 454 3833 or email [Edmund.Brown@leicester.gov.uk](mailto:Edmund.Brown@leicester.gov.uk)** or call in at City Hall, 115 Charles Street.

For Press Enquiries - please phone the **Communications Unit on 0116 454 4151**

## **PUBLIC SESSION**

### **AGENDA**

#### **FIRE / EMERGENCY EVACUATION**

If the emergency alarm sounds, you must evacuate the building immediately by the nearest available fire exit and proceed to area outside the Ramada Encore Hotel on Charles Street as directed by Democratic Services staff. Further instructions will then be given.

#### **1. APOLOGIES FOR ABSENCE**

#### **2. DECLARATIONS OF INTEREST**

Members are asked to declare any interests they may have in the business to be discussed.

#### **3. MINUTES OF THE PREVIOUS MEETING**

**Appendix A**

The Minutes of the previous meeting of the Audit and Risk Committee held on 18 September 2019 have been circulated, and Members will be asked to confirm them as a correct record.

#### **4. PROPOSED CHANGES TO THE CONTRACT PROCEDURE RULES**

**Appendix B**

The Director of Finance submits the Proposed Changes to the Contract Procedure Rules.

#### **5. COUNTER-FRAUD UPDATE REPORT 2019-20**

**Appendix C**

The Corporate Investigations Manager submits a report, which provides a mid-year update on the work carried out by the Corporate Investigations Team for the period April 2019 to September 2019.

#### **6. DEVELOPMENTS IN AUDIT AND GOVERNANCE**

**Appendix D**

The internal auditor submits a report on the current and planned developments in audit (mostly external audit) and governance, that are associated with the Committee's responsibilities.

#### **7. PRIVATE SESSION**

#### **Members of the Public to Note**

**Under the law the committee is entitled to consider certain items in**

**private where in the circumstances the public interest in maintaining the matter exempt from publication outweighs the public interest in disclosing the information. Members of the public will be asked to leave the meeting when such items are discussed.**

The Committee is recommended to consider the following reports in private on the grounds it will contain “exempt” information as defined by the Local Government (Access to Information) Act 1985, as amended, and consequently makes the following resolution:

“that the press and public be excluded during consideration of the following report in accordance with the provisions of Section 100A(4) of the Local Government Act 1972, as amended, because it involves the likely disclosure of “exempt” information, as defined in the Paragraph detailed below of Part 1 of Schedule 12A of the Act, and taking all the circumstances into account, it is considered that the public interest in maintaining the information as exempt outweighs the public interest in disclosing the information.”

Paragraph 3

Information relating to the financial or business affairs of any particular person (including the authority holding that information).

The following reports concern the strength of internal controls of the City Council’s financial and management processes and includes references to material weaknesses and areas thereby vulnerable to fraud or other irregularity.

It is considered that the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

Item 8

Progress against the 2018-19 and 2019-20 Internal Audit Plans

**8. PROGRESS AGAINST THE 2018-19 AND 2019-20 INTERNAL AUDIT PLANS** **Appendix E**

Leicestershire County Council’s Head of Internal Audit & Assurance Service submits a report, which provides a summary of progress against the Internal Audit Plan 2019-20, a summary information on high importance recommendations and progress with implementing them, and a brief update on Leicestershire County Council’s Internal Audit Service’s resources.

**9. ANY OTHER URGENT BUSINESS**



Leicester  
City Council

# Appendix A

## Minutes of the Meeting of the AUDIT AND RISK COMMITTEE

Held: WEDNESDAY, 18 SEPTEMBER 2019 at 5:30 pm

### P R E S E N T:

Councillor Pantling (Chair)

Councillor Bajaj  
Councillor Joshi

Councillor Kaur Saini  
Councillor Dr Moore

Councillor Rahman

\* \* \* \* \*

#### **1. APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillor O'Donnell.

#### **2. DECLARATIONS OF INTEREST**

Members were asked to declare any interests they may have in the business on the agenda.

There were no declarations of interest.

#### **3. MINUTES OF THE PREVIOUS MEETING**

RESOLVED:

That the minutes of the meeting held on 24<sup>th</sup> July 2019 be confirmed as a correct record.

#### **4. DRAFT OF THE COMMITTEE'S ANNUAL REPORT TO COUNCIL 2018-19**

The Director of Finance submitted the draft annual report of the Audit and Risk Committee to Council setting out the Committee's achievements and the issues addressed by the Committee over the municipal year 2018-19.

It was noted that it was a requirement of Audit regulations that a report be submitted first to the Committee and then to Full Council.

Members were invited to raise comments and questions on the report.

Councillor Dr Moore commented on the importance of the Committee and the importance of risks being addressed.

The Chair further commented that the report highlighted the complexity of what the Council dealt with daily.

RESOLVED:

That the Annual Report of the Audit and Risk Committee to Council covering the municipal year 2018-19 be approved and submitted to Council.

## **5. ANNUAL AUDIT LETTER**

Grant Patterson of Grant Thornton presented a report on the Annual Audit Letter. The letter summarised the key findings for the 2018-19 municipal year. It was noted that the External Auditors had carried out an audit in accordance with the National Audit Office's (NAO) Code of Audit practice, which reflected the requirements of the Local Audit and Accountability Act 2014.

Particular attention was drawn to the Whole of Government Accounts, for which an assurance statement had been issued which had not identified any issues for the NAO as the group auditor and the audit had been formally concluded.

Attention was also brought to the Certification of Grants, noting that work had been completed on the Council's 2017-18 Pooling of Housing Capital Receipts return as an audit related non-audit service. There were no matters required to be reported on.

The report on Teachers' Pension return was not yet complete and would be finalised by 30<sup>th</sup> November 2019 and the reports would be submitted separately to the Audit and Risk Committee.

Councillor Joshi drew attention to the joint review completed by the Care Quality Commission and OFSTED in to the working arrangements across Special Educational Needs (SEND) provision. This review identified significant weaknesses. Councillor Joshi asked if Mr Patterson was confident that targets had been met in addressing these weaknesses.

Mr Patterson confirmed that assurance had been gained that issues identified were being dealt with. He noted that whilst there was pressure on the service nationally, he was satisfied that the arrangements in place were adequate to address the risks in this municipal year.

It was further noted that this document was required through legislation, but is very similar to the report received by the committee at the last meeting.

Councillor Dr Moore acknowledged that meeting the needs of children with Special Educational Needs and Disabilities (SEND) services was a complex area with many factors outside Local Authority control as many policy decisions were made by Central Government. It was noted that it was often necessary to

refocus targets due to changing needs and that it was important to monitor the issue as a committee.

RESOLVED:

That the contents of the report be noted.

## **6. ANNUAL REPORT ON THE NATIONAL FRAUD INITIATIVE**

The Director of Finance presented the Annual Report on the National Fraud Initiative (NFI). The purpose of the report was to provide information on the National Fraud Initiative exercise currently underway.

NFI exercises involved data matching within the Council and with external organisations, including other councils in order to identify possible fraud or irregularity.

Multiple data sets were to be compared with data from the rest of the country.

By 23<sup>rd</sup> August 2019 there had been 26,769 total matches, 2,982 matches checked, no errors identified, no frauds identified, and no overpayments identified.

It was noted that the initiative was a work in progress and that matches would continue to be checked over the next 18 months.

RESOLVED:

That the contents of the report be noted.

## **7. REVIEW OF THE ANTI-FRAUD, BRIBERY AND CORRUPTION POLICY AND STRATEGY**

The Director of Finance presented a report on the Review of the Anti-Fraud, Bribery and Corruption Policy and Strategy. The Committee was asked to note and approve the report.

Attention was drawn to point 5.6 on the report which regarded the e-learning package. It was noted that partaking in the training would be mandatory and that there would be annual refresher training. The course was currently in its final stages of development and would be rolled out in the near future.

Councillor Bajaj asked whether there were enough changes to warrant a policy review every two years and whether a review every five years would be sufficient.

In response it was confirmed that this was a current requirement of the Committee's terms of reference. In addition, it was noted that if any changes were necessary between scheduled annual reviews, then they could be brought to committee.

RESOLVED:

That the contents of the report be noted.

## **8. CORPORATE COMPLAINTS (NON STATUTORY) 2018/19**

The Director of Finance presented a report on Corporate Complaints in order to update the Committee on corporate non-statutory complaints in the 2018/19 municipal year and so that members could note the improvements and comment upon the actions from the lessons learned and planned future changes.

It was reported that complaints were now triaged in order to determine the route of the complaint and who needed to be involved.

It was noted that in 2018/19 the total number of complaints was 1,408 compared to 1,485 in 2017/18, a reduction of 5.2%.

Of these complaints 864 (38%) were triaged to the appropriate service to respond.

It had been determined that of the 544 complaints independently investigated, 18% of these were justified, 22% partially justified and 60% were not justified in that the authority was not found to be at fault.

The three most common categories of complaint were:

1. Quality of service 196 (36%)
2. Policy, procedure and legislation 162 (30%)
3. Speed of service (15%)

The top 10 service areas that complaints have been received about, accounting for 90% of the total 544 complaints investigated were:

1. Housing repairs.
2. Local Taxation.
3. Housing (other).
4. Housing Options.
5. Housing Benefits.
6. Customer Services.
7. Street Scene Enforcement.
8. Sports and Leisure Centres.
9. Planning Management.
10. Parks and Green Spaces.

Lessons learned from the report included:

- Being proactive to tackle personal injustice  
-Listening to customers, offering apologies, giving opportunities to appeal or review a case.
- Recommendations for service improvements arising from complaint



investigations

-A review of policies, change to practices, training staff, raising awareness of issues.

- A Corporate Complaints Policy had been introduced to ensure the good practice outlined by the Local Government Ombudsman was met.
- A procedure on how to manage vexatious complaints was introduced.

Actions were identified which would continue to make a difference to delivery without compromising the benefits of complaints. These were:

- To continue to raise awareness of the complaints prevention activity across all services/divisions. As such a customer liaison was embedded into the triage procedure.
- To review the approach to remedies. The key principle was that the remedy should, as far as possible, put the complainant back in the position they would have been had the error not occurred.
- Service improvement meetings would be ongoing.
- The Service Improvement Manager would review the categorisation of complaints.

Councillor Rahman brought the attention of the Committee to point 2.8 of the report and enquired as to whether the true number of complaints could be higher due to the difficulty of navigating the online complaint submission journey.

It was reported that the service were mapping the journey that the customer goes through in order to try and develop a better process that the customer can follow. It was also acknowledged that there were other avenues to report complaints such as by telephone, email or post.

Councillor Dr Moore reported that she had received many complaints from constituents about the phone system for making enquiries. It was also remarked that it was necessary to cater for some older people who did not use computers.

Councillor Dr Moore further commented that the Councillor enquiry system could be difficult, and it was often easier for them to call an officer. She enquired as to how complaints were collated when Councillors were not part of the process.

Regarding the Councillor enquiry system, Councillors were encouraged to use it as it helped the service to compile data and information so that the nature of issues being faced could be understood. As this would allow a similar triage system to be introduced so that issues could be addressed as early as possible.

Regarding customer contact it was reported that a new telephony system would be in place by May 2020 and that online use was encouraged so that phone lines were free for those who needed them most.

In response to a request from Councillor Dr Moore, it was confirmed that a report on how the new telephony system was working once it was in place could be submitted to the Committee.

Councillor Joshi referred to an incident helping a person at York House Customer Service Centre. He remarked that delays had been very distressing, and although the situation was eventually resolved to a satisfactory level, the connecting time was longer than expected and that waiting time needed to be reduced.

It was reported that there were two priority telephone lines where the waiting time was around one minute, one for Adult and Children's Social Care and one for housing repairs. It was explained that the situation described by Councillor Joshi would have been Tier 2- Housing options, which was very busy, and whilst they tried to have a quick turn-around, the long and complex nature of these conversations made this difficult

Councillor Bajaj suggested having a complaints box outside Town Hall so that written complaints could be easily received. The feasibility of this option would be considered.

RESOLVED:

1. That the contents of the report be noted.
2. That a report on the new telephony system be submitted in due course.

## **9. RISK MANAGEMENT UPDATE REPORT**

The Director of Delivery, Communications and Political Governance presented a report on Risk Management that provided an update on strategic and operational risks since the last quarter.

The attention of the Committee was drawn to the summary of risks and noted that one new risk had been added, one deleted and 16 updated.

Reference was also made to the 17 Strategic risks on the Details of the Risk Register and also to the changes made since the last quarter.

The attention of the Committee was also drawn to the Operational Risk Register and to the section which outlined where changes had been made.

The Health and Safety data on the main incidents reported via SO2 forms over the past two years was also noted and it was reported that nearly half of the incidents were near-misses.

It was reported that Leicester City Council had won an award for the response to the Hinckley Road Explosion.

Councillor Rahman raised a query about risks regarding Cyber Security, noting that the Risk Score remained the same despite further controls. She enquired

as to why this was.

It was explained that whilst further controls had been identified, the critical nature of cyber security and the ever-changing detail of the threats meant that the risk score would always remain high. The Internal Auditor added that this was an international risk and not just a local one.

The Chief Accountant offered to forward a previous Committee report from IT on how Cyber Security is addressed.

Councillor Dr Moore requested that reports on printed agendas be in colour in future to make them easier to interpret and further requested that they be posted to members on request, given their detailed nature.

It was reported that Sonal Devani had been a finalist in the ALARM the Professional of the Year Award and the Committee's congratulations were noted.

RESOLVED:

That the contents of the report be noted.

## **10. PRIVATE SESSION**

Into Private Session.

RESOLVED:

That the press and public be excluded during consideration of the following report, in accordance with the provisions of Section 100A(4) of the Local Government Act 1972, as amended, because it involved the likely disclosure of "exempt" information, as defined in the Paragraph detailed below of Part 1 of Schedule 12A of the Act, and taking all circumstances into account, it was considered that the public interest in maintaining the information as exempt outweighed the public interest in disclosing the information.

### Paragraph 3

Information relating to the financial or business affairs of any particular person (including the authority holding that information).

### **Internal Audit Update Report**

## **11. INTERNAL AUDIT UPDATE REPORT**

The Internal Auditor submitted a report, which provided:

- A summary of progress against the 2018-19 and 2019-20 Internal Audit Plans.
- Information on resources used to progress the plans.
- Summary information on high importance recommendations and

progress with implementing them.

With regard to the progress report on the audits from the 2018/19 and the 2019/20 plans, it was noted that the first part of the report had been finalised and the second part was a work in progress.

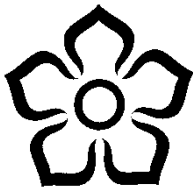
It was further reported that progress was being made on the shortfall of audit days in the previous year and many of the high recommendations had been cleared.

Councillor Bajaj observed that much of the planned audit work had not yet commenced, making particular reference to the planned work on Brexit.

In response the need to spread the workload was emphasised and the Committee was informed that this work would be undertaken in the future.

## **12. CLOSE OF MEETING**

The meeting closed at 6.42pm



Leicester  
City Council

**WARDS AFFECTED**  
**All**

**FORWARD TIMETABLE OF CONSULTATION AND MEETINGS:**  
**Audit & Risk Committee**

**20 November 2019**

---

## **PROPOSED CHANGES TO THE CONTRACT PROCEDURE RULES**

---

### **Report of the City Barrister**

#### **1. Purpose of Report**

- 1.1. To inform the Committee of proposed changes to the Contract Procedure Rules (CPR).

#### **2. Recommendations**

- 2.1. The Committee is asked to consider the changes to CPR and make any comments to Officers and/or Full Council.

#### **3. Summary**

- 3.1. The CPR are a legal requirement for the Council and set out the rules and processes which must be followed when entering into contracts for the purchase/hire of goods, disposal of assets and purchase of works and services. They were last updated in 2015; Rule 14 (Periodic Review of the Rules) of the current rules states:

“The Head of Procurement and City Barrister, in consultation with the Chief Operating Officer, shall at least every five years review these Rules and, if deemed appropriate, propose amendments to Full Council, following an initial report to Audit & Risk Committee.”

- 3.2. Over the past year, a number of changes to council policy, procurement legislation and the Council’s procurement structure have taken place which mean the rules need to be updated. Additionally a general need to update the CPR to address issues and improve procurement processes has been identified.
- 3.3. The changes to the Rules in 2015 were made to drive improvement against a backdrop of poor procurement practice across the Council which had been discerned. There has now been a noticeable improvement and some of the processes introduced at that time have become onerous and inefficient, particularly for low value contracts particularly given the need to deliver savings across the authority.
- 3.4. New CPR have been drafted with consultation with senior management and relevant service areas across the Council, including Finance, Legal and Internal Audit. These

are attached as Appendix 1. It is proposed to present these to Full Council for approval in early 2020, alongside changes to other parts of the Constitution.

#### 4. Report

4.1. Internal review and feedback was received which has highlighted a number of challenges which the proposed changes to the rules address:

a) **Challenge:** Processes, particularly for low value procurement too onerous, not cost-effective, not adding value and leading to too many waivers

**Proposals:**

- Devolve simple processes to be conducted by departments following review/advice by Procurement;
- Updated rules and approval processes for Waivers/Exemptions and Contract Extensions;
- Requirement to get four written quotes reduced to three for Targeted Quotations;
- Remove requirement for Procurement Plan to be approved every year as a prerequisite for procurement to commence;
- Less specific rules on executing contracts to enable implementation of new “e-signature” software to improve efficiency of contract award procedures;
- Raise thresholds & merge current Small & Medium bands. See Annex A for proposed revised thresholds.

b) **Challenge:** to ensure that raising the thresholds for advertising does not lead to a decline in the use of and engagement with local suppliers.

**Proposals:**

- Increased ability to seek targeted quotes or direct award, and rules encourage use of local suppliers whenever possible – this will be emphasised in guidance and communications;
- References to Social Value Charter added to formally link into rules.

c) **Challenge:** the existing Rules are too long and not easy to follow in places.

**Proposals:**

- Restructured and significant reduction in length of Rules to simplify and aid understanding; remove re-writing of legislation;
- Removal of Appendix 2 as not implemented by schools who have their own separate rules.

4.2. The proposed Rules have also been updated to reflect new legislation, principally the Concessions Contracts Regulations, and to mitigate risk of needing to make future changes due to Brexit.

4.3. If the Rules are approved, Audit and Risk Committee, as per the proposed new Rule 12, will receive a report following the end of each financial year to include:

- achievement of the Procurement Plan;
- compliance with these Rules, including a summary of Waivers;
- any changes to these Rules made under Rule 6;

## 5. Financial, Legal and Other Implications

### Financial Implications

- 5.1. There are no significant direct financial implications expected from changing these rules. It is anticipated that the resource required to conduct the processes set out is already in place in the Council's procurement teams. The rules are aimed at ensuring procurement activity derives best value and maximum economic benefit for Leicester. Colin Sharpe, Deputy Director of Finance, ext. 37 4081

### Legal Implications

- 5.2. Legal Services have been consulted in drafting the new Rules and their comments considered at each new draft. The Rules have been drafted to ensure the Council complies with legislation in terms of procurement and to protect the Council from legal challenge when conducting procurement activity.

### Other Implications

OTHER IMPLICATIONS	YES/ NO	Paragraph/References within the Report
Equal Opportunities	Yes	Procurement has the potential to impact on all of these implications, and the guidance which is being developed to accompany these Rules will detail how this should be done. The centralisation of procurement activity to a fewer number of professionals will help ensure this is done in a consistent and proportionate manner.
Policy	Yes	
Sustainable and Environmental	Yes	
Crime and Disorder	Yes	
Human Rights Act	Yes	
Elderly/People on Low Income	Yes	
Corporate Parenting	Yes	
Health Inequalities Impact	Yes	
Risk Management	Yes	Risk Management and Internal Audit have been consulted when developing these new procedures which have been drafted to provide appropriate controls to risks that occur during all procurement processes. The Rules sit alongside the Council's Risk Management Strategy and Policy.

## 6. Consultations

- 6.1. See paragraph 3.4 above.

**7. Report Author**

7.1. Neil Bayliss  
Head of Procurement  
0116 454 4021  
[neil.bayliss@leicester.gov.uk](mailto:neil.bayliss@leicester.gov.uk)



## Annex A: Proposed Revised Thresholds

	Process	Goods and Services	Social Care ("Schedule 3") Services	Works (and Concessions)
<b>Small</b> <i>currently Minor</i>	Direct Award and Purchase Order	Up to £10,000.00 <i>Up to £1,000</i>	Up to £10,000.00 <i>Up to £1,000</i>	Up to £25,000.00 <i>Up to £5,000</i>
<b>Medium</b> <i>currently Small &amp; Intermediate</i>	Three Quotes (or Advertisement)	£10,000.01 - £100,000.00 <i>£1,000 - £75,000</i>	£10,000.01 - £100,000.00 <i>£1,000 - £75,000</i>	£25,000.01 - £250,000.00 <i>£5,000 - £250,000</i>
<b>Large</b>	Advertised Tender Process	£100,000.01 to EU Threshold <i>£75,000 to EU Threshold</i>	£100,000.01 to EU Threshold <i>£75,000 to EU Threshold</i>	£250,000.01 to EU Threshold <i>no change</i>
<b>PCR</b> <i>currently EU</i>	Full Tender Process	EU Threshold and above <i>no change</i>	EU Threshold and above <i>no change</i>	EU Threshold and above <i>no change</i>
<b>Current EU Threshold*</b>		£181,302	£615,278	£4,551,413

\*will be updated with effect from 1 January 2020



**PART 4G:  
CONTRACT PROCEDURE RULES**

**Contents**

**PREAMBLE.....3**  
**GENERAL PROVISIONS .....4**  
**THRESHOLDS & APPROVAL.....6**  
**EXEMPTIONS & WAIVERS .....8**  
**TERMS AND CONDITIONS & EXECUTION OF CONTRACTS.....9**  
**USE OF PROCEDURES .....10**  
**PROCUREMENT PROCEDURES .....12**  
**USE OF FRAMEWORK AGREEMENTS & DYNAMIC PURCHASING SYSTEMS .....13**  
**CONDUCTING A PROCUREMENT PROCESS .....13**  
**CONTRACT MANAGEMENT & CONTRACT MODIFICATIONS .....16**  
**APPENDIX 1: DEFINITIONS.....19**  
**APPENDIX 2: MANDATORY REQUIREMENTS .....23**

## **PREAMBLE**

*For capitalised words see Appendix 1 at the end of these Rules for the meanings.*

### **1. The Contract Procedure Rules**

- 1.1 These Contract Procedure Rules (“Rules”) are a legal requirement under Section 135 of the Local Government Act 1972 and are part of the Council’s Constitution. They set out the basic principles that must be followed by everyone proposing to enter into any Contract on behalf of the Council.
- 1.2 The Regulations contain further rules concerning procurement by the Council which must be followed.
- 1.3 If there is any doubt or lack of clarity as to the meaning or application of these Rules, officers must seek advice from Procurement Services and/or Legal Services.

### **2. Purpose**

- 2.1 These Rules set various value levels, their application and the procedures that must be followed for each. The procedures are designed in incremental steps so the higher the value the more rigorous the processes.
- 2.2 Following the Rules ensures that the Council:
  - achieves value for money, meets the Best Value Duty and delivers savings from the market;
  - achieves accountability, fairness and transparency (as required by the Local Government Transparency Code 2014) and ensures an adequate audit trail is maintained;
  - ensures compliance with all legal requirements, following proper, fair and proportionate procedures for and throughout all procurement processes;
  - ensures that all procurement processes reflect appropriate quality requirements and all Submissions are judged by objective criteria which are clearly set out in the procurement documentation;
  - ensures that the Council’s wider policy objectives are promoted (including environmental sustainability, economic regeneration, business continuity);
  - reduces the risk of fraud, bribery and corruption.

### **3. Procurement Guidance**

- 3.1 The Head of Procurement and/or the Head of Law may from time to time publish guidance to amplify and fine tune the steps to be taken as part of procurement and Contract management processes or vary the standard procurement documents.
- 3.2 Where there is any ambiguity or conflict between these Rules and or guidance issued under this Rule, the provisions of the Rules shall take precedence.

### **4. Social Value**

- 4.1 The Public Services (Social Value) Act 2012 requires the Council under certain circumstances to consider how the economic, social and environmental

wellbeing of Leicester may be improved by Services that are to be procured, and how procurement activity may secure these improvements.

- 4.2 The Council will apply the principles of the Public Services (Social Value) Act 2012 to the commissioning and procurement of all Medium, Large and PCR Contracts.
- 4.3 The Council has set out its policy on social value in its Social Value Charter which must be implemented in all relevant procurement processes.

## **5. Contracts Database and Electronic Tendering System**

- 5.1 Procuring Officers must record all Medium, Large and PCR Contracts in the Contracts Database, which is part of the Electronic Tendering System.
- 5.2 In exceptional circumstances there may be occasions when use of the Electronic Tendering System is not appropriate or possible. E-mail and/or hard copy Submissions may be required.
- 5.3 Electronic auctions may be used, so long as, where applicable, the Regulations are complied with.

## **6. Minor Amendments & Review**

- 6.1 The Chief Operating Officer, Chief Finance Officer and the City Barrister, may from time to time amend the thresholds in the table in Rule 13.1.
- 6.2 The City Barrister may from time to time amend these Rules:
  - to correct an error or clarify an ambiguity;
  - to reflect changes in the management structure, working practices and responsibilities, e.g. as set out elsewhere in the Constitution; and
  - to reflect changes in the Law to ensure consistency.

## **7. Periodic Review of the Rules**

- 7.1 The City Barrister shall ensure that the Rules are reviewed at least every five years and, if appropriate, propose amendments to Full Council, following an initial report to the Audit & Risk Committee.

## **GENERAL PROVISIONS**

### **8. Status**

- 8.1 In the event of any inconsistencies between the Rules and the Law (including the Regulations), then the Law will apply over the Rules.

### **9. Scope**

- 9.1 These Rules must be followed at all times and apply:
  - to all members, officers and staff, (including agency staff and interims) and consultants of the Council;
  - to all departments trading organisations and organisations for which the Council is the accountable body;

- where the Council is acting as agent for or working collaboratively with another body unless it is agreed between the parties otherwise and provided the Law is complied with at all times;
  - to all Contractors acting on behalf of the Council and empowered to form contracts on behalf of the Council and by any person who is not an officer of the Council engaged to manage a Contract on behalf of the Council;
  - to the award of a Contract where a sub-contractor/supplier is to be nominated by the Council to a main Contractor.
- 9.2 The Rules shall not apply to maintained schools, who must follow the Contract Procedure Rules for maintained schools as issued by the City Barrister from time to time.
- 9.3 Failure to comply with the provisions of the Rules may result in action being taken by the Council against the persons/organisations concerned including, where appropriate, referral to the Police.
- 9.4 These Rules apply to
- all Contracts, including but not restricted to:
    - the supply of Goods; and/or
    - the supply of Services (including consultancy); and/or
    - the carrying out of Works; and/or
    - a Capital Asset Disposal; and/or
    - any and all of the above in so far as they are (whether in part or whole) a Concession Contract.
  - any matters as may arise in the process of managing Contracts including those which change, vary or terminate;
  - any Contract which the Council awards to a Company in which it has an interest, but which is not a Teckal Company; and
  - any award of a Contract to another public body which is not a delegation of function.
- 9.5 These Rules do not apply to:
- contracts solely for the acquisition or disposal of any interest in land;
  - contracts of employment;
  - loan agreements;
  - grants so long as they fall outside of the definition of procurement within the Regulations;
  - functional arrangements with other public bodies, including any arrangements covered by Regulation 12 of the PCR, provided they are first approved by the Head of Law;
  - contracts awarded to a Teckal Company of the Council; or
  - delegations of functions to another Local Authority under the Local Government Act 1972 and Local Government Act 2000.

## **10. Private Interests**

- 10.1 Whenever any member, officer or other person involved in a procurement process on behalf of the Council has any interest, or could be perceived to have any interest, in a Bidder or potential Bidder, or any procurement, this interest must be notified in writing to the City Barrister.
- 10.2 For each procurement (including re-procurements) where there is such an interest, that individual must declare it even where it has been declared before. The City Barrister, in consultation with the Head of Procurement, will decide how to proceed to ensure fairness can be demonstrated, to reduce any potential accusation of misconduct, eliminate bias and maintain the integrity of the process.
- 10.3 For the avoidance of doubt, no member, officer or agent of the Council, shall improperly use their position to obtain any personal or private benefit from any Contract entered into by the Council.

## **11. Procurement Plan and Pipeline**

- 11.1 The Head of Procurement will maintain a Procurement Plan and Pipeline and make this available on the Council's website to members, the public and potential Bidders, which will comprise a list of known Medium, Large and PCR Contracts to be procured in the forthcoming two years.

## **12. Monitoring & Reporting**

- 12.1 The Executive and the Audit & Risk Committee will each receive a report following the end of each financial year to include:
- achievement of the Procurement Plan;
  - compliance with these Rules, including a summary of Waivers;
  - any changes to these Rules made under Rule 6;
  - any proposals for changes to these Rules to be made to Full Council.

## **THRESHOLDS & APPROVAL**

### **13. Thresholds**

- 13.1 The following table sets out the thresholds for categorisation of Contracts into value bands based on the Estimated Value.

	<b>Goods &amp; Services</b>	<b>Works &amp; Concessions</b>
<b>Small Contract</b>	£0 - £10,000.00	£0 - £25,000.00
<b>Medium Contract</b>	£10,000.01 - £100,000.00	£25,000.01 - £250,000.00
<b>Large Contract</b>	£100,000.01 – PCR Threshold	£250,000.01 – PCR Threshold
<b>PCR Contract</b>	Over PCR Threshold	Over PCR Threshold



## **14. Calculating Estimated Value**

14.1 Before starting any procurement process, the Commissioning Officer must calculate its Estimated Value as follows:

- for fixed-term Contracts, the total estimated maximum value of the Goods, Services or Works to be supplied over the period of the Contract including any Extensions;
- for Contracts with no defined term, multiplying the estimated average monthly value by 48;
- for trials and pilots, the value of the full Contracts which may be awarded following the trial/pilot;
- for Framework Agreements and DPSs, the total expected value of all Call-Off Contracts over the maximum duration of the Framework Agreement/DPS by all organisations who may use the Framework Agreement/DPS;
- for Concession Contracts, the total income, regardless of source, to the Contractor over the Contract period;
- for periodic/recurring purchases, whether it is from the same or different contractors, must be aggregated over a minimum of a 12-month period;

14.2 Further, when calculating the Estimated Value:

- it must exclude Value Added Tax (VAT) but must include all other taxes and duties;
- it must include the combined estimated value of any department or section of the Council that may use the Contract over the duration of the Contract including any Extensions;
- where the Council is contributing only part of the total value of a Contract, it is the total spend under the contract of all parties to it that must be taken as the Estimated Value and to determine its categorisation;
- it should be calculated including the total consideration that the Contractor(s) will receive in return for carrying out the Contract, whatever the nature or source of the consideration;
- the requirement shall be looked at as a whole and must not be artificially split to avoid competition;
- the Commissioning Officer shall take account of historic cost and an assessment of future trends or, where the requirement is new, the best estimate of value available at the time.

14.3 Where there is any doubt as to the Estimated Value and the band in which the Contract will fit then the procedure for the higher categorisation must be used.

14.4 With the written approval of the Head of Procurement the Procuring Officer may make use of the “Small Lots” provision set out at paragraph 14 of Regulation 6 of the Regulations, and therefore not aggregate the value of all requirements. The Procuring Officer must follow a procedure to award the Contract based only on the value of that ‘Small Lot’.

## 15. Financial Approval

- 15.1 Before procurement of any Contract reaches the Advertisement stage, it must have financial approval from the required officer(s), as set out in the table below:

<b>Contract Categorisation</b>	<b>Financial Approval</b>
<b>Small Contract</b>	Budget Holder(s)
<b>Medium Contract</b>	Head of Service
<b>Large Contract</b>	Divisional Director and Head of Finance
<b>PCR Contract</b>	Divisional Director and Head of Finance

## EXEMPTIONS & WAIVERS

### 16. Exemptions & Waivers

- 16.1 Exemptions and Waivers may be requested by completion of a Form for Exemptions and Waivers (FEW).
- 16.2 A **Waiver** is an approval that for the purpose of a specific procurement the procurement procedure requirements contained in Rules 20 to 37 and their application will be waived, though they apply in principle ('Waiver').
- 16.3 An **Exemption** is an approval that, for one of the following reasons, the procurement is exempt from the procurement procedure requirements contained in Rules 20 to 37 ('Exemption').
- Goods, Services or Works which are available only as proprietary or patented articles; Services or Works from one Contract or for which there is no reasonably satisfactory alternative available in the European Union; and for repairs to, or the supply of, parts of existing proprietary or patented articles or Works, including machinery or plant;
  - works of art, museum specimens or historical documents (a FEW is not required if the Contract is for the Arts & Museum Service);
  - particular artistes and performers and bought-in productions (a FEW is not required if the Contract is for the Arts & Museum Service);
  - those genuine unforeseen emergencies (not of the Council's own making), where immediate action is required, including to fulfil the Council's statutory obligations under the Civil Contingencies Act 2004;
  - Where one of the criteria for use of the Negotiated Procedure without Prior Publication set out in Regulation 32 of the PCR is met;
  - Services as set out in Regulation 10 of the PCR.
- 16.4 In the event that an Exemption does not apply but there is a clear need to dispense with the requirements of the Rules the Commissioning Officer may request a Waiver.

16.5 Exemptions and Waivers require approval as follows.

<b>Contract Category</b>	<b>Exemption</b>	<b>Waiver</b>
<b>Small Contract</b>	Head of Service	Head of Service
<b>Medium Contract</b>	Divisional Director and Specialist Procurement Team Manager	Divisional Director and Specialist Procurement Team Manager
<b>Large Contract</b>	Divisional Director and Specialist Procurement Team Manager	Divisional Director, Specialist Procurement Team Manager and Head of Law
<b>PCR Contract</b>	Divisional Director, Head of Procurement and Head of Law	Divisional Director, Head of Procurement and Head of Law

16.6 Where the FEW is in relation to an ICT Contract it must also be signed by the Director of Finance.

16.7 Exemptions and Waivers may alternatively be authorised by the Executive supported by formal advice from the Head of Procurement and the Head of Law.

## **TERMS AND CONDITIONS & EXECUTION OF CONTRACTS**

### **17. Contract Duration**

17.1 All Contracts (excluding Framework Agreements and Concession Contracts but including Call-Off Contracts) may only be for a maximum of five years unless first approved in writing by the Head of Procurement and the Divisional Director.

17.2 All Framework Agreements may only be for a maximum four years unless first approved in writing by the Head of Law, Divisional Director and Head of Procurement.

17.3 The length of a Concession Contract will be determined in accordance with the CCR and approved by the Head of Law and Head of Finance where it exceeds five years in length.

### **18. Terms & Conditions of Contract**

18.1 For all Contracts, excluding Concession Contracts and Framework Agreements (for which Legal Services must be instructed to approve the terms and conditions), the following terms and conditions will be able to be used, otherwise Legal Services must provide bespoke/customised terms and conditions:

	<b>Small</b>	<b>Medium</b>	<b>Large</b>	<b>PCR</b>
<b>Purchase Order</b>	Yes	Only with prior written approval of Legal Services	No	No
<b>Standard Terms and Conditions</b>	Yes	Yes	Only with prior written approval of Legal Services	Only with prior written approval of Legal Services
<b>Industry Standards</b>	Only with prior written approval of Legal Services			
<b>Contractor's Terms and Conditions</b>	Only with prior written approval of Legal Services			
<b>Framework Agreement Terms and Conditions</b>	Only with prior written approval of Legal Services			

18.2 Where Standard Terms and Conditions are not used the proposed terms of all Contracts must include the clauses as set out in Appendix 2.

## 19. Execution of Contracts

19.1 Contracts may only be signed and entered in to as follows:

<b>Small Contracts (non-deed)</b>	Divisional Director
<b>Medium Contracts (non-deed)</b>	One Authorised Signatory (Legal Services)
<b>Large Contracts (non-deed)</b>	Two Authorised Signatories (Legal Services)
<b>PCR Contracts (non-deed)</b>	Two Authorised Signatories (Legal Services)
<b>Any Contract to be entered in to as a deed</b>	Common Seal and one Authorised Signatory (Legal Services)

19.2 Legal Services will determine where a Contract should be executed as deed.

## USE OF PROCEDURES

### 20. Principles

20.1 The following Rules set out the procedures for use based on the Contract categorisation.

20.2 All ICT Contracts must be procured by the ICT Procurement Team unless the ICT Commercial & Procurement Manager agrees otherwise. Where a procurement is not for an ICT Contract but contains an element of ICT the ICT Procurement Team must be consulted in relation to the procurement.

20.3 All other Contracts except Small Contracts must be procured by the relevant Specialist Procurement Team unless the Specialist Procurement Team Manager agrees otherwise.

20.4 In the case of Schedule 3 Contracts, Concession Contracts or where the Regulations permit or do not apply, the procurement procedures set out in Rules 24 to 26 may be adapted to suit the procurement process in question.

**21. No Competition Required**

21.1 A Contract may be awarded without competition for the following Services:

- Care Services where the provider is to be appointed as a matter of Service User Choice as per the Care Act 2014;
- Contracts for the provision of Residential Care (both adults and children);
- individual school placements sought for a child with Special Educational Needs (SEN);
- special education packages managed by or on behalf of individual clients under the personalisation agenda; and
- where certain needs of an individual (whether an adult or a child) require a particular social care package, which is only available from a specific Contractor in the opinion of the Divisional Director.

21.2 The Divisional Director must ensure that the Contractor meets the relevant national minimum standards and that a record of the reasons for the choice of the Contractor is maintained on the individual’s case notes.

21.3 A Medium Contract may be awarded to one or more VCSE(s) following direct negotiation where, if the Council were not to contract with the VCSE(s) it would significantly affect customers, or other greater gains or benefits would be lost.

**22. Small Contracts**

22.1 For Small Contracts award may be made based upon one quote provided by a Bidder, who is a Local Bidder where possible. The Commissioning Officer must consider whether additional quotes are in the Council’s best interests.

22.2 Where written quote it is not practical, a record of any oral quotation obtained must be made and retained.

**23. Medium, Large & PCR Contracts**

23.1 The following table sets out the usual procedures for each Contract Value, but any lower value procurement may use a method for a higher value procurement where the relevant Specialist Procurement Team deems appropriate:

	<b>Medium</b>	<b>Large</b>	<b>PCR</b>
<b>Targeted Quotation</b>	Yes	Yes (with approval of the Head of Procurement)	No
<b>Advertised Quotation</b>	Yes	No	No
<b>Use of Non-LCC Framework Agreement</b>	Yes	Yes	Yes
<b>Use of LCC Framework Agreement</b>	Yes	Yes	Yes

<b>Open Procedure</b>	-	Yes	Yes
<b>Restricted Procedure</b>	-	Yes (where permitted by Regulation 107 of the PCR)	Yes
<b>Competitive Dialogue (CD)</b>	Only with Head of Law and Head of Procurement Approval		
<b>Competitive Procedure with Negotiation (CPN)</b>	Only with Head of Law and Head of Procurement Approval		
<b>Innovation Partnership (IP) or Design Contest (DC)</b>	Only with Head of Law and Head of Procurement Approval		

## PROCUREMENT PROCEDURES

### 24. Targeted Quotation

- 24.1 The Procuring Officer must obtain three written Quotations of which at least two shall be from Local Bidders. Where Local Bidders cannot be approached or three Quotations cannot be obtained, written reasons and evidence as to why this is the case are required.
- 24.2 The Procuring Officer must log all details of the Quotations/responses.
- 24.3 The Evaluation Panel may make the decision on whether or not to award the Contract after considering the Quotations, making a written record of their decision and reasons.

### 25. Advertised Quotation

- 25.1 An advertisement will be placed by the Procuring Officer for a sufficient period of time to allow Bidders to respond.
- 25.2 A RfQ document must be made available to all interested parties who respond to the Advertisement. The RfQ must contain or identify:
- Instructions for the completion and return of Quotations;
  - A Specification setting out the Council's requirements;
  - The proposed terms and conditions of Contract; and
  - The procedure for the evaluation of Quotations.
- 25.3 Quotations received will be evaluated by the Evaluation Panel in accordance with the RfQ to recommend an award.

### 26. Open Procedure, Restricted Procedure, Competitive Procedure with Negotiation, Competitive Dialogue, Innovation Partnership and Design Contest

- 26.1 Where any of the above procedures are to be used on a PCR Contract the Regulations will be followed in full. Where a Contract below the PCR Threshold or a Concession Contract is being procured, the process shall reflect the procedure set out in the Regulations though the Specialist Procurement Team

Manager may agree to alter the procedure as may be considered beneficial and/or necessary.

- 26.2 The CPN, CD, IP and DC processes may only be used for PCR Contracts in the circumstances set out in the Regulations. In such cases evaluation, award and any negotiation will be undertaken in accordance with the Regulations and the procurement documents issued.

## **USE OF FRAMEWORK AGREEMENTS & DYNAMIC PURCHASING SYSTEMS**

### **27. LCC Framework Agreements**

- 27.1 For the purposes of establishing a Framework Agreement the Rules must be followed unless otherwise stated.
- 27.2 The Framework Agreement must set out a methodology for awarding a Call-Off Contract.
- 27.3 Once it has been established, additional Contractors may only be added to a Framework Agreement where:
- it is not an PCR Contract or it is for Services listed in Schedule 3; and
  - the ITT states:
    - a) that additional organisations may be added to the Framework Agreement during the term;
    - b) how and when additional organisations be added to the Framework Agreement; and
    - c) that the same evaluation criteria and award methodology applied to the original Contractors will be applied to any potential Contractors when determining whether to add them.

### **28. Non-LCC Framework Agreements**

- 28.1 The Council may use Framework Agreements set up by third parties where the Framework Agreement entitles the Council to do so, subject to the approval of the Head of Procurement and the Head of Law (other than for Small Contracts, where standing approval is given).
- 28.2 The methodology and all requirements set out in the Framework Agreement must be followed when awarding a Call-Off Contract under the Framework Agreement.

### **29. Dynamic Purchasing Systems (DPSs)**

- 29.1 A DPS may only be established with the approval of the Head of Law and the relevant Specialist Procurement Team Manager and in accordance with the Regulations.

## **CONDUCTING A PROCUREMENT PROCESS**

### **30. Fairness & Equal Treatment**

- 30.1 All Bidders must be provided with the same information throughout any procurement process.
- 30.2 The Procuring Officer and Commissioning Officer must ensure that all processes set out in the procurement documentation issued to Bidders are followed.

### **31. Advertisements**

- 31.1 Where the procurement procedure requires an advertisement, one must be placed in accordance with the Regulations and on a website as approved by the Head of Procurement and any such place as there is a legal requirement to place such adverts.
- 31.2 For all advertised procurement procedures, the Procuring Officer must allow a reasonable time between the date of the advertisement or the issue of documents to Bidders and the Closing Date, having regard to:
  - the requirements of the Regulations;
  - the amount of effort likely to be required to make a Submission; and
  - the urgency of the requirement.
- 31.3 As a minimum, all advertisements must express the nature and purpose of the procurement procedure, stating where further details may be obtained.

### **32. Reserved Contracts**

- 32.1 The Procuring Officer may Reserve a Contract with the written approval of the relevant Specialist Procurement Team Manager and Head of Law.
- 32.2 The Procuring Officer must set out in all appropriate documentation, including the Advertisement, that the contract is Reserved; and comply with Regulations 20 or 77 of the PCR, if applicable.

### **33. Specification**

- 33.1 All Specifications must be a written statement of the Goods, Services or Works required and shall be prepared in accordance with such guidance as issued by Legal Services and/or the relevant Specialist Procurement Team.
- 33.2 Unless justified by the subject matter of the Contract and approved by the relevant Specialist Procurement Team Manager, the Specification shall not refer to a specific make or source, or a particular process which characterises the Goods, Services or Works provided by a specific organisation, or to trademarks, patents, types or a specific origin or production with the effect of favouring or eliminating certain organisations or certain products. Such reference shall be accompanied by the words 'or equivalent'.

### **34. Receipt and Opening of Submissions**

- 34.1 The PQQ, RfQ or ITT must specify the Closing Date for Submissions.



- 34.2 The Electronic Tendering System must be used for each procurement process, including but not limited to, for the publication of documents and receipt of documents to/from Bidders at all times unless otherwise agreed in advance with the Head of Procurement.
- 34.3 The Head of Procurement may authorise the acceptance of Submissions received via the Electronic Tendering System after the Closing Date where:
- there is clear evidence of technical issues preventing the Bidder sending their Submission ahead of the Closing Date, confirmed by the provider of the Electronic Tendering System; and
  - the Bidder gains no other advantage through the acceptance of their Submission.

### **35. Clarification of Submissions**

- 35.1 Bidders are not permitted to alter their Submissions after they have been received by the Council other than in accordance with the instructions provided to Bidders, this Rule or Rule 36.
- 35.2 Following the Closing Date but before the award of any contract, the Procuring Officer may seek clarification from a Bidder.
- 35.3 Clarification should be conducted via or recorded on the Electronic Tendering System.
- 35.4 Any clarification of Submissions during a procurement process must always ensure fair and equal treatment of all Bidders is maintained.

### **36. Negotiation**

- 36.1 Other than for PCR Contracts (where negotiation will only be permitted where an appropriate procedure is used), the Procuring Officer in consultation with the Commissioning Officer may negotiate with Bidders to seek to secure improvements in the price or economic advantage. Such negotiation must take place following the Closing Date, but before award of Contract and be approved in writing by the Head of Procurement.
- 36.2 When conducting negotiations, the following shall apply:
- The negotiation must not increase the value so that it exceeds the PCR Threshold.
  - A Bidder must not be told the detail of any other Submission or how their Submission compares to any other Submission.
  - Two officers of the Council must be present at negotiations.
  - A written note of the negotiations must be made and retained detailing the time and location of the negotiations, the discussions and any agreement reached.
  - Negotiations shall not result in a material departure from the published Specification and/or Contract terms. The Head of Law, in consultation with the Head of Procurement and appropriate Divisional Director, shall determine whether any proposed change to the Specification constitutes a material departure and any resulting actions.

**37. Standstill and Contract Award**

37.1 Contract Award must be authorised prior any Standstill Period commencing, or where not applicable prior to the notification of award being issued to Bidders, as follows:

<b>Small Contract</b>	Budget Holder & Commissioning Officer (&, for ICT Contracts, the Specialist Procurement Team Manager)
<b>Medium Contract</b>	Head of Service & Specialist Procurement Team Manager
<b>Large Contracts</b>	Divisional Director & Specialist Procurement Team Manager
<b>PCR Contracts</b>	Divisional Director & Specialist Procurement Team Manager

37.2 A Standstill Period must be applied to PCR Contracts if required by the Regulations, and may be applied to Large Contracts and to Call-Off Contracts from Framework Agreements over the PCR Threshold.

37.3 Each Standstill Period must last a minimum of 10 calendar days from the day of sending the notice to Bidders, day one counting as the day after such notice is sent.

37.4 A challenge during the Standstill Period will mean that the approval of Head of Law and Head of Procurement is required to award the Contract.

37.5 Letters of Intent are not permitted unless prior written approval of the Head of Law has been granted.

37.6 For PCR Contracts the requirements with regards to notification of outcome, reasons/feedback, the end of a Standstill Period and any other such requirements within the Regulations shall be complied with.

37.7 For Medium Contracts and Large Contracts, the Procuring Officer must, following the approval of the award, send at the same time a notification in writing to:

- the successful Bidder(s) that their Submission is accepted; and
- the unsuccessful Bidders that their Submission has not been accepted.

**CONTRACT MANAGEMENT & CONTRACT MODIFICATIONS**

**38. Contract Management**

38.1 The Divisional Director must ensure that for each Medium, Large and PCR Contract, a person is designated as the Contract Manager.

38.2 The Contract Manager is responsible for managing the performance of the Contract and the Contractor(s) throughout the Contract period, including ensuring that value for money is obtained and Best Value Duty met.

38.3 The Contract Manager is responsible for initiating procurement of a replacement contract, where required, in a timely manner in accordance with these Rules.

### **39. Financial Parameters for Extensions and Variations**

39.1 When considering Contract Extensions and Variations, the Contract categorisation must be reviewed for which the calculation of the value should be undertaken as follows:

- the spend to date on the Contract (compared against the procured Contract value, detailing where any other variations have occurred and value of them); plus
- the projected spend on the Contract over the remaining term; plus
- any increase as a consequence of the proposed Extension or Variation.

For the purposes of this calculation, decreases in Contract value should not be considered other than in so far as they affect the projected spend.

39.2 Where the figure exceeds the original contract value this will be considered as a financial variation to the contract, in addition to any change to the scope of services.

39.3 Should the categorisation of the Contract change (Rule 13.1) this will mean the approval under Rules 40 and 41 will be for the new categorisation.

### **40. Extensions**

40.1 An Extension of Contracts is only where it is expressly provided for in the Contract. Where the Contract does not provide for an extension then Rule 41 regarding variations apply. For an Extension the following approvals shall be required:

<b>Category of Contract</b>	<b>Approval Required</b>
<b>Small Contract</b>	Head of Service
<b>Medium Contract</b>	Head of Service
<b>Large Contract</b>	Divisional Director
<b>PCR Contract</b>	Divisional Director in consultation with the Head of Procurement

40.2 In the case of any Extension other than for Small Contracts, approval shall be via a CEV form. Once approved the CEV form must be forwarded to the relevant Specialist Procurement Team.

### **41. Contract Variations**

41.1 No Variation may be authorised which alters the overall nature of the Contract.

41.2 Authorising officers must have due regard to transparency and openness and the value for money of the proposed Variation and must notify the Head of Procurement of the Variation.

- 41.3 Each Variation to a Contract must be made in writing and signed by the parties to the Contract unless the Contract allows otherwise. This must be done before the Variation takes effect.
- 41.4 The Contract Manager may, where they do not significantly affect the overall delivery or cost of the Contract, agree Variations on any Contract provided that such Variation is confirmed in writing and signed by the parties, with full details of the Variation included.
- 41.5 All Variations other than under Rule 41.4 above require authorisation via a CEV as follows:

<b>Contract Categorisation</b>	<b>Percentage Change in Contract Value</b>	<b>Approval Required</b>
<b>Small Contract</b>	Any	Head of Service
<b>Medium Contract</b>	Any	Head of Service
<b>Large Contract</b>	Less than 50%	Divisional Director
<b>Large Contract</b>	50% or more	Divisional Director and Head of Procurement
<b>PCR Contract</b>	Less than 10%	Divisional Director
<b>PCR Contract</b>	10% or more	Divisional Director, Head of Procurement and Head of Law

**42. Novation of Existing Contracts**

- 42.1 The novation of a Contract from an existing party to a new party requires prior written approval of the City Barrister and must be via a formal agreement. The Head of Procurement must be informed of the novation.

**43. Early Termination of Contracts**

- 43.1 Following consultation with the City Barrister the Divisional Director shall be authorised to terminate any Contract before the expiry of its agreed term. In such cases the Divisional Director must inform the Head of Procurement of the termination.

## APPENDIX 1: DEFINITIONS

Terms defined in the Council's Constitution have the same meaning when used in these Rules. Where a job title is used and that job title is no longer appropriate, the Chief Operating Officer will identify the postholder to replace the stated job title. To ensure effective operation of these Rules, the Head of Procurement, Head of Law and City Barrister may delegate their responsibilities under these Rules to appropriately skilled officers.

Other terms are defined by these Rules as follows:

**“Best Value Duty”** means the duty under section 3(1) of the Local Government Act 1999 to make arrangements to ensure continuous improvement in the way its functions are exercised having a regard to the combination of economy, efficiency and effectiveness.

**“Bidder”** means a person or organisation who responds to an Advertisement or invitation and participates in a procurement procedure to win a Contract.

**“Call-Off Contract”** means a Contract based on a Framework Agreement or DPS.

**“Capital Asset Disposal”** means a relevant disposal of capital assets by the Council which fall within the scope of the Regulations which may include land disposal agreements from which the Council receives an income.

**“CCR”** means the Concession Contracts Regulations 2016 (as amended or re-enacted from time to time).

**“Closing Date”** means any stated closing time and date for the receipt of Submissions.

**“Commissioning Officer”** means a person appointed by a Head of Service or Chief Officer to identify and specify the requirement and provide specialist service/technical input into the Procurement Procedure.

**“Contract”** means any contract to be procured and entered into by the Council and includes Framework Agreements, Concession Contracts, ICT Contracts and Schedule 3 Contracts.

**“Concession Contract”** means as defined in Article 3 of the CCR.

**“Contract Manager”** means a person appointed by a Head of Service or Chief Officer to manage the performance of a Contract throughout its Contract period. The duties of a Contract Manager shall begin when the Contract is awarded and shall cease when it is completed or terminated.

**“Council”** means Leicester City Council.

**“Contractor”** means any person or organisation contracted to sell, provide or buy Goods, Service or Works. This term applies after a Contract is formed.

**“DPC”** means a certificate signed by a Director confirming their agreement to use their delegated powers as stated within the certificate.

**“DPS”** means a Dynamic Purchasing System as permitted in the PCR.

**“Electronic Tendering System”** means any IT system approved for use by the Head of Procurement via which a procurement process can be conducted.

**“Estimated Value”** means the estimate value of a Contract as established in accordance with Rule 12.

**“Evaluation Panel”** means the Procuring Officer, the Commissioning Officer and any other individuals appointed by them to participate in evaluating Submissions. For Large and PCR Contracts, the Evaluation Panel must include at least one other officer to evaluate the technical quality elements of the Submission in addition to the Commissioning Officer.

**“Extension”** means an extension of a Contract for a further period of time in accordance with its terms.

**“Goods”** means the subject of a Public Supply Contract.

**“Head of Law”** means the Head of Law for Commercial, Property & Planning.

**“ICT Contract”** means any contract primarily for the provision of equipment, software or hardware that connects or interfaces with the Council’s ICT network, including maintenance and support services to this hardware and software.

**“ITT”** means an Invitation to Tender document issued by the Council to potential Bidders.

**“Law”** means any:

- (i) applicable statute or proclamation or any delegated or subordinate legislation or regulation;
- (ii) enforceable EU right within the meaning of Section 2(1) of the European Communities Act 1972;
- (iii) applicable judgment of a relevant court of law which is a binding precedent in England and Wales;
- (iv) National Standards;
- (v) Statutory Guidance; and

in each case in force in England and Wales and including any amendments.

**“Local Bidder”** means a business having a base from which the Goods/Services/Works will be delivered with an LE postcode.

**“PCR”** means the Public Contracts Regulations 2015 (as amended or re-enacted from time to time).

**“PCR Contract”** means a Contract which is over the PCR Threshold.

**“PCR Threshold”** means the relevant threshold set out in Regulation 5(1)(a), (c) or (d) of the PCR or Regulations 9(1) of the CCR.

**“Procuring Officer”** means a person appointed by the Head of Procurement for the purpose of carrying out the appropriate duties set out in these Rules. A Procuring Officer may be appointed specifically for the purpose of a single Contract or for a range of Contracts.

**“Quotation”** means a completed RfQ (or similar Submission from a Bidder), and any attached documents submitted by a Bidder as part of a procurement procedure.

**“Regulations”** means both the CCR and PCR.

**“Reserve”** means the reservation of a Contract a for sheltered workshops, mutuals or social enterprises (or similar). Reserved shall be construed accordingly.

**“RfQ”** means a Request for Quotation document issued by the Council to potential Bidders.

**“Schedule 3”** means Schedule 3 to the PCR.

**“Services”** means the subject of a Public Service Contract.

**“Social Value Charter”** means the social value charter as adopted and published by the Council from time to time and includes all guidance issued.

**“Specialist Procurement Teams”** Procurement Services (City Barrister & Head of Standards Division), ICT Commercial & Procurement Team (Finance Division) and Social Care & Public Health Procurement Team (Care Services and Commissioning Division).

**“Specialist Procurement Team Manager”** shall mean the appointed manager of the Specialist Procurement Team as appointed from time to time.

**“Specification”** means a clear written statement of the Goods, Services or Works the Council requires from the Contract.

**“Standard Terms and Conditions”** the standard terms and conditions for any Contract type as published and approved by Legal Services for use by officers without the need to instruct Legal Services.

**“Standstill Period”** any standstill period required in accordance with these Rules.

**“Submission”** means a completed ITT, RfQ, PQQ or other similar document submitted by a Bidder as part of a procurement procedure.

**“Teckal Company”** means a company which falls within the meaning of Regulation 12 of the Regulations.

**“Variation”** means a variation of any Contract as originally procured and, where the Contract does not allow for an Extension, it shall include a variation to extend the Contract.

**“VCSE(s)”** means a Voluntary Community Sector Enterprise being a not for profit organisation.

**“Works”** means the subject of a Public Works Contract.

## **APPENDIX 2: MANDATORY REQUIREMENTS**

- Allowing the Council to terminate and recover sums paid where there is evidence of bribery or corruption;
- Allowing the Council to, where there is a breach by the Contractor;
  - a) terminate part or all of the Contract; and
  - b) appoint an alternative contractor, and recover the cost of doing so from the Contractor; and
  - c) recover any compensation as a consequence of the breach by the Contractor in the event of a breach of Contract by or the insolvency of the Contractor;
- Stating the price payable by the Council (and any mechanism by which the price, any additional price or discounts are to be ascertained) and setting out the mechanisms for payment;
- For Medium, Large and PCR Contracts, prohibiting the Contractor or from sub-contracting, assigning or otherwise transferring the Contract without the prior written consent of the Council;
- Where the Contractor sub-contracts all or part of the Contract it remains liable to the Council for any such is sub-contracted parts;
- Requiring compliance by the Contractor with all relevant legislation and requirements of the Council in relation to the same, including as a minimum:
  - a) The Human Rights Act 1998 (as if the Contractor were a public body);
  - b) Freedom of Information Act 2000/Environmental Information Regulations, Data Protection Act 2018;
  - c) The Equalities Act 2010, The Modern Slavery Act 2015, Bribery Act 2010, Prevention of Terrorism Act 2005, Counter Terrorism & Security Act 2015
  - d) The Transfer of Undertakings (Protection of Employment) Regulations 2006;
- Stating the levels and type of insurance required of the Contractor;
- Setting out indemnities in respect of claims made against the Council made in respect of a Contractor's activities;
- Where appropriate, requiring the provision to the Council of adequate Intellectual Property protection together with an indemnity protection;
- Requiring the provision to the Council of adequate warranties in Contracts for the purchase of Goods;
- Where the Contract relates to the Services to be delivered to vulnerable groups, requiring compliance with the Council's safeguarding policies, procedures and practice requirements;
- For Large and PCR Contracts, obliging the Contractor to maintain continuous improvement throughout the Contract;
- Requiring the Contractor to grant reasonable access to the Council to information and premises relating to the Contract, and to undertake appropriate monitoring and compliance procedures.





Leicester  
City Council

---

## **Counter-Fraud Update Report 2019-20**

Audit & Risk Committee

Date of committee meeting: 20 November 2019

Lead director: Alison Greenhill

---

## Useful information

- Report author: Stuart Limb (Corporate Investigations Manager)
- Author contact details: 0116 454 2615 / 37 2615 [stuart.limb@leicester.gov.uk](mailto:stuart.limb@leicester.gov.uk)
- Report version: V.3

### 1. Purpose of report

- 1.1 The purpose of this report is to provide a mid-year update to the Audit and Risk committee on the work carried out by the Corporate Investigations Team for the period April 2019 to September 2019.

### 2. RECOMMENDATIONS

- 2.1 The Audit and Risk Committee is recommended to:
- a) Receive and comment on the report;
  - b) Make any recommendations or comments it sees fit either to the Executive or the Director of Finance.

### 3. BACKGROUND

- 3.1 This report includes statistical information on fraud cases identified, referred and where appropriate investigated by the Corporate Investigations Team. A report on the Council's counter fraud activity was presented to Members of the Audit and Risk Committee on 24 July 2019 and therefore this report seeks only to update Members on statistical information where it is available.
- 3.2 As part of its work, the Corporate Investigations Team investigates suspected financial irregularities and makes recommendations to reduce the risk of further losses and improve performance, efficiency, effectiveness and economy in the use of resources by the Council.
- 3.3 The work focus this year has continued to build on the momentum establishing indicative savings for the avoidance loss cases to demonstrate the value of the work undertaken by the team. A summary of the indicative savings definitions can be found in appendix A.

### 4. THE FIRST SIX MONTHS IN SUMMARY

- 4.1 During the period covered by this report, the Corporate Investigations Team have achieved savings and loss avoidance on Right to Buy Cases, Tenancy, Single Person Discount, school admissions and Council Tax Reduction Scheme fraud, together with the recovery of outstanding debt.

- 4.2 For the authority the total combined loss avoidance and income generated savings is £877,000.
- Loss avoidance savings represent 97% £845,000
  - Income generated savings represent 3% £ 32,000
- 4.3 The team continues to work across the authority to reduce the risk of loss and fraud; this is a collaborative approach for example verifying Right to Buy (RTB) applications for council homes. All RTBs are subject to background checks by the investigations team and where irregularities or concerns are raised the issues are addressed by Legal Services, the RTB team and corporate investigations. This not only identifies irregularities but provides a higher level of assurance for sales to tenants.
- 4.4 Work continues in running the region wide counter fraud intelligence hub funded by the Ministry of Housing, Communities and Local Government (MHCLG), on behalf of all Local Authorities across Leicester, Leicestershire and Rutland. This work includes an established data warehouse, data sharing agreements and a prosecution policy which permits multiple data sets from the councils to be cross matched, with irregularities being investigated. It should however be noted that not all district councils have submitted full data sets, therefore the optimised results are not being fully achieved. The MHCLG funding will come to an end in March 2020 and the future funding and operation of the hub is being discussed with the district councils.
- 4.5 The team investigates a variety of human resources related cases including providing advice and assistance to management.

## 5. REVIEW OF PERFORMANCE

- 5.1 Statistical information on service demand and associated activity for the first half of the financial year of the Corporate Investigations Team is detailed in the table below.

<b>Registered</b>	226
<b>Screened out</b>	75
<b>Investigations proven</b>	<b>70</b>
<b>Investigations in Progress</b>	<b>120</b>
<b>Cautions Accepted</b>	2
<b>Administrative Penalties Accepted</b>	2
<b>Prosecutions - Successful (Guilty)</b>	2
<b>Total files with Solicitors</b>	6

## **6 THE YEAR AHEAD**

- 6.1 The report presented to the Committee on 24<sup>th</sup> July 2019 outlined the major objectives for the Corporate Investigations Team over coming months. The team will continue to undertake reactive and proactive investigations and initiatives internally and across Leicestershire to identify and reduce the risk of fraud.
- 6.2 The Corporate Investigations Team will lead on a project for Leicester, Leicestershire and Rutland into identifying falsely claimed Small Business Rate Relief.

## **7. ACKNOWLEDGMENT**

- 7.1 The Director of Finance acknowledges the efforts of all members of the Corporate Investigations Team, and the help, co-operation and support of Members and officers of the City Council.

## **8. FINANCIAL, LEGAL AND OTHER IMPLICATIONS**

### **8.1 Financial implications**

Fraud can cause the Council significant loss; hence activity to prevent and detect fraud is a clear financial investment.

Colin Sharpe  
Deputy Director of Finance

### **8.2 Legal implications**

Fraud is a criminal offence and therefore represents breach of the law. Other forms of financial irregularity, though not criminal, may be in breach of regulation. The conduct of counter-fraud work of all kinds is bound by law and regulation and the Council is careful to ensure that its activities in this area are properly discharged.

Kamal Adata  
City Barrister & Head of Standards

### **8.3 Climate Change and Carbon Reduction implications**

This report does not contain any significant climate change implications.

Aidan Davis  
Sustainability Officer

## 9. OTHER IMPLICATIONS

OTHER IMPLICATIONS	YES/NO	Paragraph References Within Supporting Information
Equal Opportunities	No	
Policy	No	
Sustainable and Environmental	No	
Crime and Disorder	Yes	This report is concerned with fraud and corruption, both of which are criminal offences.
Human Rights Act	No	
Elderly/People on Low Income	No	
Corporate Parenting	No	
Health Inequalities Impact	No	
Risk management	Yes	Whole document

## 10. BACKGROUND PAPERS – LOCAL GOVERNMENT ACT 1972

Leicester City Council's Anti-Fraud, Bribery and Corruption Policy  
Leicester City Council's Finance Procedure Rules  
Leicester City Council's Constitution  
Leicester City Council's Code of Conduct for Behaviour at Work  
Leicester City Council's Information Security Policy Statement  
Leicester City Council's Prosecutions Policy  
Leicester City Council's Investigators Code of Conduct

Public Bodies Corrupt Practices Act 1889

Chartered Institute of Public Finance & Accountancy (CIPFA) publication  
*Managing The Risk of Fraud*

The Prevention of Social Housing Fraud Act 2013

## Appendix A

### A summary of the savings definitions

<b>Nature of investigation</b>	<b>Indicative saving per incident</b>	<b>Loss avoidance</b>	<b>Actual saving</b>
Right To Buy	£35,915	£466,895	
Housing Benefit	Actual overpaid discount		£18,493
Council Tax Discounts	Actual overpaid discount		£4,489
Council Tax Support	Actual overpaid amount		£9,393
Housing Tenancy	£35,915	£35,915	
Housing Application	£16,425	£16,425	
Schools Admissions	£19,588	£293,820	
Blue Badge	£2,340	£2,340	
Employee mis-conduct	Half of annual salary	£29,230	
<b>Totals</b>		<b>£844,625</b>	<b>£32,375</b>

### How notional savings are calculated

Tenancy / RTB	Average LCC tenancy X average LCC rent = 10 years (50 rent weeks per year) X £71.83 = £35,915
Blue Badge	Average cost of on street parking is £9 per day X 5 days X 52 week = £2,340 in notional savings in lost revenue for parking
Housing Application	Yearly cost of temporary accommodation £16,425
Employee mis-conduct	Half of annual salary

## Audit and Risk Committee 20<sup>th</sup> November 2019

### Report of Leicestershire County Council's Head of Internal Audit & Assurance Service

#### Developments in audit and governance

##### PURPOSE OF REPORT

1. The purpose of this report is to inform the Audit and Risk Committee (the Committee) about current and planned developments in audit (mostly external audit) and governance, that are associated with the Committee's responsibilities.

##### RECOMMENDATIONS

2. This report is for information only

##### SUMMARY

3. A series of large scale corporate governance and financial failings in both the private and public sectors e.g. Carillion, BHS and Northamptonshire County Council, and criticisms of the roles taken by auditors has generated much interest into reviewing audit and governance arrangements in all sectors.
4. This report provides information on a number of current consultations, the findings of associated reviews and other developments and informs the Committee of the Council's plans to respond.

##### REPORT

###### Developments in local (external) audit

**Independent review into the arrangements in place to support the transparency and quality of local authority financial reporting and external audit in England (the Redmond review)**

<https://www.gov.uk/government/consultations/review-of-local-authority-financial-reporting-and-external-audit-call-for-views>

5. The responsibilities for how local authority audits are conducted is set down within the Local Audit and Accountability Act 2014. The 2014 Act put in place a localised audit regime, refocussing local accountability on improved transparency. The independent review will meet the Ministry of Housing, Communities and Local Government's (MHCLG) commitment to undertake a post implementation review of the audit framework and financial reporting elements of the Act.
6. The Review, led by Sir Tony Redmond the former President of the Chartered Institute of Public Finance and Accountancy (CIPFA), is to examine the existing purpose, scope and quality of statutory audits of local authorities in England and the supporting regulatory framework to determine whether: -
  - a. It is operating in line with the intent set out in the Act;
  - b. The reforms have improved the effectiveness of the control and governance framework along with the transparency of financial information presented by councils;
  - c. Whether the current statutory framework for local authority financial reporting supports the transparent disclosure of financial performance and enables users of the accounts to hold local authorities to account; and;
  - d. The process, products and framework need to improve and evolve to meet the needs of residents and local taxpayers, and the wider public interest.
7. A call for views, information and evidence (containing 43 questions) is underway. **Appendix 1** lists the questions. The deadline for responding to the consultation has been extended until 20 December. In terms of the responsibilities of the Committee, the Review is interested in whether the governance framework for considering internal and external audit findings encourages local authorities to take prompt action in response to issues raised and whether it supports continuous improvement. It asks for details on committee membership, whether there are any independent members, and which officers typically attend the audit committee. It is also interested in how the implementation of both internal and external audit recommendations is tracked and in exploring the relationship between internal and external audit, particularly if a closer or more codified relationship could lead to higher quality outcomes.
8. The Director of Finance will respond to the consultation.
9. CIPFA is preparing a comprehensive response to the Review. Essentially it believes that it provides an opportunity to develop the profile, influence and support for audit committees going forward and it is keen that the internal audit perspective is heard. Leicestershire County Council's Head of Internal Audit Service has responded with his own generic and specific views to a separate set of questions which is contained in **Appendix 2**.
10. The Review is due to report in March 2020.



## Proposals to revise the Local audit in England Code of Audit Practice

<https://www.nao.org.uk/code-audit-practice/code-of-audit-practice-consultation/>

11. The 2014 Act makes the National Audit Office (NAO) under the leadership of the Comptroller and Auditor General (C&AG) responsible for the preparation and maintenance of the Code of Audit Practice (the Code) and gives the C&AG power to issue guidance to auditors in support of the Code, to which auditors must have regard when carrying out their work. The Code must be reviewed, and revisions considered at least every five years. A new Code needs to be laid in Parliament in time for it to come into force no later than 1 April 2020.
12. The NAO recently issued Stage 2 of the current consultation, which closes on 22 November 2019. There are some key improvements proposed in the draft Code including the need for local auditors to ensure that: -
  - a. Teams have the necessary skills and knowledge of the relevant financial reporting and regulatory frameworks to enable them to deliver their audit work.
  - b. They have open and transparent arrangements in place for engaging with the public effectively
  - c. When reporting their findings, making recommendations, or exercising any of their wider functions, they ensure their reporting to local bodies – and to the wider public – is as effective and-transparent as possible and promotes local improvement
13. The 2014 Act places a specific duty on the local auditor to be satisfied whether the body they are auditing has proper arrangements in place to secure economy, efficiency and effectiveness in its use of resources. The draft Code proposes a new approach to auditors' work in this area, putting a sharper focus on value for money (VfM) and an expectation of clearer and more timely reporting. The NAO considers the new approach will extract more value from current audit work and make auditor reporting more useful to the audited body and the wider public. It will not result in any form of scored judgement or rating or require local bodies to compile any form of self-assessment.
14. While the focus on the arrangements the body has in place and the risk-based approach to auditors' work is retained, the draft Code revises the previous reporting criterion to cover the following:
  - a. Financial sustainability: How the body plans and manages its resources to ensure it can continue to deliver its services.
  - b. Governance: How the body ensures that it makes informed decisions and properly manages its risks and finances.

- c. Improving economy, efficiency and effectiveness: How the body uses information about its costs and performance to improve the way it manages and delivers its services.
15. Rather than require auditors to focus on delivering an overall, binary, conclusion about whether (or not) proper arrangements were in place during the previous financial year, the draft Code requires auditors to issue a commentary on each of the criteria. This will allow auditors to tailor their commentaries to local circumstances.
  16. For work on arrangements to secure VfM, the draft Code introduces the expectation that where work identifies significant weaknesses in arrangements, the auditor will issue a recommendation to the body, setting out the auditor's judgements clearly along with a summary of the evidence on which those judgements are based. The auditor should also explain the impact the judgement has on the body itself and set out clearly the actions the body should take in response. The draft Code also expects that, when they identify significant weaknesses in arrangements, the auditor considers whether to make their recommendation immediately, rather than wait until the end of the audit.
  17. The Director of Finance will respond to the consultation.

#### **Other developments relating to the wider external audit field**

18. Whilst the two consultations above are specifically relevant to the local government sector, other reviews into the audit domain could impact on local authorities and the public sector. These include: -
  - a. 'The Independent Review of the Financial Reporting Council (FRC)' – the Kingman review was concluded in December 2018. The FRC regulates auditors, accountants and actuaries in the UK, sharing this responsibility with the professional membership bodies. The review recommended that the FRC be replaced with an independent statutory regulator, accountable to Parliament, with a new mandate, new clarity of mission, new leadership and new powers. The new regulator would be called the Audit, Reporting and Governance Authority.
  - b. 'Statutory Audit Services Market Study', final report, April 2019. The Competition and Markets Authority. recommended changes to the statutory audit market that will impact on local audit. This review also made a specific recommendation that audit committees should come under greater scrutiny by the new regulator (see Kingman). This should increase accountability of audit committees. This recommendation could translate into the public sector and local government.

- c. 'Independent review into the quality and effectiveness of audit' (the Brydon review). The review was commissioned in response to the perceived widening of the "audit expectations gap" - the difference between what users expect from an audit and the reality of what an audit is and what auditors' responsibilities entail. Recent company failures have brought this gap into greater focus. There may be an additional gap between the information users of audited accounts believe is needed and what is available to them through audited financial statements or other publicly available information. A report to the Secretary of State for Business, Energy and Industrial Strategy is expected by the end of 2019.
19. The findings from these separate areas of reform and enquiry have considerable relevance to the quality of the local authority audit and financial reporting processes along with the governance framework for local authority audit.

### **Developments in internal audit**

#### **CIPFA Statement on the Role of the Head of Internal Audit in Public Sector Organisations**

<https://www.cipfa.org/policy-and-guidance/reports/the-role-of-the-head-of-internal-audit>

20. The revised Statement was published in April 2019. It is aimed at audit committees and leadership teams, helping them to understand the role of the head of internal audit and the organisational arrangements that should be in place to provide effective support to the role.
21. The Statement underlines that an audit committee plays a key role in relation to internal audit, providing oversight of the arrangements for the service and holding it to account for its delivery of the audit plan. It also plays a vital role in providing high-level support and helping to ensure that its reports and recommendations are considered and addressed by managers. A head of internal audit can organise their team and ensure professional internal audit standards are met, but unless there is the right level of engagement with the audit committee and leadership team the impact and effectiveness of internal audit is likely to be undermined. Therefore, it is important that the audit committee understands its role and plays it effectively.
22. The Statement has five principles that should be applicable to any public-sector organisation. For each principle the organisational arrangements are identified along with the characteristics of the role and of the individual. The principles are aligned to the professional standards for internal audit: The Public Sector Internal Audit Standards (PSIAS).
23. CIPFA advises that an audit committee can use the Statement when it reviews internal audit agenda items at its meetings, for example, an update of the internal audit charter or consideration of the annual opinion and report. The

Statement can also inform the committee's review of its own terms of reference, preparation of an annual report or self-evaluation.

24. Leicestershire County Council's Head of Internal Audit and Assurance Service will conduct a self-assessment against the Statement timed to take account of any governance changes identified in this report and will report back to a future Committee.

### **Developments in governance**

**'Local Authority Governance', Report by the Comptroller and Auditor General to the Ministry of Housing, Communities and Local Government, January 2019.**

<https://www.nao.org.uk/wp-content/uploads/2019/01/Local-authority-governance.pdf>

25. This report examined whether local governance arrangements provided local taxpayers and Parliament with assurance that local authority spending achieved value for money and that authorities were financially sustainable. The report addressed the questions in three separate parts: the pressures on the local governance system; the extent to which local governance arrangements function as intended; and whether the MHCLG was fulfilling its responsibilities as steward of the system.
26. The report was critical of the MHCLG and commented that as steward of the system it had a responsibility for assuring itself that there was an effective local governance system in place. There were 6 recommendations including a key one relative to the responsibilities of the Committee, 'The MHCLG should work with local authorities and stakeholders to assess the implications of, and possible responses to, the various governance issues the NAO had identified, including:
  - a. the status of section 151 officers and the efficacy of their statutory reporting arrangements;
  - b. the effectiveness of audit committees, and how to increase the use of independent members;
  - c. the effectiveness of overview and scrutiny functions and ways to enhance their impact; and
  - d. the sustainability and future role of internal audit.
27. The report also recommended that the MHCLG should address the system-wide gaps in its evidence base on governance; set out its expectations of network partners to address the current weaknesses in local governance arrangements; lead the sector in considering the issues and concerns raised about external audit; examine ways of introducing greater transparency and openness in relation to its formal and informal interventions in local authorities and adopt a stronger leadership role in relation to overseeing and coordinating the network of organisations managing key aspects of the governance framework.

28. Based on the NAO report, the Committee of Public Accounts took evidence from the MHCLG, the Centre for Public Scrutiny, the LGA and CIPFA and produced a report on Local Government Governance and Accountability on 15 May 2019.

<https://publications.parliament.uk/pa/cm201719/cmselect/cmpubacc/2077/2077.pdf>

29. This report was generally scathing of the MHCLG and contained 5 conclusions that the MHCLG: -
- a. Was not yet providing effective leadership of the local governance system
  - b. Did not know why some local authorities were raising concerns that external audit was not meeting their needs
  - c. Lacked reliable information on key governance risks, or relied on weak sources of information, meaning it had no way of pinpointing the at-risk councils
  - d. Monitoring was not focused on long-term risks to council finances and therefore to services
  - e. Had a complete lack of transparency over both its informal interventions in local authorities with financial or governance problems and the results of its formal interventions
30. MHCLG has agreed all 8 of the recommendations and for 5 of them the target dates for implementation are November 2019. A key recommendation that may impact the Committee is to implement a Local Authority Governance and Accountability Framework Review Panel. The prime objective of the panel is to review the local government accountability framework and ensure it remains fit for purpose. Evidence may be called for.
31. The Committee will be updated as required.

### **CIPFA Financial Management Code (published October 2019)**

32. The Financial Management Code (the FM Code) provides guidance for good and sustainable financial management in local authorities. By complying with the principles and standards within the code authorities will be able to demonstrate their financial sustainability.
33. The FM Code requires authorities to demonstrate that the processes they have in place satisfy the principles of good financial management. The FM Code identifies risks to financial sustainability and introduces a framework of assurance. This framework is built on existing successful practices and sets explicit standards of financial management. Complying with the standards set out in the FM Code is the collective responsibility of elected members, the chief finance officer and their professional colleagues in the leadership team. Complying with the FM Code with help strengthen the framework that surrounds financial decision making.

34. The FM Code is principles based and covers, Organisational leadership; Accountability; Transparency; Professional standards; Assurance and Sustainability of services
35. The code applies to all local authorities. By following the essential aspects of the FM Code, local authorities are providing evidence to show they are meeting important legislative requirements in their jurisdictions. The FM Code is not specified by legislation, but CIPFA's judgement is that, 'compliance with the CIPFA FM Code is necessary for local authorities to demonstrate that they are meeting important legislative requirements'
36. The first full year of compliance will be 2021/22. This reflects the recognition that organisations will need time to reflect on the contents of the code and can use 2020/21 to demonstrate how they are working towards compliance.
37. The Director of Finance will update the Committee as required on the application of the FM Code.

### **Centre for Public Scrutiny – Research into the strengthening of local governance (launched October 2019)**

38. A range of national bodies are working together to enhance councils' understanding of how they can diagnose and reduce the risk of failure in corporate governance, and what success factors can point the way to greater strength in this area. Research is being led by the Centre for Public Scrutiny and funded by a consortium of partners including the MHCLG, the LGA and CIPFA.
39. The research will focus on specific governance issues in order to: -
  - a. Better understand what evidence can be found that could signpost to the risk of governance failure and help councils to mitigate those risks by strengthening governance systems.
  - b. Provide practical advice to councils as to how they can recognise and act on the risk in their own area. Researchers will consider whether it is possible to come up with a consistent "typology" of local failure, and how this can be deployed at local level to improve.
40. Findings alongside a practical toolkit for councils will be published in mid-May 2020. The Committee will be updated as required.

## **FINANCIAL, LEGAL AND OTHER IMPLICATIONS**

### **Financial Implications**

41. None directly, but the Audit and Risk Committee is a key component of the Council's governance framework. It provides those charged with governance independent assurance on the on the adequacy and integrity of the financial reporting and governance processes. By monitoring the quality and effectiveness of both external and internal audit, it makes an important

contribution to ensuring that effective assurance arrangements are in place.  
The Committee *Colin Sharpe, Head of Finance, ext. 37 4081*

### **Legal Implications**

42. The Council may need to implement any further statutory requirements arising from the post implementation review of the audit framework and financial reporting elements of the Local Audit and Accountability Act 2014. *Kamal Adatia, City Barrister & Head of Standards, x37 1401*

### **Other Implications**

OTHER IMPLICATIONS	YES/NO	Paragraph references within supporting information
Equal Opportunities	No	
Policy	No	
Sustainable and Environmental	No	
Climate Change	No	
Crime and Disorder	No	
Human Rights Act	No	
Elderly/People on Low Income	No	
Corporate Parenting	No	
Health Inequalities	No	
Risk Management	No	

### **8. BACKGROUND PAPERS – LOCAL GOVERNMENT ACT 1972**

#### **REPORT AUTHOR**

Neil Jones,  
Head of Internal Audit & Assurance Service  
Leicestershire County Council  
Telephone 0116 305 7629  
Email [neil.jones@leics.gov.uk](mailto:neil.jones@leics.gov.uk)

### **APPENDICES**

Appendix 1 – The Redmond Review questions

Appendix 2 - Leicestershire County Council's Head of Internal Audit Service responses to CIPFA questionnaire on the Redmond Review





**Redmond Review questions**

- Q1. Who, in your opinion, are the primary users of/main audience for local authority accounts?
- Q2. Who are the other users of local authority accounts? Are any of these other users of accounts particularly important?
- Q3. What level of financial literacy/familiarity with accounts and audit is it reasonable to expect the primary users of accounts to have and what implications does this have for the information presented in accounts and/or the information that should be subject to external audit?
- Q4. Does the external audit process cover the right things given the interests of the primary users of the accounts/is the scope of the opinions wide enough?
- Q5. Is the going concern opinion meaningful when assessing local authority resilience? If not, what should replace it?
- Q6. In your opinion, what should an external audit of a set of local authority financial statements cover?
- Q7. In your opinion, what should the scope of the external auditor's value for money opinion be?
- Q8. What is your view on the scope of an external audit engagement as described in Chapters 1 and 2 of this Cal for Views? If it is different from your expectations, does this have implications for the reliance you place on external audit work?
- Q9. Should the external audit engagement be extended? If so, which additional areas/matters are most important for external auditors to look at? What would be the cost implications of extending the engagement to the areas/matters you consider to be most important be?
- Q10. Should the scope of the vfm opinion be expanded to explicitly require assessment of the systems in place to support the preparation of some or all of the reports that statute requires to be presented to full Council? If you do, which reports should be within scope of the external audit vfm engagement? If not, should these be assessed through another form of external engagement? If you believe that the vfm opinion should be extended to cover these reports will there be implications for the timing of audit work or auditor reporting?
- Q11. Should external auditors be required to engage with Inspectorates looking at aspects of a local authority's service delivery? If you believe that this engagement should happen, how frequent should such engagement be and what would be the end purpose of doing so?

Q12. Does the current procurement process for local authority audit drive the right balance between cost reduction, quality of work, volume of external audit hours and mix of staff undertaking audit engagements?

Q13. How should regulators ensure that audit firms and responsible individuals have the skills, experience and knowledge to deliver high quality financial and vfm audits, whilst ensuring the barriers to entry do not get too high?

Q14. What metrics should regulators use when assessing whether financial and vfm audits are delivered to an appropriate level of quality?

Q15. Do you agree with the Independent Review of the Financial Reporting Council's findings and recommendations; and why do you agree/not agree? If you agree with the recommendations do you think the 'single regulatory body' should be the "successor body to the FRC" or a sector specific entity? If you do not agree with the recommendations are there any other changes you would make to the regulatory framework for local authority audit?

Q16. Do external audit firms have enough understanding of the local authority regulatory framework to focus audit work on the right areas? How do they/should they demonstrate this? Who should regulate this work?

Q17. Do auditing standards have a positive impact on the quality of local authority financial audits?

Q18. Do audit firms allocate sufficient resources to deliver high quality and timely audits? How is consistency and quality maintained in external audit work? To what extent is there consistency in audit teams year on year? What more can be done to ensure consistency between firms?

Q19. To what extent are senior audit staff, particularly the responsible individual signing the audit certificate, visibly involved in audit work? Who do senior audit staff meet with?

Q20. Should external auditors consider financial resilience as a key factor when designing their vfm work programme? If so, what factors do they/should they consider as indicative of a lack of financial resilience?

Q21. Does the Code of Audit Practice provide enough guidance on how much work needs to be done to support the vfm opinion? If not, what should it cover?

Q22. Do auditing standards provide appropriate guidance on quality standards for vfm audits? If not, is guidance needed and should it be included in the Code of Audit Practice or elsewhere?

Q23. What is the current relationship between external and internal audit? How should that relationship be developed to add most value to local authorities and local residents?

Q24. What should happen when a regulator finds that a local authority audit has not met quality standards? Where should the balance between ensuring effective enforcement action against auditors and maintaining participants in the audit market lie?

Q25. Do you think that the format of the vfm audit opinion provides useful information? If not what would you like it to cover?

Q26. Do you think the vfm opinion should be qualified solely because a local authority has received an inadequate Ofsted opinion or a similar opinion from another inspectorate?

Q27. Do you think that the vfm opinion is presented at the right point in a local authority's annual financial management and budgeting cycle? If not when do you think it would be most useful?

Q28. Where auditors have identified significant issues, audit certificates and reports have often been delayed? Why do you think this is and can changes be made to the framework to encourage earlier reporting of significant issues?

Q29. In your view, what sorts of issues should Public Interest Reports be used to highlight?

Q30. Statistics demonstrate that very few Public Interest Reports and Statutory Recommendations have been issued. Why do you think this is? Does it indicate an issue with the framework or common behaviours? If you think this is an issue, what can be done to incentivise more frequent and timely reporting of significant issues?

Q31. Does a publication summarising the results of local authority audits add value? If so who should publish it and what information would they need to have access to to perform this function effectively

Q32. To whom should external auditors present audit reports and findings; is it the audit committee, to full council or equivalent or another committee? If findings are not presented to full council or equivalent what information (if any) should full council or equivalent receive?

Q33. In your authority, what is the membership of the audit committee (number of members, how many are independent etc) and which officers typically attend?

Q34. How should local authorities track implementation of recommendations made by internal audit, external audit and relevant statutory inspectorates? What should the external auditors do if recommendations are not being implemented?

Q35. Should there be a role for an external body in tracking action taken in response to modified audit opinions and/or statutory recommendations and public interest reports? If so should that responsibility sit with MHCLG, the sector specific oversight body recommended by the Independent Review of the Financial Reporting Council or another body

Q36. Do local authority accounts allow the user to understand an authority's financial performance and its financial resilience? If not, how could they be revised to be more understandable? What information could be presented to enable users of the accounts to understand whether the financial position of a specific LA is getting better or worse?

Q37. The UK Government is committed to maintaining IFRS based accounting for the UK public sector. Given this, how would you recommend resolving the mismatch between the accruals and funding basis to improve the understandability of local authority accounts?

Q38. Do you think that summary financial information should be reported in the annual report section of the accounts? If so, on what basis and should this information be covered by the financial audit opinion?

Q39. If you think that summary financial information should be reported in the annual report section of the accounts, should it be presented with performance information? If so, what performance information would be of most interest to stakeholders?

Q40. For larger authorities, does the inspection and objection regime allow local residents to hold their council to account in an effective manner? If not, how should the regime be modified?

Q41. Is more guidance needed to help auditors assess the impact of significant changes to common business models? If so is this guidance needed to support the financial audit, the vfm audit or both?

Q42. Is the financial reporting and audit framework for larger category 2 authorities appropriate? If not, what additional information should be subject to audit/assurance and what would be the cost implications of this?

Q43. For smaller authorities, does the inspection and objection regime allow local residents to hold their council to account in an effective manner and is the cost of processing and responding to objections proportionate? If not, how should the regime be modified?

**Leicestershire County Council's Head of Internal Audit Service responses to CIPFA questionnaire on the Redmond Review**

**Leicester City Council**

**What is the membership of the audit committee, i.e. the number of members, and how many are independent?**

*Please insert numbers in the grid below, if none please enter 0 (zero)*

<b>Number of members of the audit committee = 7</b>
<b>Those members who are co-opted independent members: = 0</b>

**Do you think audit committees in local government bodies should be made a statutory requirement?**

*Please select one option*

- **Yes – (generic answer) the reference to ‘a committee’ in the Accounts and Audit Regulations 2015 could be amended to ‘an audit committee or a committee fulfilling the roles and responsibilities of an audit committee’. I think vesting a Committee’s role in statute would promote and provide transparency and accountability**
- No
- Don’t know

**Do you think all local government audit committees should have a mix of councillors and co-opted independent members?**

*Please select one option*

- Yes
- No
- **Don’t know – (generic answer) Focus should primarily be invested in continuing to ensure that LA members are adequately trained, briefed, remain engaged, independent and objective and are accountable. If there is movement to independent members, I would not want it to be statutory without a full investigation (perhaps jointly by CIPFA and the IIA) into both the benefits and pitfalls of doing so. I think CIPFA’s guide spells some of these out, but they would need to be widened and definitely backed up by evidence.**

**If a committee were to include co-opted independent members, what do you think would be the right mix?**

*Please select one option*

- One co-opted independent member – **(generic answer) As an experienced knowledgeable person that the LA members could turn to for support, guidance and opinion – but not leave them to do all the work**
- Two or more, but fewer than the number of councillors
- Even split between councillors and co-opted independent members
- A majority of co-opted independent members
- All co-opted independent members
- Don't know / Not applicable

**Do you think the chair of the committee should be a co-opted independent member?**

*Please select one option*

- Yes
- No – **(generic answer) The Chair should remain an elected member with accountability to their peers, full council and the public**
- An option but should not be specified
- Don't know

The review highlights that there might not be the same incentives for audit committees in local government to take action if issues are raised by the external auditors. The NAO have previously raised this as a concern too.

**Does the audit committee report on its activities to full council?**

*Please select one option*

- Yes - **(specific answer) – Annual report on work conducted**
- No
- Don't know

**Does the audit committee report to full council cover its work in relation to external audit?**

*Please select one option*

- Yes, minutes of meetings go to full council
- Yes, committee takes further steps to report to full council on its activities, eg annual report **(specific answer) – Annual report on work conducted – may be strengthened if any additional requirements come out of the review**
- No
- Don't know

**How effective do you think your audit committee is in responding to issues raised by the **internal auditors**?**

*Please select one option*

- Highly effective
- **Effective (specific answer) – This relies upon robust explanation of what the Committee’s roles and responsibilities are, good and frequent training and encouraging engagement. At this Authority, members receive summaries of key issues raised and are aware they will continue to receive information on implementing recommendations until I as Head of Internal Audit am satisfied they have been. It is also explained to members that they have a right to call officers to the committee to answer against original findings or any slippage in implementing improvements. Members are encouraged to ask for further information.**
- Neither effective nor ineffective
- Ineffective
- Highly ineffective

**How effective do you think your audit committee is in responding to issues raised by the **external auditors**?**

*Please select one option*

- Highly effective
- **Effective - (specific answer) – This relies upon robust explanation of what the Committee’s roles and responsibilities are, good and frequent training and encouraging engagement. At this Council the current EA is very proactive with keeping the Committee informed both in its specific work and wider issues across the sector. They also attend (and sit throughout) each Committee meeting which is beneficial. The previous EA was called by Committee to provide explanation to delays in completing the audit.**
- Neither effective nor ineffective
- Ineffective
- Highly ineffective

**Are there any other matters around the structure, operation or effectiveness of the audit committee that you would like to comment on?**

*If yes, please comment below: (generic answer). The role of officers is vital i.e. to be transparent, informative, provide guidance and training and encourage engagement.*

The review also asks questions about the ability of external auditors to place reliance on internal audit. The opportunities for this are limited in regard to their work on the financial statements but there are possibly opportunities for other aspects of engagement - in particular the value for money review.

Obviously internal audit should pursue an audit plan that is risk-based and determined in accordance with *PSIAS*, rather than developed to support the external audit engagement, but there are perhaps areas where there can be closer engagement,

Question 23 of the review asks:

- What is the current relationship between external and internal audit – (specific answer) **Good. The EA utilises relevant IA work in its risk assessment as part of planning their annual audit and they have exchanged some of their information with IA to avoid duplication of effort. There is often a good exchange of views at Committees**
- How should that relationship be developed to add most value to local authorities and local residents? (specific answer) **More frequent meetings than just at planning time**

**CIPFA would be very interested to hear the views of internal auditors on these questions.**

*Please feel free to comment below:*



# Appendix E

By virtue of paragraph(s) 3 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

Document is Restricted



By virtue of paragraph(s) 3 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

Document is Restricted



By virtue of paragraph(s) 3 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

Document is Restricted

