



Gloucester City Council

COUNCIL

**Meeting: Monday, 23rd May 2016 at 3.00 pm
in Civic Suite, North Warehouse, The Docks, Gloucester, GL1 2EP**

ADDENDUM

The following item although provided for on the agenda front sheet was not available at the time of dispatch:

9.	ADOPTION OF THE CONSTITUTION FOR 2016/17 (PAGES 5 - 66) To receive the report of the Head of Paid Service which seeks approval for changes to, and adoption of, the Council's Constitution for the municipal year 2016/17.
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Yours sincerely

Jon McGinty
Managing Director

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Gloucester City Council

Meeting:	Council	Date:	23 May 2016
Subject:	Adoption of the Constitution for 2016-17		
Report Of:	Head of Paid Service		
Wards Affected:	All		
Key Decision:	No	Budget/Policy Framework:	No
Contact Officer:	Jon McGinty, Managing Director and Head of Paid Service		
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Appendices:	1. Revised Part 3 :Responsibility for Functions		
	2. Revised Contract Rules Part 4: Rules of Procedure		

FOR GENERAL RELEASE

Note: The special circumstances for non-compliance with Access to Information Rule 5 and Section 100B (4) of the Local Government Act 1972 (as amended) (items not considered unless the agenda is open to inspection at least five days in advance of the meeting) were that it was necessary to allow time for discussions to take place following the outcome of local elections on 5 May 2016.

1.0 Purpose of Report

1.1 To approve changes to and adopt the Council's Constitution for the municipal year 2016-17.

2.0 Recommendations

Council is asked to **RESOLVE** that

- (1) The changes highlighted in this report and shown in the appendices be approved and the revised Constitution be adopted with immediate effect.
- (2) Authority be delegated to the Managing Director to make minor and consequential amendments to the Constitution to implement the changes set out in this report in consultation with Group Leaders.
- (3) As part of the next review, the Members' Allowances Panel be asked to consider amending the 2016-17 Scheme of Allowances to include a Special Responsibility Allowance (SRA) for the Chair of the General Purposes Committee and, should an SRA be recommended and subsequently approved by Council, that it be backdated to 23 May 2016.

3.0 Background and Key Issues

- 3.1 The Constitution sets out how the City Council operates, how decisions are made and the procedures that are followed to ensure that these are efficient, transparent and accountable to local people.
- 3.2 The Council's Constitution was extensively reviewed in 2009 and amendments to that Constitution have been approved annually since then.
- 3.3 It is good practice to review the Council's Constitution on an annual basis at least. It is also important to review how the Constitution has functioned and supported the work of the Council.
- 3.4 This report highlights the proposed amendments, which can be divided into three general categories:
1. Minor amendments to reflect organisational changes. These do not require full Council approval, but are included for information.
 2. Amendments proposed to streamline the Constitution, removing sections that are superfluous or duplicated in more than one place.
 3. Amendments proposed to realign decision-making structures, ensuring that they meet the needs of the Council.

PART 1 – SUMMARY AND EXPLANATION

- 3.5 Amendments to reflect the changes to Council size as agreed through the Local Government Boundary Commission for England's electoral boundary review of Gloucester City and the move to all out elections from May 2016.

PART 2 – THE ARTICLES

Article 4 – The Full Council

- 3.6 Revisions to the Policy Framework to correct a historical mistake and ensure that the list of policies for approval by Council is focused, up to date and complies with legislation.
- 3.7 Deletion of the reference to Housing Land Transfers in light of the transfer of the Council's housing stock to Gloucester City Homes in March 2015.

Article 7 – Leader and Cabinet

- 3.8 Amendments to the Transitional Arrangements to reflect the move to all out elections and to clarify that the Mayor continues in office until the Annual Council meeting following elections.

Article 8 – Regulatory and Other Committees

- 3.9 See changes to committees set out below.

Article 9 – Area Committees and Forums

- 3.10 Provisions streamlined to reflect the fact that the Council does not currently have any area committees or forums. Should this change in the future, more detailed provisions would again be required.

Article 11 – Officers

- 3.11 Deletion of unnecessary level of detail, which is captured in other parts of the Constitution.

Article 12 – Decision-making

- 3.12 It is recommended that a definition be added for Significant Decisions which ‘mirrors’ the definition for ‘Key Decisions’ which apply to Executive Functions.

A Significant Decision means any decision in exercise of a non-Executive Function which:-

- requires a budget expenditure or budget saving in excess of £100,000 ; or
- is likely to be significant in terms of its effects on communities living or working in an area comprising two or more wards in the City

Article 14 – Review and Revision of the Constitution

- 3.13 See changes to committee set out below.

PART 3 – RESPONSIBILITY FOR FUNCTIONS

Introduction

- 3.14 This Part of the Constitution has been rewritten in order to update, and generally modernise, this section of the Constitution. .

Meetings of the City Council

- 3.15 The Council’s decision-making structures have not been reviewed for some time and there is a proliferation of working groups and other bodies that have little or no decision-making power, or are transient in nature, as well as committees that deal with limited business. It is proposed to redesign some of the structures with a view to improving the effectiveness, accountability and transparency of the decision-making process and ensuring the efficient discharge of the Council’s business. These also need to better reflect that Gloucester City Council has chosen an executive form of administration, and the respective responsibilities of Councillors and the Head of Paid Service regarding officer appointments.
- 3.16 **Organisational Development Committee (ODC)** – aside from restructures, this committee has limited business. Staff structures are a matter for the Head of Paid Service to determine, in consultation with the relevant Cabinet Member, therefore it is proposed that this committee be dissolved and the remaining functions be divided between a new General Purposes Committee and a new Senior Appointments Committee – see below.

- 3.17 **Constitutional and Electoral Working Group (CEWG)** – this working group is consultative; it receives reports for information or makes recommendations to Council, largely on constitutional and electoral matters. It is proposed that these functions be delegated to a new General Purposes Committee as these are non-executive matters to which the Working Group will report.
- 3.18 **ICT Working Group** – this working group is consultative and in recent years has largely received verbal updates only. The purpose of this working group is to provide an opportunity to discuss Members’ use of ICT; however, the nature of the business at meetings indicates that the need for this has diminished. It is proposed that the ICT Working Group be formally dissolved. Should there be a need to discuss Members’ ICT matters, a meeting will be called, with Group Leaders invited to nominate representatives to attend.
- 3.19 **Employee Forum (EF)** – this forum is purely consultative and provides an opportunity for Members to meet with Trade Union representatives to discuss generic staffing matters. Reports are generally received for information purposes or for recommendations to be passed to decision-makers. There is no legal requirement for this forum, nor is it common place in other councils, and TU representatives have the opportunity to discuss concerns with employers via separate mechanisms. Therefore it is proposed that the Employee Forum be dissolved and the Trade Union consultation undertaken has confirmed that there is no opposition to this proposal.
- 3.20 **General Purposes Committee** - it is proposed that this committee be set up to deal with all non-executive matters that do not come within the remit of any other committee. It would comprise 7 Members (politically proportionate) with a quorum of 3 Members. Meeting in public to ensure transparency, the committee would take on constitutional and electoral functions and the functions of the Organisational Development Committee in respect of relevant staff matters. For details of the proposed Functions of this Committee see Appendix 1.
- 3.21 **Senior Appointments Committee** – it is proposed that a new ad-hoc committee be set up specifically to deal with matters relating to the appointment of the Council’s Senior Officers and would extend only to the posts of Managing Director and Corporate Directors. The committee would also deal with any disciplinary matters or grievances raised in respect of the Council’s Statutory Officers. This would provide an effective mechanism for discharging these functions, which only arise on an ad-hoc basis, and mirrors the approach at many other local authorities. The Committee would comprise 5 Members (politically proportionate) with a quorum of 3 Members. It is further proposed that a new ad-hoc Appeals Committee be set up to consider any appeals against any decisions of the Senior Appointments Committee’s. For details of the proposed Functions of these Committees see Appendix 1.
- 3.22 **Grants and Community Services Forum (GCSF)** – this is an advisory forum that can make recommendations to Cabinet or officers, meeting only twice a year. Over recent years it has become more of a discussion forum, and the relevance of the body in its current form has organically become the most significant topic of conversation at recent meetings. The membership has spent considerable time reviewing its purpose and impact and has ultimately concluded that an alternative structure sitting outside of the Council’s formally constituted bodies is the preferred

approach for enabling worthwhile dialogue between the Council and the Voluntary and Community Sector (VCS). A Memorandum of Understanding has been developed in partnership with the VCS setting out a more informal structure with meetings taking place in community buildings. It is therefore proposed that the GCSF be dissolved; however, mechanisms will remain in place to ensure that the VCS are consulted on the budget, similarly to the business community and other key stakeholders.

PART 4 – RULES OF PROCEDURE

Council Procedure Rules

- 3.23 Rule 1.01 Timing and Business of Annual Council Meeting – amended to reflect the move to all out elections and that the Leader of the Council's term will be for four years (unless removed or stands down).
- 3.24 Rule 2.02 Ordinary Meetings Order of Business – amended to remove the requirement for declarations of interest by Officers and to give clarity to the rules around public questions as previously agreed by CEWG.

Contract Rules

- 3.25 It was necessary to revise the current Contract Standing Orders in order to reflect changes in legislation and this gave officers an opportunity to simplify the procedural requirements for procuring goods/services and in respect of land transactions. The revised Rules will be accompanied by a procurement toolkit comprising templates and precedents and training will be offered to officers by the Procurement Adviser and One Legal. The revised Contract Rules can be found at Appendix 2.

Overview and Scrutiny Procedure Rules

- 3.26 Rule 15 Call-in and Urgency – amended to correct a historical anomaly whereby the Mayor was required to rule on urgency and the non-application of the call-in procedure. It is proposed that the Chair of the Overview and Scrutiny Committee takes on this role, mirroring the General Exception and Special Urgency rules in respect of Key Decisions.

Officer Employment Procedure Rules

- 3.27 Appointment of Head of Paid Service and Appointment of Chief Officer and Statutory Officers – amended to reflect the proposed creation of a Senior Appointments Committee.

PART 6 – MEMBERS' SCHEME OF ALLOWANCES

- 3.28 Various amendments to reflect changes to the list of Outside Bodies and a new certification on the mileage claims form relating to insurance cover.
- 3.29 A minor adjustment to the Members' Allowance Scheme has been recommended to Council in the sum of £2,800 as a special allowance for the Chair of the new General Purposes Committee which is equivalent to the special allowance for the

Chair of Audit and Governance Committee. It is further recommended that an early wider review be undertaken of the Members' Allowance Scheme.

PARTS 7 and 8 – OTHER USEFUL INFORMATION

3.31 These Parts have been merged.

3.30 Ward Map – replace with map showing new ward boundaries

3.31 Contact List – amendments to reflect organisational changes.

4.0 Asset Based Community Development (ABCD) Considerations

4.1 The content of the Constitution is a matter for the Council.

5.0 Alternative Options Considered

5.1 The Council could choose not to review the Constitution, however, this is not recommended as it is important that the Constitution is up to date and reflects the needs of the Council.

6.0 Reasons for Recommendations

6.1 The amendments are proposed in order to:

1. Reflect organisational changes.
2. Streamline the Constitution, removing sections that are superfluous or duplicated in more than one place.
3. Realign decision-making structures, ensuring that they meet the needs of the Council.

7.0 Future Work and Conclusions

7.1 If approved, the revised Constitution will come into effect immediately.

7.2 If changes to the decision-making structures are approved, the relevant political balance calculation and associated appointments schedule will be the version with the revised committees included. The Programme of Meetings will also need to be revised; wherever possible, this will be done using existing dates approved by Council in January 2016.

7.3 Proposals for amendments to other parts of the Constitution will come forward in 2016/17.

8.0 Financial Implications

8.1 There are no direct financial implications.

(Financial Services have been consulted in the preparation this report.)

9.0 Legal Implications

9.1 As set out in the report.

(One Legal have been consulted in the preparation this report.)

10.0 Risk & Opportunity Management Implications

10.1 If the Constitution is not reviewed on a regular basis there is a risk that it will be outdated and no longer meet the needs of the Council or reflect the custom and practice.

11.0 People Impact Assessment (PIA):

11.1 The PIA Screening Stage was completed and did not identify any potential or actual negative impact, therefore a full PIA was not required.

12.0 Other Corporate Implications

Community Safety

12.1 There are no community safety implications.

Sustainability

12.2 There are no sustainability implications.

Staffing & Trade Union

12.3 There are no staffing implications.

Background Documents: None

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APPENDIX 1**Part 3 – Responsibility for Functions**

Contents		
PART 3A	INTRODUCTION	Page //
PART 3B	COUNCIL FUNCTIONS	Page //
PART 3C	COMMITTEE FUNCTIONS	Page //
PART 3D	OFFICER NON-EXECUTIVE FUNCTIONS	Page //
PART 3E	EXECUTIVE FUNCTIONS	Page //
Tables		
1	Functions of Council	Page //
2	Functions of Committees	Page //
3	Non-Executive Functions of Officers	Page //
4	Executive Functions	Page //
5	Additional Executive Functions of Officers	Page //
Appendix		
A	Cabinet, Cabinet Member Portfolios and Decision making by Individual Cabinet Members	Page //

PART 3A

INTRODUCTION

- 3A.1 The Council consists of a number of distinct elements which are each allocated certain functions. The most important elements are Council (all councillors), Committees (undertaking specific functions delegated by Council/specified in statute) and the Executive (Leader and Cabinet). These are the primary decision making bodies within the Council and they exercise different powers and functions. To assist the efficient working of the Council these bodies have delegated some of their functions to other parts of the Council including Sub-Committees and Officers.
- 3A.2 This Part 3 of the Constitution describes the way in which the Council's powers and functions are distributed amongst the various parts of the Council and who may lawfully exercise those powers within any limits or in accordance with any conditions.
- 3A.3 The law provides a framework under which functions:
- (a) must not be the responsibility of the Executive
 - (b) may or may not be the responsibility of the Executive
 - (c) must be the responsibility of the Executive
 - (d) must be exercised by Full Council
- 3A.4 Functions which are the responsibility of the Executive (called "Executive Functions") may be delegated by the Leader of the Council to a Committee of the Executive, an individual Member of the Executive (Cabinet Member) or an Officer (exercising Executive Functions). Executive Functions may also be delegated to another local authority or exercised jointly through a joint committee or officer of another authority. The delegation of Executive Functions is set out in Part 3E 'Executive Functions' below.
- 3A.5 Functions which are not the responsibility of the Executive (called 'non-Executive Functions') are the responsibility of Council, Committees (and Sub-Committees) or Officers (exercising non-Executive Functions)¹. Delegation of non-Executive Functions is set out in Part 3B 'Council Functions', Part 3C 'Committee Functions' and Part 3D 'Officer Non-Executive Functions' below.
- 3A.6 Any reference in this Part 3 of the Constitution to any Function, and any delegation of power includes all action associated with that Function or power and all related enforcement actions.
- 3A.7 A Key Decision shall only be taken by Cabinet, unless such a decision has been specifically delegated by the Leader to a Cabinet Member or an Officer or unless the Leader, Managing Director (or, in his absence or where he is unable to act, a Corporate Director) is making an urgent decision (as set out in Part 3E below).
- 3A.8 A Significant Decision shall only be taken by Council or a Committee unless such a decision has been specifically delegated to a Sub-Committee or Officer or unless the Managing Director (or, in his absence or where he is unable to act, a Corporate Director) is making an urgent decision (as set out in Part 3D below).

PART 3B

COUNCIL FUNCTIONS

3B.1 The functions that may only be exercised by Council are set out in Table 1 below:

Table 1-Functions of Council	
1	Determine which plans, strategies and policies shall comprise the Council's Policy Framework (Part 2 Article 4) and from time to time approve, adopt and amend those plans, strategies and policies.
2	Determine and amend the Council's Budget.
3	Approve a departure from the approved Policy Framework and/or the approved Budget.
4	Appoint and remove the Leader.
5	Change the executive arrangements of the Council.
6	Establish, abolish and decide the terms of reference and the composition of Council Committees and make appointments including co-opted members to them and other non-Executive bodies.
7	Make and amend Procedural Rules, Financial Rules and Contract Rules.
8	Change the name of the City or a parish.
9	Elect a Mayor (Council Chairman) and Deputy Mayor (Council Vice-Chairman).
10	Confer the title of Honorary Alderman and grant the Freedom of the City.
11	Promote or oppose local or personal bills.
12	Where it is the function of the Council, divide Parliamentary Constituencies and local government electoral divisions into polling districts.
13	Appoint an Electoral Registration Officer and Returning Officer for local government elections.
14	Make, amend, revoke or re-enact Byelaws.
15	Fill Council or Parish Council vacancies in the event of insufficient nominations.
16	Change ordinary year of election of parish councillors.
17	Submit proposals to the Secretary of State for an Order for pilot schemes for local elections.
18	Confirm the appointment of the Head of Paid Service and designate officers as the Monitoring Officer and the Chief Finance Officer.
19	Make a scheme for the payment of allowances to Members and determine the amount of all allowances payable to Members of the Council.
20	Approve the Pay Policy Statement.
21	Establish and abolish Joint Committees (in respect of non-Executive functions).
22	Appoint or nominate individuals to outside bodies in respect of non-Executive Functions and revoke or withdraw such appointment or nomination.
23	Appoint or nominate individuals to outside bodies in respect of Executive Functions and revoke or withdraw such appointment or nomination where there is no Group Leader consensus on the decision to be taken.
24	Adopt or amend the Code of Members' Conduct.
25	Take decisions and/or give advice on matters brought to Council by the Leader, Cabinet, Officers and other bodies or persons.
26	Receive and consider statutory reports from the Head of Paid Service and the Monitoring Officer.
27	Authorise virements from the Council's approved Annual Revenue and Capital Budgets in excess of £100,000.
28	Determine whether Local Choice Functions (as defined in Local Authority (Functions & Responsibilities) (England) Regulations 2000 as amended) will be exercised by Council or the Cabinet and undertake such local choice functions as allocated to Council.
29	Discharge any other function which is by law reserved to Council.
30	Approval and allocation of the Council's annual borrowing limit

31	The appointment of review boards under regulations made pursuant to Section 34(4) of the Social Security Act 1998.
32	The power to submit proposals to the Secretary of State for an Order under Section 10 (pilot schemes for local elections in England and Wales) of the Representation of the People Act 2000.
33	Any resolution for whole Council elections.
34	Any change in the name of electoral areas.
35	Any decision as to whether a casino is located in Gloucester.

PART 3C

COMMITTEE FUNCTIONS

- 3C.1 Council has established the Committees set out in Table 2 below to discharge certain functions. Council retains the right to a concurrent and overriding exercise of all functions in Table 2.
- 3C.2 The Council must have at least one Overview and Scrutiny Committee.
- 3C.3 A Committee may establish such Sub-Committee(s) as it sees fit to undertake certain of its functions and the Table below include such Sub-Committees.
- 3C.4 Unless otherwise required by law, a Committee or Sub-Committee in Table 2 may determine not to exercise a function delegated to it and refer that function upwards for determination by respectively Council or the parent Committee.

Table 2- Functions of Committees

Overview and Scrutiny	
1	Co-ordinate, champion and lead on the scrutiny of Council and Executive decisions.
2	Have all of the functions, powers and duties conferred by Section 21 of the Local Government Act 2000 (as amended).
3	Determine the allocation of work in the event that the scope of the subject matter of a scrutiny study or investigation overlaps the role of more than one Sub-Committee or Task and Finish Group.
4	Review the operation of the scrutiny process and work programmes of the Overview and Scrutiny Sub Committees and Task and Finish Groups and inform and advise Council in relation to priorities and the allocation of resources.
5	Oversee and review the resources, support, training and development of Overview and Scrutiny Members.
6	Develop a positive “critical friend” approach to the role of scrutiny of the Council and Community issues.
7	Provide and co-ordinate the input to an annual report to Full Council on such issues or topics as the Committee sees fit.
8	Give consideration to the management of matters called in for review under paragraph 14 of the Overview and Scrutiny Rules.
9	Give consideration to matters referred to it by the Councillors’ Call for Action.
10	Review and scrutinise the work of the Executive.
11	Review and scrutinise the content of the Forward Plan.
12	Review and scrutinise the policies of the Council.
13	Consider any matters which affect the authority, the City of Gloucester (or part of it) or its inhabitants (or some of them).
Planning Committee	
1	To determine planning applications, the terms of planning agreements and such other matters as are considered appropriate from time to time, excluding matters relating to policy.
2	To determine the Council’s response to major planning applications in neighbouring districts where the Council is a consultee.
3	To deal with all matters arising under the building regulation code and associated legislation except matters expressly delegated to the relevant Corporate Director.

4	<p>To determine matters relating to planning as a District Planning Authority excluding strategic planning matters, such as:</p> <p>(a) The preparation, adoption and review of the Council's statutory Local Development Plan.</p> <p>(b) Representation of the District Planning Authority's view to other bodies as appropriate on strategic planning matters.</p> <p>which will be considered by Planning Policy Sub-Committee which shall make recommendations for determination by the Council.</p>
5	<p>To determine all matters relating to the Section 106 process - determining Council priorities for Developer contributions.</p>
6	<p>Without prejudice to the above roles and the Council's Scheme of Delegation the Planning Committee shall be responsible for those matters set out in Part A (Functions relating to Town and Country Planning and Development Control) of Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000.</p>
7	<p>To approve the Planning Enforcement Plan.</p>
8	<p>To determine Neighbourhood Planning applications.</p>
9	<p>To determine:</p> <ul style="list-style-type: none"> • Applications submitted by or on behalf of the City Council, or for development on Council owned land or where the Council has a direct interest, except where no objections are received. • Applications submitted by a serving Member or Officer of the Council. • Applications, which constitute a significant departure from the most up to date Local Plan that is formally approved and adopted by the Council for Development Control purposes. • Applications for 50 or more new houses/flats. • Applications which entail more than 1000 square metres of gross floor space. • Buildings or structures which exceed 15 metres in height. • Applications where Officers are recommending an agreement under S.106 of the Town and Country Planning Act 1990 with the exception of Agreements which relate to the collection and administration of contributions for open space which accord with Local Plan policy and associated Supplementary Planning Guidance. • Applications which are accompanied by an Environmental Statement. • Applications for change of use to hot food takeaway, except where no objections are received. • Applications for a change of use to Class A2(c) within the Town and Country Planning (Use Classes) Order 1987, where the Officer recommendation is for approval. Applications for the demolition of a listed building. • Applications for the development that significantly affects the setting of a grade 1 or 2* Listed Building or a Scheduled Ancient Monument. • Applications for the removal of trees protected by a Tree Preservation Order (except where exempted by the Act) where there are objections received. <p>PROVISOS:</p> <p>(i) Only the relevant Ward Members where the application site is located plus Members in adjacent Wards where the application might have an impact, the Chair or Vice Chair of the Planning Committee or the Party Spokespersons are able to refer an application to Committee.</p> <p>(ii) Any Councillor wishing to refer a planning application to Committee must submit a pro-forma request slip within 28 days of the consultation period commencing. If the</p>

	<p>request slip is not submitted within this timescale then the application cannot be referred to Committee except in exceptional circumstances (for example, an application is particularly controversial or significant) and where it is agreed by one of the following; the relevant Corporate Director, the Head of Planning, the Development Control Service Manager, the Chair of the Planning Committee or Party Spokespersons.</p> <p>(iii) The relevant Corporate Director, the Head of Planning and the Development Control Service Manager will use their discretion to refer any matter to the Planning Committee which would raise sensitive issues, or where it would be otherwise be beneficial for the decision to be made by Members</p>
Planning Policy Sub- Committee	
1	<p>Subject to consultation arrangements:</p> <ul style="list-style-type: none"> • to make recommendations to the Council on the preparation of the Local Development Plan for Gloucester. • to make recommendations to Council relating to the Local Development Planning Policy.
2	<p>Prior to the Sub-Committee considering local development plan related matters, the following process will have been followed:</p> <ul style="list-style-type: none"> • the Planning Officer shall issue for consultation a draft document in consultation with the Cabinet Member for Housing and Planning, the Chair and the Vice Chair of the Planning Committee. • as part of the Consultation exercise, the views of the individual Cabinet Members will be sought.
3	<p>Prior to the Sub-Committee considering local development plan related matters, the following process will have been followed:</p> <ul style="list-style-type: none"> • the Planning Officer shall issue for consultation a draft document in consultation with the Cabinet Member for Housing and Planning the Chair and the Vice Chair and of the Planning Committee. • as part of the Consultation exercise, the views of the individual Cabinet Members will be sought.
Licensing and Enforcement Committee	
1	<p>To undertake all matters in relation to the statutory licensing and registration functions of the Council (save to the extent that such responsibility has been delegated to another Committee or Officer by the Council) such duties to include liquor, entertainment and late night refreshment licensing and the Gambling Act 2005. The Committee's role includes the formulation and approval of policy guidelines with the exception of the following which are dealt with by the Council:</p> <ul style="list-style-type: none"> • Sex Establishment Licensing Policy • Licensing Policy Statement - Licensing Act 2003 • Gambling Policy - Statement of Principles - Gambling Act 2005.
2	To receive information from the County Council and other relevant bodies on matters relating to the Council's licensing functions.
3	To hear and determine licence applications that are contentious and/or where objections have been lodged by statutory consultees, residents, other third parties or where officers have reservations about the appropriateness of an application or the suitability of an applicant.
4	Without prejudice to the above roles and the Council's Scheme of Delegation the Licensing and Enforcement Committee shall be responsible for those matters set out in Parts B and C (Licensing and Registration functions) of Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000, the Licensing Act 2003 and

	the Gambling Act 2005.
5	The Licensing and Enforcement Committee shall be empowered to set up a sub-committee or sub-committees to discharge functions and act in accordance with powers delegated by the Committee. In the context of the Committee's powers under the Gambling Act 2005 sub delegation may extend to the permitted discharge of functions by an officer.
6	To receive reports and determine policy in relation to street trading.
7	To approve policy and to determine fees in relation to scrap metal dealer licensing.
Licensing and Enforcement Sub-Committee (Licensing and Gambling)	
1	To undertake all matters relating to the discharge of functions in accordance with the powers delegated by the Parent Committee.
2	The Sub-Committee will meet to hear appeals relating to the Licensing Act 2003 and the Gambling Act 2005.
Licensing and Enforcement Sub-Committee (Enforcement)	
1	To undertake all matters relating to the discharge of functions in accordance with the powers delegated by the Parent Committee.
2	To hear Hackney Carriage and Private Hire disciplinary matters in accordance with the provisions of the Council's adopted General Conditions for Hackney Carriage and Private Hire Licensing.
3	To hear appeals against refusals of applications for, or conditions applied to, street trading consents.
4	To consider contentious applications for scrap metal dealer licences and to hear appeals against refusals of applications for scrap metal dealer licences.
Audit and Governance Committee	
Governance, risk and control	
1	To review the Council's corporate governance arrangements against the good governance framework and consider annual governance reports and assurances.
2	To review the Annual Governance Statement prior to approval and consider whether it properly reflects the risk environment and supporting assurances, taking into account internal audit's opinion on the overall adequacy and effectiveness of the Council's framework of governance, risk management and control.
3	To consider the Council's arrangements to secure value for money and review assurances and assessments on the effectiveness of these arrangements.
4	To consider the Council's framework of assurance and ensure that it adequately addresses the risks and priorities of the Council.
5	To monitor the effective development and operation of risk management in the Council.
6	To monitor progress in addressing risk-related issues reported to the Committee.
7	To consider reports on the effectiveness of internal controls and monitor the implementation of agreed actions.
8	To review the assessment of fraud risks and potential harm to the Council from fraud and corruption.
9	To monitor the counter-fraud strategy, actions and resources.
Internal Audit	
10	To approve the internal audit charter.
11	To review proposals made in relation to the appointment of external providers of internal audit services and to make recommendations.
12	To approve the risk-based internal audit plan, including internal audit's resource requirements, the approach to using other sources of assurance and any work required to

	place reliance upon those other sources.
13	To approve significant interim changes to the risk-based internal audit plan and resource requirements.
14	To make appropriate enquiries of both management and the Head of internal audit to determine if there are any inappropriate scope or resource limitations.
15	To consider reports from the Head of internal audit on internal audit's performance during the year, including the performance of external providers of internal audit services. These will include:- <ul style="list-style-type: none"> (a) Updates on the work of internal audit including key findings, issues of concern and action in hand as a result of internal audit work. (b) Regular reports on the results of the Quality Assurance and Improvement Programme. (c) Reports on instances where the internal audit function does not conform to the Public Sector Internal Audit Standards and Local Government Application Note, considering whether the non-conformance is significant enough that it must be included in the Annual Governance Statement.
16	To consider the Head of internal audit's annual report: <ul style="list-style-type: none"> (a) The statement of the level of conformance with the Public Sector Internal Audit Standards and Local Government Application Note and the results of the Quality Assurance and Improvement Programme that supports the statement. <p>The opinion on the overall adequacy and effectiveness of the Council's framework of governance, risk management and control together with a summary of the work supporting the opinion.</p>
17	To consider summaries of specific internal audit reports as requested.
18	To receive reports outlining the action taken where the Head of internal audit has concluded that management has accepted a level of risk that may be unacceptable to the authority or there are concerns about progress with the implementation of agreed actions.
19	To contribute to the Quality and Improvement Programme and in particular, to the external quality assessment of internal audit that takes place at least once every five years.
20	To consider a report on the effectiveness of internal audit to support the Annual Governance Statement, where required to do so by the Accounts and Audit Regulations.
21	To support the development of effective communication with the Head of internal audit.
External Audit	
22	To consider the external auditor's annual letter, relevant reports, and the report of those charged with governance.
23	To consider specific reports as agreed with the external auditor.
24	To comment on the scope and depth of external audit work and to ensure it gives value for money.
25	To commission work from internal and external audit.
26	To advise and recommend on the effectiveness of relationships between external and internal audit and other inspection agencies or relevant bodies.
27	To consider the external auditor's annual letter, relevant reports, and the report of those charged with governance.
28	To consider specific reports as agreed with the external auditor.
29	To comment on the scope and depth of external audit work and to ensure it gives value for money.
30	To commission work from internal and external audit.
31	To advise and recommend on the effectiveness of relationships between external and internal audit and other inspection agencies or relevant bodies.
Financial reporting	
32	To review the statement of accounts. Specifically, to consider whether appropriate accounting policies have been followed and whether there are concerns arising from the financial statements or from the audit that need to be brought to the attention of the Council.
33	To consider the external auditor's report to those charged with governance on issues

	arising from the audit of the accounts.
Accountability arrangements	
34	To report to those charged with governance on the Committee's findings, conclusions and recommendations concerning the adequacy and effectiveness of their governance, risk management and internal control frameworks; financial reporting arrangements, and internal and external audit functions.
35	To report to full Council on a regular basis on the Committee's performance in relation to the terms of reference and the effectiveness of the Committee in meeting its purpose.
Constitution and Standards	
36	To consider and review changes to the Council's constitution in respect of Contract Standing Orders, Financial Regulations, and Codes of Conduct and behaviour.
37	To monitor the operation of the Council's codes and protocols (see Part 5 of this Constitution) and the Council's complaints process and to advise the Council on the adoption or revision of such codes.
38	To consider the Council's compliance with its own published standards and controls.
39	To review any issues referred to it by the Head of Paid Service, a Corporate Director or any Council body.
40	To receive allegations and any accompanying report from the Monitoring Officer and to refer the allegation to the Monitoring Officer for formal investigation or informal resolution.
41	To set up, where necessary, a Hearings Panel to consider any alleged breach of the Members' Code of Conduct.
42	To promote and maintain high standards of conduct by Councillors and co-opted Members.
43	To assist Councillors and co-opted Members to observe the Members' Code of Conduct.
44	To advise the Council on the adoption, revision of, or publicity on the Members' Code of Conduct.
45	To advise, train or arrange to train Councillors and co-opted Members on matters relating to the Members' Code of Conduct.
46	To grant dispensations to Councillors and co-opted Members from the requirements relating to interests set out in the Members' Code of Conduct or other Council codes and protocols where: <ul style="list-style-type: none"> (a) the Committee considers that the dispensation is in the interests of persons living in the Council's area; or (b) the Committee considers that it is otherwise appropriate to grant a dispensation.
47	To consider appeals against decisions made by the Monitoring Officer in exercise of their dispensation powers;
48	To set up, where necessary, a Sub-Committee to shortlist and interview candidates for the role of Independent Person and to make recommendations to Council regarding the appointment of Independent Persons.
49	To provide such advice and assistance as appropriate regarding the appointment of the Independent Person as required under Part 7 of the Localism Act 2011.
50	To set the allowances and expenses payable to the Independent Person and Reserve Independent Persons.
51	The ability to require the Leader and Cabinet Members to attend and be questioned on audit, risk management and corporate governance matters relating to their roles and responsibilities.
52	The ability to require the Head of Paid Service, and Corporate Directors to attend and be questioned on audit, risk management and corporate governance matters relating to their roles and responsibilities.
53	The power to call expert witnesses from outside the Council to give advice on matters under review or discussion.
54	To discharge powers under section 101 of the Local Government Act 1972 acting as a Sub-Committee of the Council for Statement of Auditing Standards (610) purposes.

55	To approve the Statement of Accounts and the Annual Governance Statement.
56	To approve the Internal Audit Periodic Plan, receive reports on progress and as a consequence approve any material changes to the plan.
Audit and Governance Sub-Committee (Hearings Panel)	
57	To receive reports from the Monitoring Officer following investigations into complaints and all other steps associated with that function.
58	To conduct standards hearings and all other steps associated with that function, including taking into account the advice of the Independent Person.
59	To conduct a pre-meeting if it considers it will assist the expeditious resolution of business including identifying areas of agreement / disagreement, how the evidence shall be adduced, and which parts of the hearing, or any documents, shall be private.
General Purposes Committee	
1	To make recommendations to Council on: <ul style="list-style-type: none"> a) changes to the Constitution (excluding changes within the remit of the Audit and Governance Committee) b) polling district and polling place arrangements c) proposals to change the name of the electoral area d) any functions in relation to parishes, parish meetings and parish councils, including changing the name of a parish e) community governance matters, including the outcome of any community governance review f) the recommendations of the Independent Remuneration Panel in respect of the Scheme of Members' Allowances.
2	To make recommendations to the Returning Officer in respect of elections matters.
3	To make recommendations to the Electoral Registration Officer in respect of electoral registration matters.
4	To make, amend or revoke bylaws.
5	To approve changes to staff terms and conditions and policies relating to employee remuneration.
6	To consider the Pay Policy Statement and refer it to Council for approval
7	To determine policies relating to local government pensions and discretionary compensation
8	To deal with any matter which, by virtue of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 as amended or any other statutory provision, cannot be the responsibility of the Cabinet and does not fall within the terms of reference of any other Committee or within the Scheme of Officer Delegations.
9	To deal, where legally permissible, with any matter, including the authorisation of legal proceedings, which requires a decision of the Council and which cannot reasonably be dealt with in the normal cycle of meetings.
Senior Appointments Committee	
1	To be responsible for the appointment of the Managing Director and Corporate Directors.
2	To refer the appointment of the Head of Paid Service to Council for approval.
3	To recommend to Council, on a permanent, temporary or acting up basis, a person to be designated as the Chief Finance Officer or the Monitoring Officer.
4	To determine the conditions on which the Managing Director and Corporate Directors hold office, including deciding on matters of early retirement.
5	To suspend the Managing Director, Corporate Directors and Statutory Officers whilst an investigation takes place into alleged misconduct.
6	To manage and consider any disciplinary and/or capability and any grievance matters arising in relation to the Managing Director, Corporate Directors and the Statutory Officers
7	To consider allegations concerning the conduct or capability of the Managing Director, Corporate Directors and the Statutory Officers in order to establish whether or not they are

	sufficiently well-founded and serious in content to justify investigation.
8	To carry out the function of an Investigating & Disciplinary Committee as set out in the JNC Conditions of Service for Chief Executives and the JNC Conditions of Service for Chief Officers.
9	<p>In respect of Statutory Officers to:</p> <ol style="list-style-type: none"> a. decide whether the issues requires no formal action or b. whether the issue should be referred to an Independent Person c. be responsible for the appointment and terms of reference of the Independent Person d. receive and consider the report of the Independent Person e. hold a capability or disciplinary hearing <p>Following receipt of any Independent Person report, to determine a course of action (up to and including dismissal) within the Council's powers under law and in accordance with the Council's procedures including the procedures set out in the Officer Employment Procedure Rules. Council must approve any dismissal of Statutory Officers.</p>
10	<p>In respect of the Managing Director and Corporate Directors to:</p> <ol style="list-style-type: none"> a) appoint, if appropriate, an investigator on behalf of the Committee (which power may be delegated to an officer) b) receive and consider any report of an investigator c) hold a capability and/or disciplinary hearing <p>Following any capability and/or disciplinary hearing, determine a course of action (up to and including dismissal) within the Council's powers under law and in accordance with the Council's procedures including the procedures set out in the Officer Employment Procedure Rules.</p>
Appeals Committee	
1	To hear and determine appeals against decisions of the Senior Appointments Committee in respect of action taken against the Managing Director or Corporate Director (other than a Statutory Officer).
2	To hear and determine appeals against any action short of dismissal taken by the Senior Appointments Committee against a Statutory Officer.

PART 3D

OFFICER NON-EXECUTIVE FUNCTIONS

- 3D.1 All non-Executive Functions, other than those allocated in Parts 3B & C above, are delegated to the Managing Director and Corporate Directors as set out in Table 3 below.
- 3D.2 In addition, the Managing Director and Corporate Directors will exercise powers or duties specifically delegated to them by Council, Committee, Sub-Committee or Joint Committee.
- 3D.3 The Managing Director and Corporate Directors are not required to exercise all delegations personally and may sub-delegate any Function in this Part 3D to Officers of suitable experience and seniority.
- 3D.4 An Officer does not have delegated authority to take a Significant Decision unless (a) specifically authorised to do so by Council, Committee, Sub-Committee or Joint Committee, or (b) the Managing Director (or, in his absence or where he is unable to act, a Corporate Director) is taking action under urgency powers as set out in this Part 3D.
- 3D.5 The fact that a function is delegated to an Officer under this Scheme does not preclude the person or body which gave the delegation from exercising the function in question.
- 3D.6 Council or an Appropriate Committee may direct in any particular case that a delegated power to an Officer in respect of a non-Executive Function shall not be exercised by the Officer and that the Function in question shall instead be exercised by the Council or Appropriate Committee. Such direction must be exercised in consultation with the Managing Director or appropriate Corporate Director.
- 3D.7 The Managing Director and Corporate Directors may at their discretion refer any matter to Council or Appropriate Committee for decision.
- 3D.8 Article 13 'Decision Making' applies to the exercise of all Non-Executive Functions by Officers in this Part 3D.

Table 3-Non-Executive Functions of Officers

Managing Director	
Function	Condition
Discharge any non-Executive Function not otherwise allocated in Parts 3B-D of the Constitution	Unless prohibited by law
Discharge any non-Executive Function which is delegated to an Officer under Part 3D	Where that Officer is absent or unable to act through conflict of interest or otherwise Except in the case of the Monitoring Officer or Head of Finance where they have allocated the function to their deputy
Take an urgent decision in respect of a non-Executive Function, including a Significant Decision, in a situation where there is not sufficient time for a report to be considered by Council or Appropriate Committee.	Unless it is a decision that in law can only be made by Council. Wherever possible this shall be done in consultation with the Mayor or Appropriate Committee Chairman. The decision shall be reported to the next scheduled meeting of Council or the Appropriate Committee
Take an urgent decision not in accordance	In accordance with Budget & Policy Framework

with the Budget or the Policy Framework	Rules (Part 4 Rule 4) The decision shall be reported to the next available meeting of Council
Determine claims and payments in accordance with the scheme of Member Allowances	
Discharge functions and take actions and decisions in respect of elections, electoral registration, referenda and related legislation	Except as specifically allocated to Council in Part 3B Table1
Discharge functions and responsibilities with regard to a parish council	Except as specifically allocated to Council in Part 3B Table1
Undertake the functions of the Head of Paid Service including the duty, where he considers it appropriate to do so, of reporting to Council on the manner in which the Council functions are co-ordinated, the number and grades of staff to discharge those functions and the organisation and proper management of those staff	
Approve reorganisation of functions and restructuring of staff within service areas and the transfer of staff and functions between service areas	Except where the Managing Director considers it appropriate to refer a report to Council
Approve redundancy of or an application for early retirement (including ill health retirement) of an employee	Except (in the case of the Managing Director or Corporate Director) as specifically allocated to Council or Committee in Part 3B Table 1 or and Part 3C Table 2. Subject to corporate HR policies
Appoint, dismiss and discipline employees within their service areas and determine their individual terms and conditions of employment and matters relating thereto	Chief Officer level and above is allocated to Council or Senior Appointments Committee subject to Officer Employment Procedure Rules (Part 4F) and corporate HR policies. Subject to appropriate budgetary provision
Approve HR procedures and policies which relate to employee terms and conditions of employment	Except as specifically allocated to General Purposes Committee in Part 3C Table2
Undertake functions in respect of local government pensions	Except as specifically allocated to General Purposes Committee in Part 3C Table2
Authorise any Officer for any legal purpose including Proper and Statutory Officer appointments	Unless otherwise prescribed by law or allocated to Council in Part 3B
District Emergency Co-Ordinator	
Make minor and consequential amendments to the Constitution to reflect changes of fact including changes in allocation of Functions	Corporate Directors, Council Solicitor and Group Leaders to be informed of any change which the Managing Director considers to be significant
Corporate Directors	
Function	Condition
Discharge any Non-Executive Function which is delegated to an Officer (including the Managing Director) under this Part 3D	Where that Officer is absent or unable to act through conflict of interest or otherwise Except in the case of the Monitoring Officer or Head of Finance where they have allocated the function to their deputy

Undertake the statutory role of Head of Paid Service	Where the Managing Director is absent or unable to act through conflict of interest or otherwise. The role rests with the Corporate Director who is deputising for that period
Appoint, dismiss and discipline employees within their service areas and determine their individual terms and conditions of employment and matters relating thereto	Chief Officer level and above is allocated to Council or Senior Appointments Committee and subject to Employment Rules (Part 4) and corporate HR policies. Subject to appropriate budgetary provision
Approve revenue budget virements between service areas/budget heads not exceeding £25,000	In consultation with appropriate Corporate Director. If exceeding £10,000, Cabinet Member to be informed.
Approve ex gratia and maladministration compensation payments up to £5,000	In consultation with the Head of Finance and Council Solicitor
Set fees and charges and increase in line with inflation	Cabinet Member or Appropriate Committee Chairman to be informed
Determine applications for: (a) full planning permission; (b) outline planning permission; (c) approval of reserved matters; (d) listed building consent; (e) conservation area consent; (f) advertisement control consent	Except as specifically allocated to Planning Committee under Part 3C Table 2
Determine planning applications relating to trees including (a) trees covered by Tree Preservation Orders: and (b) trees within Conservation Areas.	Except as specifically allocated to Planning Committee under Part 3C Table 2
Other actions and decisions (including enforcement, entry on to land and planning agreements) as local planning authority under the Town & Country Planning Act 1990, Planning (Listed Building & Conservation Area) Act 1990 and all planning related legislation.	Except as specifically allocated to or by Council
Authorise the stopping up or diversion of a highway, footpath or bridleway or extinguish public rights of way over land held for planning purposes.	
Extinguish public right of way over land acquired for clearance.	
Undertake functions relating to high hedges and protection of important hedgerows.	
Determine jointly with the Council Solicitor the wording of, and completion of	Except as specifically allocated to Planning Committee under Part 3C Table 2

agreements under Section 106 of the Town and Country Planning Act 1990	
Determine any application for the grant, renewal, variation or transfer of a licence, consent, permit or permission	Except as specifically allocated to Licensing and Enforcement Committee or Sub-Committee under Part 3C Table 2
Suspend or continue the suspension of a hackney carriage or private hire driver, vehicle or operator's licence	Where public safety is at risk
Revoke or withdraw a licence, consent, permit or permission	Except as specifically allocated to Licensing Committee or Sub-Committee under Part 3C Table 2
Other actions and decisions (including enforcement, entry on to land and waiving of fees) as licensing authority under the Licensing Act 2003, Gambling Act 2005 and all other licensing legislation	Except as specifically allocated to Council, Licensing Committee or Sub-Committee under Part 3C Tables 1 and 2
Highway authority functions (as delegated to the Council by the County Council)	Except as specifically allocated to Licensing Committee under Part 3C Table 2
Discharge all functions under the Health & Safety at Work etc. Act 1974 and other health and safety related legislation (otherwise than in the Council's capacity as employer)	
Discharge all functions under food and food safety legislation which cannot be exercised as Executive Functions	
Authorise legal proceedings	In consultation with the Council Solicitor
Head of Finance	
Function	Condition
Undertake the functions of the Council's Head of Finance to ensure proper administration of the Council's financial affairs	
Approve the carry forward of budget underspend to next financial year for same purpose as originally intended	
Make minor changes to the Financial Rules to reflect changes in fact and accounting and audit requirements/best practice	Managing Director and Corporate Directors to be informed
Make minor changes to the Contract Rules to reflect changes in fact and procurement requirements and best practice	In consultation with the Council Solicitor and Managing Director and Corporate Directors to be informed
Head of Law (Commercial)/One Legal	
Undertake the functions of the Monitoring	

officer prescribed by law	
<p>To grant dispensations to Councillors and co-opted Members from the requirements relating to interests set out in the Members' Code of Conduct where:</p> <ul style="list-style-type: none"> (a) so many Members of the decision-making body have Disclosable Pecuniary Interests in a matter that it would impede the transaction of the business and render the meeting inquorate; or (b) without the dispensation, the representation of different political groups on the body transacting the business would be so upset as to alter the outcome of any vote on the matter; or (c) without a dispensation, no Member of the Cabinet would be able to participate in the matter and the Cabinet meeting would be inquorate as a result. 	

PART 3E

EXECUTIVE FUNCTIONS

General

- 3E.1 The Council operates a Leader and Cabinet form of Executive and the Leader of the Council specifies how the functions of the Executive (known as 'Executive Functions') will be carried out.
- 3E.2 In law the Leader of the Council may discharge any Executive Functions and exercise any powers which are the responsibility of the Executive; alternatively the Leader may arrange for the discharge of any of those Functions by delegation to any of the following:-
- (a) the Cabinet
 - (b) a Cabinet Committee
 - (c) an individual member of the Cabinet (Cabinet Member)
 - (d) an officer of the Council
 - (e) another local authority
 - (f) jointly with another local authority through a joint committee or officer

Delegations

- 3E.3 The Leader has exercised their power of delegation in the manner set out below in Table 4 'General Scheme of Delegation of Executive Functions' and Table 5 'Additional Delegation of Executive Functions to Officers'. In Table 4 reference to 'Cabinet Member' means a Cabinet Member acting in portfolio as set out in Appendix A and reference to 'Officer' means Managing Director or Corporate Director.
- 3E.4 The Leader has directed that the Executive Functions delegated to Cabinet Members as set out in Table 4 shall not be sub-delegated to Officers without his prior consent.
- 3E.5 Each person or body to whom an Executive Function is delegated in Tables 4 and 5 and Appendix A shall be empowered to take any step in the course of or otherwise for the purposes of or in connection with the discharge of the Function, do anything incidental or conducive to discharge of the Function or do anything expedient in connection with the discharge of the Function.
- 3E.6 The Leader may amend their delegations at any time by giving notice in writing to any person who currently holds the power and any person to whom the power is now to be delegated and to the Proper Officer (in this case the Managing Director or in their absence or where they are unable to act the Council Solicitor) setting out the change to be made; such amendment to take effect immediately on confirmation of receipt by the Proper Officer. The Proper Officer will ensure that this Part 3 of the Constitution is updated forthwith.
- 3E.7 Where an Executive Function has been delegated by the Leader this does not prevent the Leader from exercising that Function.
- 3E.8 In the absence of the Leader of the Council the person or persons designated by the Leader and notified by the Leader to the Proper Officer as

having responsibility for the Leader's area(s) of responsibility is or are authorised to exercise the functions of the Leader pursuant to the Constitution.

3E.9 Article 13 'Decision Making' applies to the exercise of all Executive Functions in this Part 3E.

Officer Delegations - Special Provisions

3E.10 The Managing Director or Corporate Director are not required to exercise all delegations personally and may sub-delegate any Function in this Part 3E to officers of suitable experience and seniority.

3E.11 An Officer does not have delegated authority to take a Key Decision unless (a) specifically authorised to do so by the Leader or (b) the Managing Director (or, in their absence or where they are unable to act, a Corporate Director) is taking an urgent decision as set out in this Part 3E.

3E.12 The fact that a function is delegated to an Officer under this Scheme does not preclude the person or body which gave the delegation from exercising the function in question.

3E.13 The Leader may direct in any particular case that a delegated power to an Officer in respect of an Executive Function shall not be exercised by an officer and that the Function in question shall instead be exercised by the Leader or Cabinet. Such direction must be exercised in consultation with the Managing Director or Corporate Director(s).

3E.14 A Cabinet Member may in respect of an Executive Function which falls within their portfolio direct in any particular case that a delegated power to an Officer shall not be exercised by an officer and shall instead be exercised by them as Cabinet Member. Such direction must be exercised in consultation with the Managing Director or Appropriate Corporate Director and the Leader.

3E.15 The Managing Director or Corporate Director may at their discretion and in consultation with the Leader or Cabinet Member refer any matter to the Leader or Cabinet for decision.

3E.16 Officers have responsibility to report to the Leader or Cabinet Member matters that are of political or strategic significance where that body or person is not required to make a decision but where it is proper for them to be aware of the position.

Table 4 –Executive Functions

FUNCTION	Leader	Cabinet Member	Cabinet	Other Local Authority	Officer (Managing Director (MD) or Appropriate Corporate Director (CD))
Policy & Strategy					
Recommend to Council all plans strategies and policies which comprise the Policy Framework (Part 2 article 4) and initiate consultation on such plans policies and strategies			✓		
Agree in year changes to the Policy Framework to the extent permitted by Council or by the Constitution			✓		
Refer to Cabinet for discussion those plans strategies and policies which comprise the Policy Framework and initiate any appropriate consultation on them	✓	✓			
Take urgent decisions that are contrary to or not wholly in accordance with the Policy Framework	✓		✓		MD
Refer to Cabinet those plans strategies and policies which do not comprise the Policy Framework and require Cabinet approval	✓	✓			MD/CD
Agree/amend plans strategies and policies which do not comprise the Policy Framework and require Cabinet approval			✓		
Agree/amend plans strategies and policies which do not comprise the Policy Framework and require Cabinet Member approval (except Key Decisions)		✓			
Agree/amend plans strategies and policies which do not comprise the Policy Framework and require Officer approval (except Key Decisions)					MD/CD
Respond to consultations from Government, local authority associations and similar bodies which have policy or cross service issues	✓	✓			
Respond to all other consultations					MD/CD
Implement the Council's Risk Management Policy &	✓	✓	✓		MD/CD

Strategy					
Finance					
Prepare and consult on the Council's Budget and recommend to Council for approval			✓		
Receive and consider quarterly budget monitoring reports			✓		
Take urgent decisions that are contrary to or not wholly in accordance with the Budget	✓		✓		MD
Make bid for funding with resource implications exceeding £250,000			✓		
Make bid for funding with resource implications exceeding £100,000 and not exceeding £250,000	✓	✓			
Make bid for funding with resource implications not exceeding £100,000					MD/CD
Propose to Council a contribution to reserves above the level set in the Budget			✓		
Agree use of charging and trading powers		✓	✓		
Set fees and charges		✓			
Agree increase in fees and charges by more than inflation			✓		
Agree increase in fees and charges in line with inflation					MD/CD
Service Delivery					
Take all steps reasonably necessary to facilitate the effective and efficient delivery of services within their portfolio		✓			
Take all steps reasonably necessary for the effective and efficient delivery of services for which they are responsible				GCoC/SDC/TB C	MD/CD
Undertake internal changes and improvement of the Council's services					MD
Commissioning and Contracts					
Approve the means by which the Council's services will be provided including through a local authority company, community interest company, private organisation, trust or public/private partnership			✓		
Arrange for any Executive Function to be undertaken by another local authority			✓		

Arrange for any Executive Function to be exercised jointly with one or more local authorities through joint arrangements			✓		
Appoint member to a joint committee which undertakes Executive Functions and decide on the number of Members to be appointed and their term of office	✓				
Agree to Council appointment of member to a joint committee which undertakes at least one Executive Function and agree the number of members to be appointed and their term of office ²	✓				
Represent (or arrange for a Cabinet Member or Officer to represent) the Council as shareholder or member in a company in which the Council holds an interest	✓				
Monitor the performance of contracts and service level agreements in respect of all non-internally provided services					MD/CD
Engage consultant or locum not exceeding £50,000 pa					MD/CD
Engage a consultant or locum not exceeding £250,000 pa		✓			
Engage consultant or locum exceeding £250,000 pa			✓		
Accept tenders within budget and exceeding £100,000		✓			
Accept tenders and quotations within budget and not exceeding £100,000					MD/CD
Approve waiver to Contract Rules where the value is in excess of £100,000			✓		
Approve waiver to Contract Rules where the value does not exceed £100,000					MD/CD
Approve waiver from Contract Rules where the value exceeds £100,000 and an urgent decision is required					MD
Constitution & Democratic Process					
Make Key Decision		✓	✓		
Make urgent Key Decision	✓		✓		MD
Respond to call-in of a decision	✓	✓	✓		MD/CD
Respond to petition to Council		✓			
Appoint and remove Cabinet Members and decide their portfolios	✓				

Establish Cabinet Committee or working group			✓		
Delegate Executive Function to a Cabinet Member or Officer pursuant to 3E.6	✓				
Delegate Executive Function to an Officer with prior consent of Leader pursuant to 3E.4		✓	✓		
Undertake such specific Executive Function as may be allocated from time to time by the Leader	✓	✓	✓		MD/CD
Undertake any Executive Function which is delegated to an Officer where the Leader directs it should be exercised by Cabinet			✓		
Undertake any Executive Function which is delegated to an Officer where the Officer decides to refer it to Cabinet			✓		
Undertake any Executive Function delegated to a Cabinet Member where through absence, conflict or otherwise the Cabinet Member is unable to act	✓				
Undertake any Executive Function delegated to Cabinet which in the opinion of the Managing Director requires an urgent decision before the next meeting of Cabinet	✓				
Appoint or nominate individuals to outside bodies in respect of Executive Functions and revoke or withdraw such appointment or nomination provided all Group Leaders agree	✓				
Legal Services					
Undertake the role and functions of the Council's Solicitor and chief legal officer and provide the Council's legal service				TBC	
Audit					
Undertake the functions of the Council in respect of internal audit				GCoC	
HR					
Undertake functions of the Council in respect of human resources and payroll				GCoC	
Building Control					
Undertake functions of the Council in respect of building control				SDC	

Assets & Property					
Agree asset strategic/management plan			✓		
Dispose of non-land assets with a value exceeding £5,000			✓		
Dispose of non-land assets with a value not exceeding £5,000					MD/CD
Make compulsory purchase order (CPO)			✓		
Acquire land or property following CPO					CD
Acquire land (other than following CPO) where the value exceeds £250,000;			✓		
Acquire land (other than following a CPO) where the value is more than £50,000 but does not exceed £250,000;		✓			
Acquire land (other than following a CPO) where the value does not exceed £50,000;					CD
Agree Surplus Property Register (in consultation with appropriate Corporate Director); and determine whether to retain the property or to dispose of it (in consultation with the Appropriate Corporate Director) (the timing of such disposal to be at the discretion of the Asset Manager)		✓			
Dispose of, exchange or appropriate public open space (any value) where there have been objections to the statutory notice of disposal or appropriation			✓		
Appropriate land (except public open space where objections to the statutory notice of intended appropriation are received)		✓			
Dispose of or exchange land with a value exceeding £250,000 (including at an undervalue)			✓		
Dispose of or exchange land with a value exceeding £50,000 but not exceeding £250,000 including at an undervalue (and including public open space disposals where there have been no objections to the statutory notice of disposal)		✓			
Dispose of or exchange land with a value not exceeding £50,000 including at an undervalue (and including public open space disposals where there have been no objections to the statutory notice of disposal)					CD

Dispose of statutory allotments			✓		
Apply to Secretary of State to dispose of housing land under Housing Act 1985		✓			
Give public notice of a proposal to dispose of or change the use of public open space					CD
Approval of rent reviews where the annual rent exceeds £250,000 and reviews are the subject of negotiation			✓		
Determination of rent reviews: (a) Where the annual rental does not exceed £250,000; or (b) Where the annual rental exceeds £250,000, where a calculation mechanism is set down in the lease and has no element of negotiation					CD
Grant consents and licences under any leases granted by the Council					CD
Apply for consents and licences under any leases under which property is held by the Council					CD
Authorise rent subsidy (exceeding a value of £250,000) to third party on Council owned land			✓		
Authorise rent subsidy (exceeding £50,000 but not exceeding a value of £250,000) to third party on Council owned land		✓			
Authorise rent subsidy (not exceeding £50,000) to third party on Council owned land					CD
All other matters within the day-to-day management of the Council's property portfolio where the value of the action taken does not exceed £50,000					CD

Definitions:

- **“Acquire” includes the acquisition (including the acceptance of a surrender where appropriate) of a freehold or leasehold interest, rights, benefits or privileges, the dedication under statutory powers or obligations and includes the variation of any lease where the Council is a tenant under the lease.**
- **“Appropriation (appropriate)” is the formal transfer of property within the Authority from one statutory function to another**

- **“Dispose” includes the transfer of a freehold interest, dedication under statutory powers or obligations, easements (leasehold or freehold) and the grant, release, assignment or giving of a surrender (as appropriate) of any lease, covenants, benefits rights or privileges and includes the variation of any lease where the Council is a landlord under the lease.**
- **“Land” includes all buildings structures, rights and interests associated with land**
- **“Lease” includes any tenancy, licence, consent to occupy**
- **“Subsidy”, where there is reference to rent subsidy, is to the value of the identifiable rent, service charges, business rates and other outgoings for the identifiable period of commitment**
- **“Value”, where there is reference to a lease/tenancy/licence/surrender, is to the identifiable rent, service charges, business rates and other outgoings for the identifiable period of commitment**

ADDITIONAL DELEGATION OF EXECUTIVE FUNCTIONS TO OFFICERS

3E.17 All Executive Functions, other than those allocated in Table 4 of this Part 3E, are delegated to the Managing Director and Corporate Directors as set out in Table 5 below.

3E.18 In addition, the Managing Director and Corporate Directors will exercise powers or duties specifically delegated to them by the Leader, Cabinet or a Cabinet Member.

Table 5-Additional Executive Functions of Officers

Managing Director	
Function	Condition
Discharge any Executive Function which is delegated to an Officer under Part 3E	
Take an urgent decision in respect of an Executive Function (excluding a key decision) in a situation where there is not sufficient time for a report to be considered by the Leader or Cabinet Member.	Wherever possible this shall be done in consultation with the Leader and Cabinet Member (where not the Leader). The decision shall be reported to the next scheduled ordinary Cabinet meeting.
To authorise Officers to represent the Authority before a court or tribunal pursuant to: - (a) Paragraph 1(3) Schedule 3 of the Legal Services Act 2007 in respect of: - (i) Section 223 of the Local Government Act 1972 (ii) Section 60 of the County Courts Act 1984 (b) Paragraph 1(7) Schedule 3 of the Legal Services Act 2007 (c) The Lay Representatives (Rights of Audience) Order 1999	In consultation with the Council Solicitor
Authorise any Officer to or for any legal purpose including Statutory Officer appointments	Unless otherwise prescribed by law or allocated to Council in Part 3B
Make arrangements with other local authorities for the placing of staff at the disposal of those other authorities	
Authorise requests for investigations under the Regulation of Investigatory Powers Act 2000 and to maintain a register of investigations authorised under the Act	
Corporate Directors	
Function	Condition

Discharge any Executive Function which is delegated to an Officer (including the Managing Director) under this Part 3E	Where that Officer is absent or unable to act through conflict of interest or otherwise.
Undertake the role of Managing Director	Where the Managing Director is absent or unable to act through conflict of interest or otherwise. This Function falls to the Corporate Director who is deputising for that period
Undertake emergency planning and civil defence functions	

Appendix A - Cabinet ,Cabinet Member Portfolios and Decision making by Individual Cabinet Members

Cabinet	
1	The Cabinet will bear the responsibility for any of the local authority's functions which are delegated to it by the Leader.
2	The Leader will publish a Forward Plan at least monthly, showing a twelve-month programme of work and those decisions which are "Key Decisions", and also those decisions that may be made by an Individual Cabinet Member or which are delegated to an officer to make.

Decisions by Individual Cabinet Members

1. Decision making by Individual Cabinet Members applies only to executive functions that have been delegated to the Leader. The process does not apply to any function exercised by Council itself, or that Council has delegated to a committee, sub-committee or officer.
2. Individual Cabinet Members are empowered to make all executive decisions in respect of their own portfolio area of responsibility (portfolios are outlined below) except:
 1. Decisions already taken by Cabinet or an officer acting under delegated powers.
 2. Decisions involving a departure from the Council's Budget or Policy Framework or any Cabinet or regulatory committee policy.
 3. Decisions involving expenditure or savings of £250,000 or more.
 4. Decisions which the Leader wishes to be taken by the full Cabinet or a decision which the Cabinet Member has asked to be taken collectively by the full Cabinet.
 5. Where at least 3 Members of the Council request that a decision be taken by the full Cabinet.

provided that all such decisions will be taken by the decision maker having regard to the advice of the Council Solicitor and Chief Finance Officer in interpreting these provisions.

3. Cabinet Portfolios

Individual Cabinet Members are empowered by the Leader to make all executive decisions in respect of their own portfolio area of responsibility.

The allocation of portfolios to Cabinet Members in 2016/17 and their delegated executive functions will be as follows:

A. Leader of the Council and Cabinet Member for Regeneration and Economy

The Cabinet Member is responsible for all matters relating to the Council's affairs in respect of the Regeneration and Economy portfolio. In particular, and subject to the Council's Executive Arrangements, the Cabinet Member is responsible for and may make decisions about:

- Regeneration
- Heritage and monuments
- Economic Development
- Markets and Street Trading
- Property & Asset Management
- City Centre Management
- Car Parking
- Street naming and numbering

B. Cabinet Member for Communities and Neighbourhoods

The Cabinet Member is responsible for all matters relating to the Council's affairs in respect of the Communities and Neighbourhoods portfolio. In particular, and subject to the Council's Executive Arrangements, the Cabinet Member is responsible for and may make decisions about:

- Community Engagement
- Neighbourhood Strategy
- Crime and Disorder
- Voluntary sector and grants
- Play areas
- Children and Young People
- Shopmobility
- Community Cohesion
- Advice Services
- Equalities (external)
- Licensing and Environmental Health

C. Cabinet Member for Environment

The Cabinet Member is responsible for all matters relating to the Council's affairs in respect of the Environment portfolio. In particular, and subject to the Council's Executive Arrangements, the Cabinet Member is responsible for and may make decisions about:

- Streetcare partnership
- Neighbourhood Management
- Recycling
- Climate Change
- Environmental Enforcement
- Waste
- Parks and Countryside Unit
- Crematorium and Cemeteries
- Emergency Planning and flood resilience

- All matters within the Terms of Reference for Gloucestershire Airport Shareholder Forum, except any decisions which are not within the Council's approved Budget or which are inconsistent with the Council's Money Plan.

D. Cabinet Member for Housing and Planning

The Cabinet Member is responsible for all matters relating to the Council's affairs in respect of the Housing and Planning portfolio. In particular, and subject to the Council's Executive Arrangements, the Cabinet Member is responsible for and may make decisions about:

- Housing & GCH
- Planning including Joint Core Strategy and City Plan
- Robinswood Hill

E. Cabinet Member for Performance and Resources

The Cabinet Member is responsible for all matters relating to the Council's affairs in respect of the Performance and Resources portfolio. In particular, and subject to the Council's Executive Arrangements, the Cabinet Member is responsible for and may make decisions about:

- Finance
- Policy & Performance
- PR/Communications
- Business Transformation and Technology (client side)
- Customer Services, Contact Centre and website
- Personnel
- Procurement
- Revenues and Benefits (client side)
- Equalities (internal)

F. Cabinet Member for Culture and Leisure

The Cabinet Member is responsible for all matters relating to the Council's affairs in respect of the Culture and Leisure portfolio. In particular, and subject to the Council's Executive Arrangements, the Cabinet Member is responsible for and may make decisions about:

- Marketing Gloucester
- Museums
- Culture
- Guildhall
- Festivals and Events
- Tourism/TIC
- Leisure/Aspire client role/sports development
- Armed Forces Champion

Appendix 2
FINAL

Gloucester City Council

Contract Rules

CONTENTS

- Section 1 – General Compliance and Scope
 - 1. Compliance
 - 2. Scope
- Section 2 – Common Requirements
 - 3. Calculation of Contract Values
 - 4. Authorised Officers and their responsibilities
 - 5. Contract Values
 - 6. Waivers
- Section 3 – Tendering Process
 - 7. Advertising
 - 8. Suitability assessment and Pre-Qualification
 - 9. Electronic Tendering
 - 10. Dividing into Lots
 - 11. Invitation to Tender
 - 12. Submission and Opening of Tenders and Quotes
 - 13. Arithmetical Errors and Post Tender Clarification
 - 14. Tender Evaluations
 - 15. Awarding Contracts
 - 16. Debrief
- Section 4 – Contract Formalities
 - 17. Execution of contracts
 - 18. Records of tender and contract
 - 19. Bonds and Parent Company Guarantees
 - 20. Embedded Leases and Embedded Derivatives
- Section 5 – Specific Types of Tendering
 - 21. Framework Agreements
 - 22. Draw Down Agreements
 - 23. Collaborations and joint working
 - 24. Procurement by Consultants
 - 25. Nominated and Named Sub-Contractors
 - 26. Amendments to Contracts
 - 27. Contract Management
- Definitions

CONTRACT RULES

SECTION 1: GENERAL COMPLIANCE AND SCOPE

1. COMPLIANCE

1.1 Every contract entered into by the Authority shall be entered into pursuant to or in connection with the Authority's functions and shall comply with:

1.1.1 All relevant statutory provisions including codes and statutory guidance. E.g. transparency code;

1.1.2 The relevant European procurement rules when applicable (i.e. the EC Treaty, the general principles of EC law and the EC public procurement directives implemented by the UK Regulations);

1.1.3 The Authority's Constitution including these Contract Rules, the Authority's Financial Rules and Scheme of Delegation;

1.1.4 The Authority's strategic objectives, Procurement Strategy, Procurement Code and relevant policies.

1.2. The policy of the Authority, and the objective of these Contract Rules, is to ensure that all works, goods and services:

1.2.1 Are obtained with probity and propriety to ensure the proper expenditure of public funds;

1.2.2 Are appropriate for the purpose for which they are obtained;

1.2.3 Ensure Best Value for Money.

2. SCOPE

2.1 These Contract Rules apply to any arrangement made by, or on behalf of, the Authority for the carrying out of works or for the supply of goods, materials or services.

2.2. These Contract Rules do not apply to:

2.2.1 contracts of employment which make an individual a direct employee of the authority;

2.2.2 the acquisition, disposal, or transfer of land (which must be carried out by the Asset Manager) except where services or works are required by the Authority as part of the land transaction. E.g. regeneration projects

2.2.3 contracts relating to the placement of deposits or raising of loans under the treasury management strategy;

2.2.4 purchases made at public auction; and

2.2.5 the giving of grants

SECTION 2: COMMON REQUIREMENTS

3. CALCULATION OF CONTRACT VALUES

3.1 Unless otherwise stated, the calculation of the estimated value of a procurement shall be based on the total amount payable in pounds sterling, net of VAT, as estimated by the Authority over the entire contract period, including any proposed extension to the initial contract period.

3.2 The estimated value is to be calculated as at the date the contract is first advertised or the Candidates are contacted, whichever occurs first.

3.3 Contracts should be for a fixed term, but where this is not possible (e.g. hire agreements) the contract value should be calculated by multiplying the monthly value by 48.

3.4 Contracts must not be artificially under or over-estimated or divided into two or more separate contracts where the effect is to avoid the application of the Contract Rules.

4. AUTHORISED OFFICERS AND THEIR RESPONSIBILITIES

4.1 Authorised Officers are persons responsible for carrying out the procurement in question and who have received corporate training on these Contract Rules and the Procurement Code.

4.2 The Authorised Officer must proceed with the procurement in a manner commensurate with its complexity and value, by:

4.2.1 appraising the need for the expenditure and its priority;

4.2.2 defining the objectives of the procurement;

4.2.3 assessing the risks associated with the procurement and how to manage them;

4.2.4 considering what procurement method is most likely to achieve the purchasing objectives, including internal or external sourcing, partnering, packaging strategy and collaborative procurement arrangements with another local authority, government department, statutory undertaker or public service purchasing consortium and frameworks;

4.2.5 consulting users as appropriate about the proposed procurement method, contract standards and performance and user satisfaction

Appendix 2
FINAL

monitoring;

4.2.6 Checking to see if a corporate contract already exists. E.g. stationery contract.

4.2.7 Where the procurement involves changing services provided by the Authority the Authorised Officer ensuring compliance with

- the Authority's duty to consult under Section 3 Local Government Act 1999
- the Authority's duties under the Equalities Act 2012.
- The Public Social Value Act 2012 for contracts for services over the EU threshold to ensure how the procurement might improve the economic, social and environmental well-being of the geographical area the Authority serves

4.2.8 Ensuring the Budget Holder has sufficient budget to sustain the contract for the life of the contract.

4.2.9 for Quotes and Tenders below £10,000.00 attaching the relevant standard terms and conditions to the purchase order or otherwise draw the attention of the Supplier to these standard terms and conditions;

4.2.10 for Quotes and Tenders above £10,000.00, instructing the Council's Solicitor in writing to draft or approve the formal written contract terms and conditions that are to apply to the proposed contract;

4.2.11 ensuring that a purchase order is raised for the contract.

4.2.12 Procurements valued at above £500,000 are deemed to be "Key" decisions and therefore must be included on the Forward Plan for Cabinet to determine.

4.3 When any employee either of the Authority or of a service provider may be affected by any transfer arrangements, Authorised Officers must ensure that the Transfer of Undertaking Protection of Employment Regulations 2006 (TUPE) issues are considered and obtain legal advice before proceeding with inviting Tenders or Quotes.

4.4 Any procurement that is:

- over EU threshold and TUPE applies or
- is over budget

shall be referred to the relevant Cabinet or Council for decision, unless otherwise stated elsewhere in the Authority's constitution.

5. **CONTRACT VALUES**

5.1 Where the total value for a purchase is within the values in the first column below, the award procedure in the second column must be followed:

Estimated Total Contract Value	Contract Letting Requirements & Forms of Contract
Up to £10,000.00	<p>The Budget Holder can purchase from the source that offers the best value for money to the Authority.</p> <p>This could be demonstrated by the obtaining of 2 written Quotes, where this is possible.</p> <p>Contracts shall be by purchase order with standard terms and conditions attached.</p> <p>The Authority's e-tendering system must be used for obtaining quotations unless otherwise agreed by the Procurement Adviser.</p>
From £10,001.00 to £50,000.00	<p>The Authority's e-tendering system must be used by the Authorised Officer for obtaining quotations unless otherwise agreed by the Procurement Adviser</p> <p>The e tendering system shall be used to select 3 Suppliers at random from the Suppliers registered on the e tendering system, two local and one national.</p> <p>The Authorised Officer may select up to 4 other Suppliers.</p> <p>At least 3 written Quotes shall be invited unless agreed with S151 officer in consultation with the Procurement Adviser.</p> <p>A formal written contract prepared/ approved by the Council's Solicitor must be utilised.</p>
From £50,001.00 to EU Threshold	<p>The Authority's e- tendering system must be used for advertising opportunities.</p> <p>The opportunity must be advertised on Contracts Finder (within 24 hours of any other adverts appearing) (and/or other public advertisement as determined by the Authorised Officer) together</p>

Appendix 2
FINAL

	<p>with unrestricted and full direct internet access to relevant contract documents.</p> <p>The Open Procedure shall be followed for goods and services and works.</p> <p>A formal written contract prepared/approved by the Council's Solicitor must be utilised.</p>
EU Threshold and Above	<p>Shall be advertised in the Official Journal of the European Union (OJEU), on the e-tendering system of the Authority, and on Contracts Finder (within 48 hours of the receipt of OJEU notice being received at publications office or within 24 hours of the OJEU notice being published) (and/or other public advertisement as determined by the Authorised Officer).</p> <p>Pre-qualification questionnaires (PQQ) can be used in the procurement of works contracts where the value of the works exceeds the EU threshold for goods and services.</p> <p>The Procurement Adviser in consultation with the Council's Solicitor shall advise on the most appropriate EU procurement procedure to be used for the relevant goods, services and/or works to be procured. The two most common procedures are:</p> <ul style="list-style-type: none"> • Open Procedure – anyone can submit a tender • Restricted Procedure – following receipt of expressions of interest a pre-qualification questionnaire (PQQ) is used to shortlist Candidates who are then invited to submit a tender. <p>The follow procedures can only be used in certain circumstances following advice from the Procurement Adviser or Council's Solicitor.</p> <ul style="list-style-type: none"> • Innovation Partnership; • Competitive dialogue • Competitive Procedure with negotiation.
Light Touch Regime	Contracts involving the following goods and

	<p>services are subject to a 'light touch' regime if the value of the contract is below the prescribed threshold contained in the EU Regulations;</p> <ul style="list-style-type: none"> • Health, social and related services • Administrative social, educational, healthcare and cultural services • Compulsory social security services • Benefit services • Other community, social and personal services including services furnished by trade unions, political organisations, youth associations and other membership organisation services • Legal services • Other administrative services and government services • Provision of services to the community • Prison related services, public security and rescue services • Investigation and security services • International services • Postal services • Miscellaneous services listed in schedule 3 of the Public Contract Regulation 2015 <p>Advice must be sought from the Procurement Adviser before undertaking a light touch regime procurement.</p> <p>A formal written contract prepared/approved by the Council's Solicitor must be utilised.</p>
<p>Concessions</p>	<p>A concession contract is an agreement where Suppliers are given the right to exploit works or services provided for their own gain. Suppliers can either receive payment for their services solely through third party sources or partly</p>

Appendix 2
FINAL

- 6.1.2 The goods or materials to be purchased are proprietary articles or are sold only at fixed prices; or
- 6.1.3 The price of services, goods or materials to be purchased is controlled by trade organisations, or if for other reasons there would be no genuine competition; or
- 6.1.4 Where in the opinion of the Authorised Officer in consultation with the s151 Officer and the Council's Solicitor considers that the services to be provided or the work to be executed or the goods or materials to be purchased are urgent; or
- 6.1.5 Specialist consultants, solicitor, barrister, agents, artist or professional advisers are required and:
- There is no satisfactory alternative; or
 - Evidence indicates that there is likely to be no genuine competition; or
 - It is, in the opinion of the Authorised Officer, in the Authority's best interest to engage a particular consultant, solicitor, barrister, agent, artist or adviser;
- or
- 6.1.6 The goods or materials to be purchased are within a bulk purchasing agreement made between the Authority and a consortium or other organisation approved by the Authority; or
- 6.1.7 The works to be executed or the goods or materials to be purchased can only be carried out or supplied by a statutory body.
- 6.2 These Contract Rules cannot be waived for the procurements above the relevant EU Threshold.
- 6.3 Where it is possible to waive these Contract Rules, any such waiver must be agreed by:
- 6.3.1 Cabinet for contracts above £100,000.00 or the Head of Paid Service in consultation with the Leader of the Authority if the matter requires an urgent decision and a meeting of the Committee cannot be called; or
- 6.3.2 The Budget Holder, in consultation with the Section 151 Officer and the Council's Solicitor if the contract is £100,000.00 or less.
- 6.4 A record of the decision and the reasons for it shall be kept and the waiver itself shall be kept by the Procurement Adviser.

SECTION 3: TENDERING AND QUOTATION PROCESS

7 ADVERTISING

7.1 Adverts shall include as a minimum:

- Date and time response to be received by the Authority
- How and to whom the Supplier must respond and
- Any requirements for participating in the procurement
- specification

7.2 Adverts shall be placed on the Authority's e-tendering system, Contracts Finder and if required on the Authority's website. The Authority shall also offer unrestricted and full direct access free of charge to the procurement documents at the time adverts are placed

7.3 Opportunities with a value over the relevant EU Threshold must also be advertised in the Official Journal of the European Union (OJEU) by submitting a Contract Notice.

8. SUITABILITY ASSESSMENT (under EU threshold) AND PRE-QUALIFICATION (above EU threshold only)

8.1 Authorised Officers are responsible for ensuring that all Candidates for a contract are suitably assessed.

Under EU Threshold

8.2 As part of the tender or quotation process Authorised Officer shall establish that the potential Candidates meet minimum requirements or minimum standards of :

- Suitability.
- Capability.
- Legal status; and
- Financial standing

8.3 The assessment questions must be

- relevant to the subject matter of the procurement and
- proportionate

8.4 For works contracts above the EU threshold (supply and services level) a Pre-Qualification Questionnaire (PQQ) stage is permitted. Officers must use form PAS91 or such other required PQQ template.

Above EU Threshold

8.5 Procurements above the EU threshold can use a Pre-Qualification

Appendix 2
FINAL

Questionnaire (PQQ) stage. Officers must use the PQQ form issued by the Government or for works contract form PAS91 or such other required PQQ template. As any deviations the standard form must be reported to the Cabinet Office changes to the form are not permitted without the consent of the Procurement Adviser, S151 Officer and the Council's Solicitor.

8.6 Any Candidate eliminated from a procurement where a PQQ has been undertaken must be notified following the evaluation of that stage in the process.

8.7 Any procurement subject to the EU Regulations shall comply with the appropriate EU Regulations.

9. **ELECTRONIC TENDERING**

9.1 The Authority's e-tendering system must be used for conducting Tendering exercises in accordance with these Contract Rules.

9.2 The Authorised Officer following consultation with the Council's Solicitor may authorise the carrying out of an electronic auction where satisfied that it is in the interests of the Authority to do so.

10 **DIVIDING TENDERS INTO LOTS**

10.1 Authorised Officers may decide to award a contract in the form of separate lots and may determine the size and subject-matter of such lots.

10.2 For an above EU threshold procurement, If the contract is not split into lots the main reasons for this decision shall be included in the procurement documents and the Regulation 84 Report.

10.3 Authorised Officers shall include in the notice and or tender documents:

10.3.1 if tenders can be submitted for one, for several or for all of the lots.

10.3.2 if there is a limit on the numbers of lots that can be tendered for.

10.4 Where more than one lot may be awarded to the same tenderer, Awarding Officers may award contracts combining several or all lots where they have specified in the contract notice or in the invitation to tender that they reserve the possibility of doing so and indicate the lots or groups of lots that may be combined.

11. **INVITATION TO TENDER**

11.1 The Invitation To Tender shall state that no Tender will be considered unless it is received by the date and time stipulated in the Invitation To Tender. Subject to Contract Procedure Rule 11.3 below, no Tender delivered in contravention of this Contract Procedure Rule shall be considered.

Appendix 2
FINAL

11.2 All Invitations To Tender shall be in accordance with the Contract rules, codes and policies.

11.3 No Tenders received after the specified date and time for receipt of Tenders shall be accepted or considered by the Authority unless the Authorised Officer, after consulting the s151 Officer and the Council's Solicitor, is satisfied that there is sufficient evidence for the Tender having been despatched in sufficient time for it to have arrived before the closing date and time.

12. **SUBMISSION AND OPENING OF TENDERS AND QUOTES**

12.1 Tenders and Quotes shall be submitted in accordance with requirements set out in the Invitation to Tender or Request to Quote as appropriate.

Quotations (under £50,000.00)

Electronic Quotation submissions

12.2 Where Quotations are received through the Authority's e-tendering system, the e-tendering system will automatically record the time and date the Quotations were received. All Quotations will be retained and remain unopened in the secure system until the requisite deadline for opening.

12.3 All Quotations will be opened by the Authorised Officer or the Procurement Advisor or officer nominated by the Procurement Advisor at the same time automatically using the authority's e-tendering system. This system will formally record the date and time for audit purposes.

12.4 Once the Quotations have been opened, they will be stored securely in the electronic portal.

12.5 The successful Supplier shall be asked to provide an original signed paper copy of the quotation submission for inclusion in the contract documents.

Paper Quotations submissions

12.6 Where Quotations are received in paper format, the submissions shall be addressed to the Procurement Adviser in a plain sealed envelope endorsed with the words "Quotation – Do Not Open" followed by the subject matter to which it relates (but no other name or mark indicating the sender). Quotations shall be kept in a safe place by the Procurement Advisor and remain unopened until the time and date specified for their opening.

Tenders (£50,000.00 and above)

Electronic tender submissions

12.7 Where Tenders are received through the Authority's e-tendering system,

Appendix 2
FINAL

the e-tendering system will automatically record the time and date the Tenders were received. All Tenders will be retained and remain unopened in the secure system until the requisite deadline for opening.

12.8 All Tenders will be opened by the S151 Officer or an officer nominated by the S151 Officer at the same time automatically using the authority's e-tendering system. This system will formally record the date and time of opening for audit purposes.

12.9 Once the tenders have been opened, they will be stored securely in the electronic portal.

12.10 The successful Supplier shall be asked to provide an original signed paper copy of the tender submission for inclusion in the contract documents.

Paper tender submissions

12.11 Where Tenders are received in paper format, the submissions shall be addressed to the Procurement Adviser in a plain sealed envelope endorsed with the words "Tender – Do Not Open" followed by the subject matter to which it relates (but no other name or mark indicating the sender). Tenders shall be kept in a safe place by the Procurement Advisor and remain unopened until the time and date specified for their opening.

12.12 Paper Tenders shall be opened by the S151 Officer or an officer nominated by the S151 Officer. An immediate record shall be made of the Tenders received including names, amount of tender and the date and time of opening.

13. **ARITHMETICAL ERRORS, POST TENDER CLARIFICATION AND ABNORMALLY LOW TENDERS**

13.1 Candidates can only alter their Tenders or Quotes after the date specified for their receipt but before the formal acceptance of the Tender or Quote, where examination by the Authorised Officer of the Tender or Quote reveals arithmetical errors or discrepancies which affect the Tender or Quote figure. The Candidate shall be given details in writing of such errors or discrepancies and afforded an opportunity of confirming, amending or withdrawing their offer in writing.

13.2 In an EU Procurement the Authority must require tenderers to explain the price of costs proposed in the tender where the tender appears to be abnormally low in relation to the works, supplies or services.

13.3 All post-tender clarifications shall:

13.3.1 only be undertaken following consultation with the Procurement Adviser and the Council's Solicitor; and

13.3.2 not disclose commercially sensitive information supplied by other Candidates for the contract.

Appendix 2
FINAL

13.4 The Authority does not accept qualified or conditional quotes/tenders. Where a Candidate has submitted a qualified or conditional quotation/tender Authorised Officers, in consultation with the Procurement Adviser, must give Candidates the opportunity to withdraw the qualification or condition without amendment to the bid submitted.

14 **TENDER EVALUATION**

14.1 Tenders shall be evaluated in accordance with the relevant regulations and the award criteria set out in the Invitation to Tender.

14.2 All contracts shall be awarded on the basis of the offer which represents the most economically advantageous, taking into account price and/or quality, to the Authority.

14.3 The award criteria shall be predetermined and listed in the Invitation to Tender documentation, in order of importance if applicable. In addition, the criteria shall be strictly observed at all times throughout the contract award procedure by any officer involved in the tender evaluation.

14.4 For all Contracts regardless of value, no person with a personal or financial interest in any of the Contractors submitting a proposal should be involved in any way in influencing the decision as to which Contractor is to be awarded the Contract. A declaration of interest form must be completed by each officer involved in the evaluation process and held on file by the Authorised Officer.

14.5 Where Authorised Officers intend to carry out site visits presentations or interviews as part of the evaluation process, this must be made clear in the invitation to tender and include whether this will be scored separately to the tender submission or used to moderate scores. If scored separately, Candidates must be informed of the evaluation criteria and weighting in the Tender documents.

15. **AWARDING CONTRACTS**

15.1 The Authority shall only accept a tender and award a contract to the Candidate submitting the Most Economically Advantageous Tender/Quote.

15.2 Depending on what is being procured and whether or not it is an EU procurement, the Most Economically Advantageous Tender/Quote can be assessed as follows;

- Price (i.e. the lowest bid)
- Cost (where the assessment is based on cost-effectiveness basis such as an asset life-cycle assessment (cost of the asset, maintenance costs, end of life costs)
- Best Price/Quality Ratio. (the award criteria can include quality,

including technical merit, aesthetic and functional characteristics, delivery date, delivery process, after-sales service and technical assistance as well as environmental and/or social matters and any other matters relevant to what is being procured.

The award criteria and the scoring methods must be disclosed in the Invitation to Tender.

- 15.3 A contract may only be awarded by an Awarding Officer with the requisite delegated authority to award contracts. Prior to award, the Authorised Officer should ensure that the Budget Holder responsible for the contract has sufficient funds in place to sustain the contract.
- 15.4 Where the contract award opportunity was advertised, a contract award notice containing the name of the Contractor, the date the contract was entered into and the value of the contract must be published on Contract Finder no later than 90 days after contract award. If below EU Threshold include whether or not Contractor is a Small and Medium-sized Enterprise (SME) or voluntary, community and social enterprise (VCSE)
- 15.5 A Contract Award Notice must be published in OJEU where there has been an above-EU Threshold Procurement and the relevant standstill period observed. The contract shall not be completed or Purchase Order issued unless the standstill period passes with challenges. Authorised Officer shall notify the Procurement Advisor and the Council's Solicitor immediately following receipt of a challenge.
- 15.6 Financial checks must be undertaken for all contracts where the value of the contract is above £10,000.00
- 15.7 For contracts over £10,000.00 the purchase order shall not be issued until the formal written contract has been completed.

16. **DEBRIEFING**

- 16.1 The Authorised Officer shall provide a written debriefing to unsuccessful Tenderers as required by the law.

SECTION 4: CONTRACT FORMALITIES

17 **EXECUTION OF CONTRACTS**

- 17.1 All contracts not exceeding £10,000.00 shall be signed by the relevant Budget Holder, unless the Council's Solicitor requires that the contract be sealed.
- 17.2 All contracts exceeding £10,000.00 but not exceeding £50,000.00 shall be signed by the Council's Solicitor or other authorised officer as set out in the Authority's constitution unless the Council's Solicitor requires that the contract be sealed.

Appendix 2
FINAL

17.3 All contracts exceeding £50,000.00 shall be executed as a deed by the Council's Solicitor or other authorised officer as set out in the Authority's constitution and the common seal affixed to the contract.

18. **RECORDS OF TENDERS AND CONTRACTS**

18.1 The Procurement Adviser shall maintain a list of all Tenders received.

18.2 A Contracts Register of all contracts over £5,000.00 awarded shall be maintained by the Section 151 officer

18.3 All contracts over £10,000.00 shall be kept by the Council's Solicitor and an electronic copy should be sent to the Procurement Adviser.

19. **BONDS AND PARENT COMPANY GUARANTEES**

19.1 Bonds or Parent Company Guarantee will be required on all works contracts above £1,000,000.00 unless considered inappropriate by the Section 151 Officer following consultation with the Council's Solicitor

19.2 Bonds or Parent Company Guarantee may be required for any contract if considered appropriate by the Director or Section 151 Officer following consultation with the Council's Solicitor

19.3 Bonds shall be a minimum of 10% of the contract value.

20. **EMBEDDED LEASES & EMBEDDED DERIVATIVES**

20.1 Prior to the award of a contract the Authorised Officer must notify the S151 officer where under the contract:

20.1.1 the Authority will have use or control of or will be paying for the use of a specific asset or group of assets; or

20.1.2. contains a clause that caps the price the Authority has to pay for supplies or services or there is a floor price on the price the Authority has to pay for supplies or services; or

20.1.3 the prices the Authority has to pay under the contract, increase by more than 2 times RPI; or

20.1.4 the prices the Authority has to pay, increase by some other form of Indices or commodity price.

SECTION 5: SPECIFIC TYPES OF TENDERING

21 **FRAMEWORK AGREEMENTS**

FRAMEWORK AGREEMENTS SET UP BY OTHER CONTRACTING AUTHORITIES

Appendix 2
FINAL

- 21.1 External Framework Agreements, where the Authority is named or identified as part of a class of permitted users, can be used where the Authority wishes to contract for the sourcing of supplies, services or works without conducting a new procurement exercise.
- 21.2 The Framework Agreement may include within its terms a requirement for a mini competitive exercise between some or all of those Suppliers who are parties to the Framework Agreements and can provide the goods/services being tendered. Other Framework Agreements may allow for a direct award or the choice of either direct award or mini completion. Any Call-Off from a Framework Agreement shall be tendered in accordance with the procedure set out in the Framework Agreement.
- 21.3 The approval of the Procurement Adviser or Council's Solicitor shall be sought before signing up to a new Framework Agreement.
- 21.4 A Call-Off contract as set out in the Framework Agreement will need to be entered into. If no pre agreed contract is provided for a contract approved by the Council's Solicitor, shall be entered into.

FRAMEWORK AGREEMENTS SET UP BY THE AUTHORITY

- 21.5 The Authority may carry out procurement exercises to set up Framework Agreements to allow it to choose contractors or suppliers who meet its pre-qualification requirements. The Authority can then Call-Off Suppliers from the Framework Agreement without having to carry out a further procurement exercise. This could be useful where the Authority has need to call on Contracts urgently or often. The Authority could also set up a framework agreement for itself and other local authorities to use in order to make efficiency savings.
- 21.6 Once a Framework Agreement is established, Quotes and Tenders for contracts may be invited from Suppliers included on Framework Agreement up to the limit stated in the Framework.
- 21.7 The Authority will need to carry out a procurement exercise to select the Suppliers to include on the Framework. This procurement will need to be advertised in accordance with these Contract Rules. The Contract Value is to be determined by the anticipated level of spend per Framework Agreement.
- 21.8 A Contract Award Notice must be published in OJEU where there has been an above-EU Threshold Procurement and the relevant standstill period observed with no challenge

PUBLISHING THE AWARD OF CALL-OFF CONTRACTS UNDER ALL FRAMEWORK AGREEMENTS

- 21.9 The call off of a contract under a framework with a value of £25,000.00 or over shall be published on Contract Finder

22. **DRAW DOWN AGREEMENTS**

- 22.1 Authorised Officers may award Draw Down Agreements to individual suppliers where services, supplies or works are required on an ad hoc basis. E.g. JCT measured terms agreements. More than one Draw Down Agreement may be awarded to different Suppliers for the same services supplies or works.
- 22.2 Authorised Officers shall carry out a procurement process for the award of the Draw Down Agreement in accordance with these Contract Rules

23. **COLLABORATIONS AND JOINT PROCUREMENT**

- 23.1 The Authorised Officer may participate in any collaborative or joint procurement arrangements with other Local Authorities or public bodies including membership or use of a Purchasing Consortia subject to the prior approval of the Director.

24. **PROCUREMENT BY CONSULTANTS**

- 24.1 Any consultants used by the Authority shall be appointed in accordance with these Contract Rules. The Authorised Officer shall ensure that the consultant's performance is monitored.
- 24.2 Where the Authority uses consultants to act on its behalf in relation to any procurement, then the Authorised Officer shall ensure that the consultant carries out any procurement in accordance with these Contract Rules.
- 24.3 Consultants may advise the Authorised Officer as to the most suitable candidate. The Authorised Officer can use the advice given by the Consultant to make their recommendation to the Awarding Officer.
- 24.4 No Consultant shall make any decision on whether to award a contract or who a contract should be awarded to. This decisions rests with the Awarding Officer who should sign the Tender Acceptance Form

25. **NOMINATED AND NAMED SUB-CONTRACTORS**

- 25.1 Tenders for sub-contracts to be performed or goods and materials to be supplied by nominated suppliers shall be dealt with in accordance with the provisions of theses Contract Rules

**SECTION 6
AMENDMENTS TO CONTRACTS DURING THEIR TERM**

- 26.1 A contract may be changed in any of the following circumstances:
- a) The contract contains a clear review or option clause which specifies the conditions as to when an amendment can be made. The scope and the nature of the change and the overall nature of the contract must not change

- b) Additional works, services or goods that have become necessary and a change of supplier would not be practicable for economic or technical reasons or would involve substantial inconvenience/duplicate cost (limited to 50% of original contract price).
 - c) the need for change could not have been foreseen by a diligent contracting authority; and
 - the changes do not affect the overall nature of the contract; and
 - any increase in price does not exceed 50% of the price of the original contract.
 - d) where a new contractor replaces the one to which the contracting authority had initially awarded the contract as a consequence of—
 - (i) an unequivocal review clause or option in conformity with Rule 26(1) (a), or .
 - (ii) universal or partial succession into the position of the initial contractor, following corporate restructuring, including takeover, merger, acquisition or insolvency, of another economic operator that fulfils the criteria for qualitative selection initially established, provided that this does not involve other substantial changes to the contract and is not aimed at circumventing the application of the EU Regulations
 - e) The changes, irrespective of their value, are not Substantial (see the Definitions section for the definition of Substantial)
 - f) It is a change that does not affect the overall nature of the contract or Framework Agreement and the value of the change does not exceed
 - The relevant EU Threshold
 - 10% (goods and/or services) 15% (works) of the initial value of the contract.
- 26.2 Where successive changes are made, the value shall be the net value of the successive changes.
- 26.3 Where changes to a contract have been made under Rule 28.1 b) or c) above and the initial contract value exceeded the EU Threshold, a modification of contract notice shall be published in the OJEU

27 CONTRACT MANAGEMENT

- 27.1 Authorised Officers need to actively monitor and manage Contractor's performance throughout the contract life to ensure milestones, KPI's, deliverables and outcomes are achieved and risks and, where appropriate, business continuity is managed as detailed in the tender and Contract documentation. Management data needs to be published in accordance with the Government's Transparency Code.
- 27.2 Plans should be made well in advance to re-procure the contract (if applicable) and an exit strategy included in the tender and procurement documentation and the contract.

DEFINITIONS

Authorised Officer	An officer who is authorised to undertake the procurement in question and who has received corporate training on these Contract Rules.
Awarding Officer	The officer with the delegated authority to award the contract
Best Value for Money	The best solution for the Authority taking into account price, quality and deliverability.
Bond	An insurance policy: if the Contractor does not do what it has promised under a contract with the Authority, the Authority can claim from the insurer the sum, of money specified in the bond (often 10% of the contract value). A bond is intended to protect the Authority against a level of cost arising from the Contractor's failure.
Budget Holder	The officer responsible for the budget for the relevant procurement
Candidate	Any person who asks or is invited to submit a Quote or Tender.
Call-Off Contract	A contract awarded to a supplier under a Framework Agreement
Concessions	An agreement where Suppliers are given the right to exploit works or services provided for their own gain.
Consultant	Someone appointed (but not under a contract of employment) for a specific length of time to work to a defined project brief with clear outcomes to be delivered, who brings specialist skills or knowledge to the role.
Contracting Authorities	Bodies which are subject to the EU Regulations.
Contractor	Any person, company or supplier who has been awarded a contract in accordance with these contract rules.
Council Solicitor	means the senior legal Adviser for the Authority
Director	means the Managing Director or Corporate Directors
Draw down contract	A contract with a single supplier where goods, services or works are requested on an ad hoc basis
EU Regulations	The UK regulations implementing the EC public procurement directives.
EU Threshold	The values set by the European Commission which determine whether a procurement has to be carried out in accordance with the EU Regulations.
Framework Agreement	An agreement between one or more contracting authorities and one or more economic operators, the purpose of which

	is to establish the terms governing contracts to be awarded during a given period, in particular with regard to price and, where appropriate, the quantity envisaged.
Head of Paid Service	The officer designated as head of paid for the Authority under section 4 of the Local Government and Housing Act 1989
Invitation to Tender (ITT)	Invitation to Tender documents in the form required by these Contract Rules.
Most Economically Advantageous Tender	The most economically advantageous tender will be evaluated on the basis of either <ul style="list-style-type: none"> • Price (i.e. the lowest price) • Cost (on the basis of a cost-effectiveness approach e.g. life-cycle costing) • Best price/quality ratio
OJEU	Official Journal of the European Union – where notices for all above EU Threshold procurements opportunities and contract awards must be placed.
Parent Company Guarantee	A contract which binds the parent of a subsidiary company as follows: if the subsidiary company fails to do what it has promised under a contract with the Authority, the Authority can require the company to do so instead.
Procurement Adviser	The Procurement Officer, Procurement Manager
Quotation	A quotation of price and any other relevant matter (without the formal issue of an Invitation to Tender).
Regulation 84 Report	The report about the procurement required to be compiled under Regulation 84 of the Public Contracts Regulations 2015
Section 151 Officer	The officer responsible for the proper administration of the Authority's financial affairs under section 151 of the Local Government Act 1972
Substantial	In relation to a change to an existing contract of framework agreement means where one of the following conditions is met:- <ul style="list-style-type: none"> (a) the change renders the contract or the framework agreement materially different in character from the one initially concluded; . (b) the modification introduces conditions which, had they been part of the initial procurement procedure, would have— . <ul style="list-style-type: none"> (i) allowed for the admission of other candidates than those initially selected, . (ii) allowed for the acceptance of a tender other than that originally accepted, or . (iii) attracted additional participants in the

	procurement procedure; .
(c)	the modification changes the economic balance of the contract or the framework agreement in favour of the contractor in a manner which was not provided for in the initial contract or framework agreement; .
(d)	the modification extends the scope of the contract or framework agreement considerably; .
(e)	a new contractor replaces the one to which the contracting authority had initially awarded the contract in cases other than those provided for in Rule 28(1)(d).
Supplier	A person or body of persons providing, or seeking to provide, supplies, services or works to the Authority.
Tender	A Candidate's proposal submitted in response to an Invitation to Tender.
