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COTSWOLD
DISTRICT COUNCIL

Wednesday, 20 January 2021

Tel: 01285 623210 or 623236
e-mail – democratic@cotswold.gov.uk

AUDIT COMMITTEE

A meeting of the Audit Committee will be held remotely, via Cisco Webex on Thursday, 28 January 2021 at 4.00 pm.

Rob Weaver
Chief Executive

To: Members of the Audit Committee

(Councillors Councillor Stephen Andrews, Councillor Tony Berry, Councillor Patrick Coleman, Councillor Mark Harris, Councillor Roly Hughes, Councillor Nick Maunder and Councillor Ray Theodoulou)

Due to the current social distancing requirements and guidance relating to Coronavirus Regulations 2020 – Part 3 – Modification of meetings and public access requirements this meeting will be conducted remotely using Cisco Webex.

Members of the public will be able to follow the proceedings through a broadcast on [Cotswold District Council Facebook account](#) (You do not need a Facebook account for this).

Cotswold District Council, Trinity Road, Cirencester, Gloucestershire, GL7 1PX

Tel: 01285 623000 www.cotswold.gov.uk

Recording of Proceedings – The law allows the public proceedings of Council, Cabinet, and Committee Meetings to be recorded, which includes filming as well as audio-recording. Photography is also permitted.

As a matter of courtesy, if you intend to record any part of the proceedings please let the Committee Administrator know prior to the date of the meeting.

AGENDA

1. Apologies
2. Substitute Members
To note details of any substitution arrangements in place for the meeting.
3. Declarations of Interest
To receive any declarations of interest from Members and Officers, relating to items to be considered at the meeting.
4. Minutes (Pages 7 - 12)
To confirm the minutes of the meeting of the Committee held on 26 November 2020.
5. Chair's Announcements
6. Public Questions
To deal with questions from the public within the open forum question and answer session of fifteen minutes in total. Questions or supplementary questions from each member of the public should be no longer than two minutes each and relate issues under the Committee's remit.
7. Member Questions
To deal with written questions by Members, relating to issues under the Committee's remit, with the maximum length of oral supplementary questions at Committee being no longer than one minute. Responses to any supplementary questions will be dealt with in writing following the meeting
8. Internal Audit Progress Report (Pages 13 - 44)
9. Annual Audit Letter (Pages 45 - 62)

10. Ubico – Governance Overview and Business Plan - Update (Pages 63 - 70)
11. Arrangements for Investigating Allegations under the Member Code of Conduct (Pages 71 - 90)
12. Update to Council Contract Rules (Pages 91 - 148)
13. Capital, Investment and Treasury Management Strategies for 2021/22 (Pages 149 - 214)
14. Corporate Risk Register Updates (Pages 215 - 222)
15. Changes to Governance Arrangements at SWAP Internal Audit Services Ltd. (Pages 223 - 230)
16. Consultation on the 2021/22 audit fee scale for opted-in local government and police bodies (Pages 231 - 240)
17. Work Plan 2020/21 (Pages 241 - 242)
18. Exclusion of the Public and Press
To consider, and if so agreed, to

RESOLVE that under Section 100A(4) of the Local Government Act 1972 the public and Press be excluded from the Meeting for the following item of business on the grounds that it involves likely disclosure of exempt information as defined in paragraphs (3) and (7) of Part I of Schedule 12A to the said Act:

Paragraph 3 - Information relating to the financial or business affairs of any particular person (including the authority holding that information).

Paragraph 7 - Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime

and that the public interest in maintaining the exemption outweighs the public

interest in disclosing the information concerned.

19. Exempt Report

(END)

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Audit Committee
26 November 2020



COTSWOLD
DISTRICT COUNCIL

Minutes of a meeting held remotely of Audit Committee held on 26 November 2020

Councillors present:

Patrick Coleman – Chair	
Stephen Andrews	Roly Hughes (left 5.28pm)
Tony Berry	Nick Maunder
Mark Harris (left 6.46pm)	Ray Theodoulou

Councillors observing:

Mike Every	Gary Selwyn
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Officers present:

Chief Finance Officer	Chief Accountant	Accounting Technician
External Auditors – Grant Thornton	Arlingclose	Democratic Services

AUD.30 No apologies were received. Councillor Roly Hughes apologised as he needed to leave early for a family commitment.

AUD.31 **Substitute Members** – There were no substitute arrangements in place.

AUD.32 **Declarations of Interest**

Councillor Berry declared that he was a member of the Friends of the Corinium Museum, which related to the Statement of Accounts.

AUD.33 **Minutes of the meeting held on 29 October 2020**

There had been a request from Councillor Every to record his name on the Minutes of 30 July and 29 October 2020. Subject to these amendments, it was

RESOLVED that the minutes of the meeting of Committee held on 29 October 2020, be approved

Record of Voting – for 6, against 0, abstention 1, absent 0.

AUD.34 Chair's Announcements

There were no announcement from the Chair.

AUD.35 Public Questions

No questions had been received from the Public.

AUD.36 Member Questions

No questions had been received from Members.

AUD.37 Annual Governance Statement 2019/20

The Chief Finance Officer explained that the draft Annual Governance Statement had been presented to the Committee in July 2020 and feedback from Members was incorporated in the latest version of the Statement

Queries from Members, on the Statement, included;

- the strengthening of the Scrutiny function, should be referred to in an additional action point. This was also referred to in the Peer Challenge Report;
- a report on the governance of Publica should be reflected in the statement;
- the wording relating to the reference to Covid-19, should be amended;, as the Chair of Overview and Scrutiny Committee was not involved in the decision making meetings on payments of grants until much later in the process;
- the performance report should be changed to bring it into alignment with the Corporate Plan;
- reference to approval of the Corporate Plan in September, questioning whether the Auditors judged it was in sufficient detail to monitor the plan delivery moving forward.

The Chair thanked Officers for updating the statement with comments previously made from Members.

RESOLVED that

- (a) the Chief Finance Officer be given delegated authority to amend the statement in line with the comments made;**
- (b) the final Annual Governance Statement for 2019/20 be approved for inclusion within the Statement of Accounts.**

Record of Voting – for 7, against 0, abstention 0, absent 0.

AUD.38 **Statement of Accounts, Letter of Representation and External Auditor Findings Report**

The Chair introduced this report and welcomed Peter Barber of Grant Thornton to the meeting.

Mr. Barber explained that the accounts needed to be signed off and completed by the end of November 2020. The Auditors were required to report on the accounts and to give an opinion on the Council's arrangements for value for money.. The audit of the accounts did start late; this was a consequence of one of the auditors changing employment from Grant Thornton to Publica and a whole new team of Auditors had to be appointed for the Cotswold audit, to ensure ethical standards were maintained. He thanked all concerned for the co-operation and support to enable the accounts to be signed by the statutory deadline.

The auditors had not identified any material errors in the accounts, and they intended to issue an unqualified clean opinion on the Council's accounts.

Risks were identified in the accounts on the valuation of land and buildings. The valuer had declared a, a material uncertainty on the valuations as a result of the economic conditions as at 31st March 2020. However, this did not require a qualification to the audit opinion. Another area focused on was the Pension Liability, although they had now received a letter of assurance from Gloucestershire County Council.

It was important to update financial strategies and to reassess the impact of Covid-19 on Council income and costs. However an unqualified value for money conclusion was given.

The Redmond Report put forward some recommendations on the production of financial statements and external audit including a recommendation that external audit fees should be increased.

It was important to always revisit and update the Medium Term Financial Strategy (MTFS) in relation to funding, even if new information was emerging, it should be as complete and as up-to-date as possible. It was anticipated that the Provisional Local Government Settlement would be published on 14 December 2020; the MTFS would be updated in line with this provisional settlement in readiness for the budget to be considered in February.

In terms of investment strategies, CIPFA had recently issued guidance discouraging borrowing in advance of the capital financing requirement; due diligence should always be undertaken to achieve the wider achievements and objectives of the Council,

Comments from Members on the report and Statement of Accounts were relating to:

- Valuation of properties particularly investment properties, querying the differing figures on page 52 of the accounts. Officers confirmed this would be corrected prior to signature;
- treasury assets;

- pension fund assets and liabilities;
- valuation reports were very long, although did need to be read to in full to understand;
- concern over access to the Public Works Loan Board to fund capital investment;
- an addendum to the balance sheet and changes in accounts were highlighted in yellow for information Members of changes to the accounts since publication of the Agenda papers;
- the impact on 2018/19 and 2019/20 surplus assets valuations;
- improvement and refinement of producing accounts from 2020/21;
- how the response to Covid-19 affected the accounts and protection from further pressures in 2020/21; understanding the relationship between external and internal audit;
- asset valuations - some valuations were carried out by the Council's Valuer and some by Carter Jonas. Valuation of the Leisure Centre and the impact of Covid-19 on the Council offices.

Concern was expressed that there was no mention of Community Infrastructure Levy (CIL), or Section 106 receipts in the report. It was explained that a detailed report was recently considered by Cabinet on this issue. As the Council had received very little CIL contributions in 2019/20, it was not material in the accounts.

RESOLVED that

- the Grant Thornton Audit Findings for Cotswold District Council be noted;**
- the Statement of Accounts 2019/20 be approved; including late appendix and adjustments**
- the officer responses to Audit Committee Comments, be noted;**
- the Chief Finance Officer and the Chairman of the Audit Committee be authorised to write a letter of representation on behalf of the Committee and Council to Grant Thornton to enable the opinion to be issued.**

Record of Voting – for 6, against 0, abstention 0, absent 1.

AUD.39 Treasury Mid-Term Report 2020-21

This was the half year report which would be reported to Full Council in January. There was fluctuation in the market due to Brexit and Covid-19, the Chief Finance Officer highlighted the treasury income and investment income from cash holdings. It was explained that the Bank of England Base Rate was cut and investments were earning exceptionally low levels of income, although the Social Housing Reit, which the Council had invested in, had improved since April.

Since the news regarding the vaccine for Covid-19 the markets had improved. Advice was that investments should remain in place while the market improves.

The CCLA property fund did temporarily stop trading; they were illiquid assets, although the fund had reverted to full dealing by the end of September.

The Chief Finance Officer highlighted that the Audit Committee would receive a set of strategies; Capital, Investment and Treasury Management, at their meeting in January 2021, which would be subsequently presented to Full Council, for consideration.

RESOLVED that the Treasury Management mid-year performance be considered and recommended to Council for approval.

Record of Voting – for 6, against 0, abstention 0, absent 1.

AUD.40 Work Plan 2020/21

The Chair highlighted that the need for a briefing session on the Effectiveness of the Audit Committee should take place before the end of the current civic year.

A question was asked whether the Audit Committee received the budget proposals. These were to be presented to the Overview and Scrutiny Committee on 1 December 2020, which would then feed through to Cabinet and onto Council. Audit Committee would receive the Capital, Investment and Treasury Management Strategy.

AUD.41 Exclusion of the Public and Press

Proposed by Councillor Coleman and Seconded by Councillor Berry

Section 100A(4) of the Local Government Act 1972 and that the public and Press should be excluded from the meeting on the grounds that it involves likely disclosure of exempt information as defined in paragraph (3) of Part I of Schedule 12A of the Act (Information relating to financial or business affairs) and that the public interest in maintaining the exemption outweighs the public interest in disclosing the information concerned.

Record of Voting – for 6, against 0, abstention 0, absent 1.

AUD.42 Verbal update from Arlingclose on the effect of Covid-19 on the Council's Investments and Environmental, Social and Governance investing

Arlingclose presented their advice on the current markets and likely improvements in the markets in the near future. The drop in the markets was due to Covid-19 and a possible no deal Brexit.

Members thanked Arlingclose for the presentation which had information that could be used as part of the Council's suite of strategies on Capital, Treasury and Investment strategies.

The Meeting commenced at 4.00 and closed at 6.59pm.

Chair
(END)

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Agenda Item 8



COTSWOLD
DISTRICT COUNCIL

Council name	COTSWOLD DISTRICT COUNCIL
Name and date of Committee	AUDIT COMMITTEE – 28 JANUARY 2021
Report Number	AGENDA ITEM 8
Subject	INTERNAL AUDIT PROGRESS REPORT
Wards affected	N/A
Accountable member	Cllr Mike Evemy, Cabinet Member for Finance Email: mike.evemy@cloud.cotswold.gov.uk
Accountable officer	Jenny Poole, Chief Finance Officer Tel: 01285 623313 Email: jenny.poole@cotswold.gov.uk
Summary/Purpose	To present a summary of the audit work concluded since the last meeting of this Committee.
Annexes	Annex A – Summary of work completed since October 2020 Annex B – External Quality Assessment (EQA) Report Summary
Recommendation/s	<i>That the Committee considers the reports at Annex A and B and comments as necessary.</i>
Corporate priorities	Ensure that all services delivered by the Council are delivered to the highest standard.
Key Decision	NO
Exempt	NO
Consultees/ Consultation	N/A

1. BACKGROUND

- 1.1. The Internal Audit Service is provided to this Council by SWAP Internal Audit Services (SWAP). SWAP is a local authority-controlled company.
- 1.2. The report attached at Annex A sets out the work undertaken by SWAP for the Council since the last meeting of this Committee. It follows the risk-based auditing principles and, therefore, this is an opportunity for the Committee to be aware of emerging issues which have resulted from SWAP involvement.
- 1.3. Officers from SWAP will be in attendance at the Committee meeting and will be available to address Members' questions.

2. MAIN POINTS

- 2.1. The progress report enables the Audit Committee to monitor the work of the Internal Audit Service and ensure that it remains effective. It also provides the Committee with assurance opinions over areas reviewed within the reporting period, details of audit recommendations and the outcome of follow-up reviews conducted on previous audit recommendations.
- 2.2. Earlier in the year an External Quality Assessment (EQA) was undertaken for SWAP Internal Audit Services, this is to ensure SWAP conforms to the Public Sector Internal Audit Standards (PSIAS). The outcome of the assessment was that SWAP 'generally conforms'. There were a small number of areas where partial conformance was identified. These were minor observations, none of which were significant enough to affect the overall opinion. Some were captured across more than one of the attribute standards or are recommendations for improvement, rather than failures in conformance. These areas are being actioned by SWAP Senior Leadership Team. The report is attached at Annex 'B' for information.

3. FINANCIAL IMPLICATIONS

- 3.1. The Internal Audit Service is operating within the contract sum.

4. LEGAL IMPLICATIONS

- 4.1. None directly from this report. Internal Audit reviews consider compliance with legislation relevant to the service area under review.

5. RISK ASSESSMENT

- 5.1. Any weaknesses in the control framework, identified by Internal Audit activity, continues to threaten organisational objectives until recommendations are implemented.

6. BACKGROUND PAPERS

- 6.1. Internal Audit Reports

Cotswold District Council

Report of Internal Audit Activity

January 2021

Page 15

Contents

The contacts at SWAP in connection with this report are:

David Hill

Chief Executive

Tel: 01935 848540

david.hill@swapaudit.co.uk

Lucy Cater

Assistant Director

Tel: 01285 623340

lucy.cater@swapaudit.co.uk

- Appendices:

Appendix A – Internal Audit Definitions

Page 5 – 6

Appendix B – Audit Plan Progress

Page 7 - 11

Appendix C – Summary of Audit Findings

Page 12 – 16

Appendix D – High Priority Findings and Agreed Actions

Page 17 – 22

Appendix E – Summary of Agreed Actions

Page 23

At the conclusion of audit assignment work each review is awarded a “Control Assurance Definition”;

- No
- Limited
- Reasonable
- Substantial



Audit Framework Definitions

Control Assurance Definitions

No	Immediate action is required to address fundamental gaps, weaknesses or non-compliance identified. The system of governance, risk management and control is inadequate to effectively manage risks to the achievement of objectives in the area audited.
Limited	Significant gaps, weaknesses or non-compliance were identified. Improvement is required to the system of governance, risk management and control to effectively manage risks to the achievement of objectives in the area audited.
Reasonable	There is a generally sound system of governance, risk management and control in place. Some issues, non-compliance or scope for improvement were identified which may put at risk the achievement of objectives in the area audited.
Substantial	A sound system of governance, risk management and control exists, with internal controls operating effectively and being consistently applied to support the achievement of objectives in the area audited.

Non-Opinion – In addition to our opinion based work we will provide consultancy services. The “advice” offered by Internal Audit in its consultancy role may include risk analysis and evaluation, developing potential solutions to problems and providing controls assurance. Consultancy services from Internal Audit offer management the added benefit of being delivered by people with a good understanding of the overall risk, control and governance concerns and priorities of the organisation.

Recommendations are prioritised from 1 to 3 on how important they are to the service/area audited. These are not necessarily how important they are to the organisation at a corporate level.



Audit Framework Definitions

Categorisation of Recommendations

When making recommendations to Management it is important that they know how important the recommendation is to their service. There should be a clear distinction between how we evaluate the risks identified for the service but scored at a corporate level and the priority assigned to the recommendation. No timeframes have been applied to each Priority as implementation will depend on several factors; however, the definitions imply the importance.

	Categorisation of Recommendations
Priority 1	Findings that are fundamental to the integrity of the service’s business processes and require the immediate attention of management.
Priority 2	Important findings that need to be resolved by management
Priority 3	Finding that requires attention.

Definitions of Risk

Risk	Reporting Implications
High	Issues that we consider need to be brought to the attention of both senior management and the Audit Committee.
Medium	Issues which should be addressed by management in their areas of responsibility.
Low	Issues of a minor nature or best practice where some improvement can be made.

Each audit covers key risks. For each audit a risk assessment is undertaken whereby with management risks for the review are assessed at the Corporate inherent level (the risk of exposure with no controls in place) and then once the audit is complete the Auditors assessment of the risk exposure at Corporate level after the control environment has been tested. All assessments are made against the risk appetite agreed by the SWAP Management Board.

Audit Type	Audit Area	Quarter	Status	Opinion	No of Rec	Priority			Comments
						1	2	3	
2019/20 Audits in Draft / In Progress at Annual Opinion									
Key Financial Control	Accounts Receivable		Final Report	Reasonable	4		1	3	Reported in November
Follow-Up	S106 Agreements and Funds		Draft Report						
Follow-Up	Procurement		Final Report	N/A	-				Reported in November
Follow-Up	Procurement and Contract Management		Final Report	N/A	-				Reported in November
Operational	Asset Management and Commercial / Investment Property		Draft Position Statement						
Advisory	Use of Volunteers		Final Report	N/A	-				Reported in October
Advisory	Grants		Final Report	N/A	-				
ICT	Business Continuity		Draft Report						
ICT	Incident Management		Final Report	Reasonable	4		2	2	See Appendix C

Audit Type	Audit Area	Quarter	Status	Opinion	No of Rec	Priority			Comments
						1	2	3	
2020/21 Audit Plan									
Operational	Business Grant Funding		Complete	N/A	-				Support to the Council in respect of Data Input
Advisory	Leisure Funding		Complete	N/A	-				Support to the Council in respect of the Leisure Funding request by the Service Provider
Advisory	CFU Policies		Complete	N/A	-				Reviewing policies held by CFU and advising of changes to legislation
Operational	Continuous Assurance Reports		On-Going						Accounts Payable, Accounts Receivable, Payroll
Support	Business Grant Funding (Part 2)			N/A	-				Head of IA seconded to Council to support processing of Mandatory and Discretionary Business Grants during from November onwards
Key Financial Control	Revenues and Benefits								
	<ul style="list-style-type: none"> Council Tax and National Non-Domestic Rates 		Draft Report						
	<ul style="list-style-type: none"> Housing and Council Tax Benefits 		Draft Report						
Key Financial Control	Core Financials								
	<ul style="list-style-type: none"> Accounts Payable 		In Progress						
	<ul style="list-style-type: none"> Accounts Receivable 								

Page 20

Audit Type	Audit Area	Quarter	Status	Opinion	No of Rec	Priority			Comments
						1	2	3	
	<ul style="list-style-type: none"> • Main Accounting 		In Progress						
	<ul style="list-style-type: none"> • Payroll 		In Progress						
	<ul style="list-style-type: none"> • Treasury Management and Bank Reconciliation 		Final Report	Substantial	1			1	See Appendix C
Key Financial Control	Systems Administration		In Progress						
Key Financial Control	Human Resources								
Key Financial Control	Other Support Service provided by Publica <ul style="list-style-type: none"> • Health and Safety (Of Staff) 		Position Statement	N/A					See Appendix C
ICT	Cyber Security		Final Report	N/A	5			5	See Appendix C
ICT	Use of Anti-Malware Software		ToE Drafted						
ICT	Automatic Back-Up of System Data								
Governance	Risk Management								
Governance	Performance Management								
Governance	Governance of Programmes and Projects								
Operational	Post Payment Assurance – Small Business Grants								
Operational	Authority’s Response to Covid-19								

Audit Type	Audit Area	Quarter	Status	Opinion	No of Rec	Priority			Comments
						1	2	3	
Operational	Publica Transformation Benefits Realisation								
Operational	The Delivery of Services by Publica								
Operational	Inclusivity and Diversity								
Operational	Publica Support Costs Recharge Process & Internal Control Process for Contract Variations (NEW)		ToE Agreed						
Advisory	Implementation of the New Revenues and Benefits System		In Progress						Support to the Project Team
Follow-Up	Follow-Ups of Recommendations made in Substantial and Reasonable Audits		On Going						
Follow-Up	Follow-Up of Control Weaknesses identified by the Counter Fraud Unit								
Follow-Up	Procurement								Further Follow-Up required
Follow-Up	Procurement and Contract Management								Further Follow-Up required
Grant Certification	Disabled Facilities Grants		Complete	N/A					
Grant Certification	Income Compensation Scheme (NEW)								
Other Audit Involvement	Working with the Counter Fraud Unit		On Going						

Page 22


Audit Type	Audit Area	Quarter	Status	Opinion	No of Rec	Priority			Comments
						1	2	3	
						Other Audit Involvement	Management of the IA Function and Client Support		
Other Audit Involvement	Contingency – Provision for New Work based on emerging risks								






The following information provides a brief summary of each audit review finalised since the last Committee update

ICT Incident Management – Final Report – December 2020

Audit Objective

The objective of the audit is to ensure that technical solutions are managed and deployed to protect data and systems from malicious attack.

Assurance Opinion		Number of Actions		Risks Reviewed	Assessment
	<p>There is a generally sound system of governance, risk management and control in place. Some issues, non-compliance or scope for improvement were identified which may put at risk the achievement of objectives in the area audited.</p>	Priority 1	0	<p>Operation of the network or information systems is disrupted. Information and data are intercepted and disclosed or stolen.</p>	<p style="text-align: center; background-color: yellow;">Medium</p>
		Priority 2	2		
		Priority 3	2		
		Total	4		

Key Findings	Audit Scope
 <p>As part of the Information Security framework of policies, the Incident Management Policy is out of date and requires review, update, and approval. Update of the policies has been impacted by the Covid-19 pandemic, and the need for a review is recognised by the ICT Audit & Compliance Manager.</p>	<p>The audit scope was a review and assessment of the policies, plans and processes in place and used together with technology used to detect, prevent, and respond to security incidents or events.</p> <p>The review also covered the following areas;</p> <ul style="list-style-type: none"> • Threat detection and protection • Vulnerability assessment and remediation <p>The review was undertaken by interviewing key personnel including the Cyber Security Engineer and the ICT Audit and Compliance Manager, together with the review of documentation and evidence provided.</p>
 <p>There is a lack of detailed standard operating procedural documentation. Incident management investigation is currently based on a high-level process flow-chart denoted in the Incident Management policy; however, this lacks detailed information on how to conduct an incident investigation.</p>	
 <p>At the initial stages of the audit there was a limited Incident Response plan. It is best practice to develop risk-based scenarios within response plans and regularly test them to prepare for an incident. A detailed plan noting scenarios and action plans is being developed and good progress has been made.</p>	
 <p>Weekly vulnerability scans are performed, and prioritised vulnerabilities where remedial action is to be taken are actioned using the helpdesk ticketing system. A similar process could be used to track all vulnerabilities detected in the weekly scans as is used for the annual penetration test findings.</p>	
 <p>Appropriate technology is in place and used to enable the Cyber Security Engineer and wider ICT team to detect, mitigate and respond to security incidents. The Cyber Security Engineer practices continual education and development to keep abreast of current technology, threats, and risks.</p>	

Next Steps
<p>It is widely recognised that for any organisation, a significant security incident or breach is a matter of ‘when’, not ‘if’. Organisations are increasingly reliant on IT services, therefore, it is critical that an organisation is prepared, as much as possible, for a significant incident that will disrupt ICT service provision.</p> <p>Actions have been agreed with management, with a detailed action plan attached as Appendix 1, to improve incident management preparedness. All actions are due to be implemented by April 2021 or are ongoing exercises. A summary of the key findings from our review will be presented to the Audit Committees and Publica Board.</p>

Health & Safety of Staff – Position Statement – December 2020

Audit Conclusion

A Health & Safety of Staff review was included in the 2020/21 Annual Internal Audit Plan. The focus of the audit was planned to be on site visits and use of Personal Protection Equipment (PPE) in relation to hazardous substances. Initial meetings were held with the Health and Safety Business Partner (H&S BP) for Publica to discuss the scope of the audit.

The initial focus of the audit was set prior to COVID-19, where it would have been possible to carry out testing with officers and service areas in person, allowing us to review and provide assurance on practical control arrangements in place which would be most appropriate based on the audit focus. Following initial meetings with the H&S BP, we have agreed that due to the remote working arrangements currently in place, it would provide limited value in carrying out the audit at this time.

Based on discussions with the H&S BP, we have no immediate concerns in this area. We have also agreed with the H&S BP that internal audit will accompany them in a sample of their planned future Health and Safety audits relating to the Control of Substances Hazardous to Health (COSHH) and PPE to provide oversight.

We have issued this Position Statement which provides information on where the service is at this current time.

- A Health and Safety Audit schedule has been commenced and covers all service areas to be audited between October 2020 and April 2024.
- The Publica Property Services Health and Safety audit was most recently completed (October 2020) and action plan was issued to the service area to address any findings made.
- A local Health and Safety Committee was re-established in September 2020, covering Publica, Cotswold District Council, West Oxfordshire District Council and Forest of Dean District Council.
- The Group Manager – Business Support Services provided the Annual Health and Safety Update to the Publica Board on the 4th of September 2020 and will also provide quarterly updates going forward.

Cyber Security Follow Up Report – October 2020

Audit Objective

To follow up on the 2018/19 recommendations and consider areas for further review in 2020/21.

Executive Summary and conclusion

During 2018/19 a Cyber Security audit was undertaken by SWAP's ICT audit team for Publica and the Partner Councils. The audit was based on a framework of 20 Key Cyber Security controls which covered 32 areas ranging from policy to technology. The audit was a 'high level' audit and testing was undertaken between April and July 2019 to determine whether:

- The control was fully compliant
- Management needed to take action
- Further audit testing (in an area) was to be planned

Due to the ever-changing nature of ICT, we included a subsequent review in the revised 2020/21 Internal Audit Plan. Supported by Publica's ICT Audit and Compliance Manager, we have followed-up the recommendations made in the 2018/19 audit and planned the audits which were identified as warranting a more in-depth audit.

Fully Compliant Areas

The original audit confirmed that the following areas were compliant, therefore no recommendations were made, and no further audit was required:

Control	Area
Inventory of Software Assets (Including Data Assets)	Data Asset Inventory
Control of Accounts with Administrative Privileges	Management of Default passwords for high privileged accounts
Active Monitoring and Analysis of Audit Logs	Audit Logging and Retention Policy
E-mail and Web Browser protections	Use of Network Based URL Filters / Blocking of Uncategorised Websites
Control of Network Ports, Protocols and Services	Documentation and authorisation routines for ports, Protocols and Services
Secure Configuration of Network Devices	Build standards and management process for network devices
Boundary Defences are documented and understood	Management of connections across trusted network boundaries
Programme of Penetration testing	Conducting and following up on penetration testing

Recommendations Made

Thirteen recommendations were made in the 2018/19 audit. This review has found that:

- Seven recommendations have been actioned
- One recommendation is an on-going piece of work and will remain live
- The progress on four recommendations has been affected by Covid-19. The implementation date for these recommendations was June / September 2020. We have agreed with the ICT Audit and Compliance Manager to defer the implementation dates to allow for the recommendation to be actioned. We will follow these up when the target date has been met.
- A recommendation that was made in respect of Asset Lifecycle Management will be planned to be included in the 2021/22 Audit Plan within the Technology Asset Inventory Audit.

Further Audit


An outcome of the audit undertaken in 2018/19 was to enable us to plan the ICT audits going forward, there are areas that we have reviewed at a high level but warrant further audit testing to gain full assurance over the management of risk. IA and the ICT Audit and Compliance Manager have assessed these areas based on the level of risk to Publica and the partner Councils.

Full details of our audit testing/ working papers are available upon request. Our audit assurance framework and definitions can be found here (www.swapaudit.co.uk/aboutus)




Treasury Management and Bank Reconciliation – Final Report – January 2021

Audit Objective

To ensure that the key controls within Treasury Management and Bank Reconciliations are operating effectively.

Assurance Opinion	Number of Actions	
	Priority	Number
 <p>A sound system of governance, risk management and control exists, with internal controls operating effectively and being consistently applied to support the achievement of objectives in the area audited.</p>	Priority 1	0
	Priority 2	0
	Priority 3	1
	Total	1

Risks Reviewed	Assessment
1. Inadequate treasury management arrangements in place, resulting in financial loss.	Low
2. If bank reconciliations are not regularly carried out, there is a risk of inaccurate financial reporting, loss of income and fraud.	Low
3. If previous recommendations made are not implemented, the organisation may be open to unnecessary risk exposure	Low

Key Findings	
	One Priority 3 recommendation is still outstanding from the 2018/19 Treasury Management and Bank Reconciliations audit. The Business Partner Accountant has committed to completing the agreed action by the end of January 2021.
	A new cashflow monitoring spreadsheet has been implemented at WODC which is updated monthly by the Senior Technical Accountant and provides an easy to view summary for the Chief Finance Officer. This is also planned to be replicated for the other Councils.
	Bank reconciliations sampled were found to be accurate and signed off by an appropriately senior and independent officer.

Audit Scope
<p>A high-level review will be completed in the following areas:</p> <ul style="list-style-type: none"> Follow up on last year's recommendations Treasury Management reporting process Cashflow forecasting <p>Discussions were held with the Publica Business Partner Accountant and the Senior Accounting Technician. Evidence to support discussions was requested where appropriate.</p> <p>Bank statements and the bank reconciliations from October 2020 were reviewed for all Councils and Publica.</p>

Next Steps
<p>One action has been agreed with management, attached as Appendix 1. All actions are due to be implemented by the 31st of January 2021. We will follow up to assess progress towards the agreed priority 3 action in due course. A summary of the key findings from our review will be presented to the Audit Committees and Publica Board.</p>

Unrestricted

Full details of our audit testing are available upon request. Our audit assurance framework and definitions can be found here (www.swapaudit.co.uk/audit-framework-and-definitions)

High Priority Findings and Agreed Actions

APPENDIX D

Audit Name	Priority	Agreed Actions	Agreed Action	Due Date	Update January 2021
ICT Incident Management 44560	2	As part of the Information Security framework of policies, the Incident Management Policy is out of date and requires review, update, and approval. Update of the policies has been impacted by the Covid-19 pandemic, and the need for a review is recognised by the ICT Audit & Compliance Manager.	ICT Audit and Compliance Manager will review and update all ICT Security Policies following the completion of the Cyber Security audit report. The aim to have drafted policies by April 2021 for circulation to all network users.	Apr 2021	
ICT Incident Management 44562	2	There is a lack of detailed standard operating procedural documentation. Incident management investigation is currently based on a high-level process flow-chart denoted in the Incident Management policy; however, this lacks detailed information on how to conduct an incident investigation.	We have now commenced with documenting our cyber incident and investigation managements procedures	On Going	
Payroll 43699	2	We recommend that all new starters are subject to a BPSS (or similar) check regardless of the role to which they are being recruited. This will ensure that consistent checks of right to work, employment history and basic criminal record checks are carried out on all employees.	A piece of work has been carried out to re-write the pre-employment check process. The HR and Recruitment Teams are also working towards the implementation of an Application Tracking System (ATS), subject to approval at Publica and the Councils, which would help to mitigate the risks identified. The ATS would not allow for progression in the recruitment and onboarding process without specific criteria being fulfilled first (e.g. obtaining references, ID checks etc).	Sep 2020	Will be followed-up during the annual audit

High Priority Findings and Agreed Actions

APPENDIX D

Audit Name	Priority	Agreed Actions	Agreed Action	Due Date	Update January 2021
Health and Safety – Fire Risk Assessments 43147	2	We recommend that officers should ensure all remedial actions identified in fire risk assessments are completed using a risk-based approach.	These remedial action requirements are in progress and will be completed in accordance with the noted time scale.	Sep 2020	Will be followed-up within the Health and Safety Audit
Procurement and Contract Management 41127	2	We recommend that assurance is sought from Publica that contracts held and managed on behalf of the Council are monitored and managed effectively.	Publica colleagues have been requested to respond to the recommendations made in the report issued. Assurance has been requested that contract management and monitoring is undertaken.	Sep 2020	Implementation date changed to 31st December 2020 to reflect amended target implementation date of majority of Procurement/Procurement & Contract Management recommendations to be actioned by Publica Procurement.
Accounts Receivable 3752 Page 30	2	Duplicate subscriptions should be reviewed, and appropriate corrections made. Any duplicate payments should be returned to the debtor.	All subscriptions will be corrected where applicable. Will discuss with team to ensure that prior to setting up new subscriptions a search for existing subscriptions is performed. If any queries arise the AR officer will refer to the service area for clarification. Responsible Officer – AR Team Leader	Aug 2020	Will be followed-up during the annual audit
Section 106 Agreements and Funds	2	To ensure the Council can be held to account in managing the delivery of S106 obligations, the progress of S106 Agreements should be regularly reported at an appropriate Committee and on the Council's website.	Once the Government has produced the data specification and collection tools, these will be used to produce reports for Members and published on the Council's website. There is currently no known date for the publication of these tools, therefore a prolonged timescale has been proposed to implement this action.	Mar 2020	Officers responsible for agreeing, recording and monitoring S106 at FoDDC, CDC & WODC met 23/09/19 to discuss strategies for aligning best practice across the partner councils. Implementation of this recommendation is progressing and will continue to be monitored by IA This needs to be followed up, it is likely that Covid-19 has delayed the implementation of this recommendation

High Priority Findings and Agreed Actions

APPENDIX D

Audit Name	Priority	Agreed Actions	Agreed Action	Due Date	Update January 2021
Systems Admin 41204	2	<p>We recommend a principal Identity and Access Management process detailing requirements for 'Joiners, Movers and Leavers' is developed and documented and that complies with the requirements set out in the Information Security and Access Control Policy. The overarching process should apply to and embrace all systems that may not be included within the standard ICT team scope and should be available for all employees to view and follow. System administrators should then document or update local processes and procedures that should be in alignment with the overarching policy and process requirements. and documented on a quarterly basis as per the requirements of the Risk Management Policy</p>	<p>Our team ICT Administrators are now updating and documenting our Access Management system process for joiners, Movers and Leavers. A change control process will be introduced that will document significant changes to the ICT infrastructure which will also align to our ICT User Policies and guidance.</p>	Mar 2020	<p>Flowcharts have been produced for the starters / leavers / variation processes. The ICT Audit and Compliance Manager will refresh the ICT Policies following the completion of the Cyber Security audit report. He is aiming to have drafted policies by March 2020 for circulation / consultation at CGG and JMT.</p> <p>Further follow-up has been included in the 2020/21 audit plan</p> <p>Revised implementation date to 31/12/20 due to Covid-19</p>

High Priority Findings and Agreed Actions

APPENDIX D

Audit Name	Priority	Agreed Actions	Agreed Action	Due Date	Update January 2021
Apprenticeship Scheme 42609	2	We recommend that a reconciliation process is implemented for Apprenticeship Levy payments.	<p>Reconciliation is now carried out monthly between the Finance spreadsheet, the General Ledger and the online apprenticeship levy portal. Support will be requested from Finance to ensure reconciliation is being done correctly in the initial stages.</p> <p>The internal apprentice recruitment form has also been amended to ensure that the recruiting manager consults with the Finance Department to ensure there is appropriate levy funding available in the online account before the post goes for approval at the Resource Managers Group.</p>	Implemented & ongoing (to be followed up Feb 2020)	Recommendation followed up but no response was received from the service. Due to the lapse in time the recommendation has been closed.
Procurement 41030	2	To ensure there is an audit trail to support all contract payments, the introduction of "No PO, no payment" policy should be considered to assist with the efficient monitoring of contract spend.	This will be considered	Dec 2019	We were advised that no decision has been made yet regarding the implementation of a 'no PO, no pay' policy across the Publica Councils. Proposals will need to be submitted by Publica for consideration by Cabinet and the Leadership Team at each Council. This recommendation will require further follow-up in 2020/21.
Procurement 41002	2	All Officers should be informed during Procurement Process training of the following to ensure when applicable; <ul style="list-style-type: none"> • Procurement are consulted on all contracts over £5,000 so all approved contracts are entered onto the Contract Register, and waiver details can be accurately recorded when appropriate 	Agreed	Dec 2019	Training has not yet been fully delivered which includes officers' responsibilities and instruction that Procurement are required to publish all spend over £5000 and therefore must have sight of all spend. Procurement approval is required for all acquisitions over £10,000 on Agresso Business World (ABW) which will help to ensure Procurement are aware of spend over £5000 and will also allow them to identify where a waiver is used so this can be appropriately recorded. This recommendation will require further follow-up in 2020/21.

Page 32

High Priority Findings and Agreed Actions

APPENDIX D

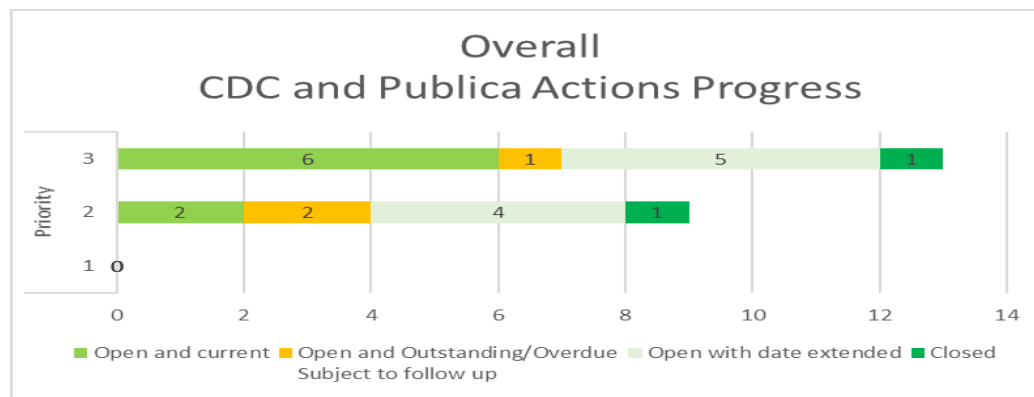
Audit Name	Priority	Agreed Actions	Agreed Action	Due Date	Update January 2021
Procurement 41323	2	To ensure all transactions are raised and approved appropriately and in line with the current organisational structure, all requisitioning and approval permissions should be reviewed in BWO.	Following the recent organisation changes, the approvals permissions will be reviewed to ensure they are aligned with new roles and implemented accordingly on the ABW system.	Dec 2019	We were advised: <ul style="list-style-type: none"> •A review of ABW requisitioner and approver roles is currently in progress. •Together with the finance team, the ABW support team aim to review all clients over the coming months. •A review of roles at both Ubico and CBC are complete. Work on CDC approvers is still underway. This recommendation will require further follow-up in 2020/21.
Procurement 41181	2	A copy of the approved contract must be held on In-Tend for all contracts over £5,000, as well as the quotes used during the tendering process, to demonstrate best value and ensure there is a complete central record.	Agreed, subject to a review of the contract value requirements.	Dec 2019	<p>The Senior Procurement Business Partner demonstrated the Contracts Module on In-Tend during fieldwork. We were advised that all new contracts since the implementation of the Contracts Module (October 2019) have been input into In-Tend. These contracts are being managed by the Procurement Team via this system in terms of monitoring of contract expiry dates.</p> <p>We were able to confirm all relevant documentation (including a copy of the approved contract) was stored for the sampled CBC contract.</p> <p>We were advised by the Senior Procurement Business Partner that it is intended that contracts that were already in place at the time that the Contracts Module was implemented will be loaded into the system in the same way as new contracts, but the speed at which this can be done is dependent on available resources to carry out the work.</p> <p>To assist them in managing existing and future contracts, the Procurement Team have implemented a future Work Plan for all authorities.</p> <p>Revised implementation date to 31/12/20 due to Covid-19</p>

Audit Name	Priority	Agreed Actions	Agreed Action	Due Date	Update January 2021
Procurement 41029	2	Budget Holders should regularly undertake monitoring of expected contract spend to actual contract spend as part of contract monitoring, to ensure contracts are managed in accordance with strategy, and inform Procurement of any changes to contract values to ensure the values recorded on the Contract Register are correct.	Agreed	Dec 2019	No evidence has been provided of actions carried out by responsible officers to support implementation of this recommendation at the time of follow-up. As part of the 2020/21 Audit Plan, an audit of the Management and Monitoring Contracts will be carried out. The scope of this audit will include budget monitoring arrangements in relation to contract spend and will therefore inform the follow-up of this recommendation. Revised implementation date to 31/12/20 due to Covid-19

Summary of all Agreed Actions from April 2019 and Progress against them

CDC ONLY	Priority			Total
	1	2	3	
TOTAL in Audit Period (From 4/19)	0	1	4	5
Open and current	0	0	0	0
Open and Outstanding/Overdue Subject to follow up	0	0	1	1
Open with date extended	0	1	3	4
Closed	0	0	0	0

PUB ONLY	Priority			Total
	1	2	3	
TOTAL in Audit Period (From 4/19)	0	8	9	17
Open and current	0	2	6	8
Open and Outstanding/Overdue Subject to follow up	0	2	0	2
Open with date extended	0	3	2	5
Closed	0	1	1	2



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SWAP - Independent External Assessment Report Summary

March 2020

Assessment Team:

Alix Wilson, BA/IPFA, Head of South West London Audit Partnership
Russell Banks CMIIA, Chief Internal Auditor, Orbis

CONTENTS

1. Introduction
 2. Objectives
 3. Executive Summary
 4. PSIAS Statement of Conformance
 5. Evaluation Actions Summary
- Appendix A – Rating Definitions

1 Introduction

1.1 The Public Sector Internal Auditing Standard (PSIAS) and the International Standards for the Professional Practice of Internal Auditing require that an external quality assessment (EQA) of an internal audit activity must be conducted at least once every five years by a qualified, independent assessor or assessment team from outside the organisation. The qualified assessor or assessment team must demonstrate competence in both the professional practice of internal auditing and the EQA process. The EQA can be accomplished through a full external assessment or a self-assessment with independent validation.

1.2 SWAP Internal Audit Services (SWAP) conducted a self-assessment of its internal audit activity and selected Orbis and South West London Audit Partnership (SWLAP) as the qualified, independent external assessment team to conduct a validation of the self-assessment by SWAP. In addition, the assessment team was also asked to consider, drawing on their previous extensive partnership experiences, what actions might be taken to further improve the overall quality and effectiveness of the service.

1.3 The assessment team was made up of Russell Banks, Chief Internal Auditor for Orbis and Alix Wilson, Head of SWLAP. Orbis deliver internal audit and counter fraud services to Surrey County Council, East Sussex County Council and Brighton & Hove City Council, as well as to range of external clients, including emergency services and district/borough councils. SWLAP is a 5 Borough shared audit service covering the Royal Borough of Kingston and the London Boroughs of Richmond, Wandsworth, Sutton and Merton. SWLAP also delivers internal audit services to a number of external clients including Achieving for Children, a wholly owned community interest company providing children's services to Kingston, Richmond and Windsor and Maidenhead councils.

2 Objectives

2.1 The principle objective of the EQA was to assess SWAP's conformance with the Standards and the Code of Ethics.

2.2 In addition, the assessment team has sought to draw on its own experiences of delivering professional internal audit services, in a partnership capacity, to a range of public sector organisations to help identify any further opportunities to improve the overall quality and effectiveness of the services delivered by SWAP.

3 Executive Summary

3.1 SWAP is a high performing and well managed internal audit partnership, delivering professional and high-quality services to its partner/client organisations in conformance with Public Sector Internal Audit Standards. Whilst some areas of partial conformance with the Standards have been identified, none of these are considered to be significant.

3.2 Interviews with stakeholders were overwhelmingly positive about the service they receive from SWAP, recognising the value and professionalism of the service. In the interest of continuous improvement, something quite rightly seen as being of great importance to the Chief Executive and SWAP management, we have taken the opportunity as part of this review to identify areas where the organisation can further improve and develop. In many cases, these are simply suggestions for management to consider as in some cases, they may not be appropriate for every internal audit service provider.

3.3 To demonstrate how the service is viewed we have captured a flavour of some of the comments made to us:

- ✚ *“The quality of reports is good and the recommendations are proportionate and well explained” – s.151 Officer*
- ✚ *“The auditors have good knowledge of the organisation and its risks. The organisation recognises that they have skills that can be used and trust their advice” – Monitoring Officer*
- ✚ *“Internal audit brings insight from other clients and a wider knowledge” – s.151 Officer*
- ✚ *“They are treated as a critical friend and are seen to add value” – Executive Director*

4 PSIAS Statement of Conformance

4.1 Based on the work carried out it is our overall opinion that SWAP generally conforms with the Standards and the Code of Ethics. A summary of Evaluation Actions to be taken by SWAP to address areas for improvement against individual Standards and the Code of Ethics is shown in *Section 5*.

4.2 The IIA’s Quality Assessment Manual for the Internal Audit Activity suggests a scale of three rankings when opining on the internal audit activity:

DEFINITIONS	
Generally Conforms	The internal audit activity has a charter, policies, and processes that are judged to be in conformance with the <i>Standards</i> and the Code of Ethics.
Partially Conforms	Deficiencies in practice are noted that are judged to deviate from the <i>Standards</i> and the Code of Ethics; however, these deficiencies did not preclude the internal audit activity from performing its responsibilities in an acceptable manner.
Does Not Conform	Deficiencies in practice are judged to deviate from the <i>Standards</i> and the Code of Ethics, and are significant enough to seriously impair or preclude the internal audit activity from performing adequately in all or in significant areas of its responsibilities.

(Ref: Institute of Internal Auditors)

4.3 A detailed description of conformance criteria can be found in *Appendix A*.

5 Evaluation Actions Summary

There were a small number of areas where partial conformance was identified. These were minor observations, none of which were significant enough to affect the overall opinion. Some were captured across more than one of the attribute standards or are recommendations for improvement, rather than failures in conformance. A summary of the actions agreed relating to these areas are as follows:

Task
Regular meetings will be held with all Audit Committee Chairs to further strengthen relationships and ensure that they are kept up to date with any issues outside of formal meetings. <i>(Attribute Standard 1000)</i>
We will consider establishing an Internal Audit Strategy which sits alongside the Charter and annual plan, which will cover the objectives and remit of the service, and how it will be delivered. This will include service and staff development. <i>(Attribute Standard 2010)</i>
There will be a consolidation of the templates used as part of the engagement planning process, to ensure that the fraud risks are properly considered. The pre-audit questionnaire will be reviewed and updated, the template loaded onto MK Insight and formally rolled out. The process of reviewing Audit Terms of Engagement will consistently include reviewing the results of the pre-audit questionnaire, to ensure that risks have been properly identified and reflected in the scope of the review. <i>(Attribute standard 1210)</i>
The Internal Audit Charter will be extended to cover the type of consultancy work which could be provided, and how independence will be maintained. This detail will also be reflected within the Internal Audit Strategy, once developed. <i>(Attribute standard 2200)</i>
Whilst it may not be proportionate to report the QAIP (Quality Assessment Improvement Plan) in its entirety to Audit Committees, an update on progress will be included in the annual opinion reports going forward. <i>(Attribute Standards 1300, 1310, 1311, 1320 and 2450)</i>
The inclusion of significant issues identified in AGS (Annual Governance Statement) reports helps ensure that internal audit provides holistic assurance of the organisation, particularly where there are known concerns. The identification of other sources of assurance aim to ensure that work is co-ordinated with other assurance bodies and limited resources are not duplicating effort. The Audit manual will be updated to ensure that the AGS forms part of the audit planning risk assessment process, and other sources of assurance are duly considered. <i>(Attribute standard 2010 and 2050)</i>
The Audit Manual and accompanying power point slides that have been embedded in the induction will be made accessible on the Intranet to all staff. <i>(Attribute Standard 2020)</i>
The QAIP will be maintained as a live document and reported to the Board and respective Audit Committees. <i>(Attribute Standards 1300, 1310, 1311, 1320 and 2450)</i>

The PSIAS can be viewed at <https://www.cipfa.org/policy-and-guidance/standards/public-sector-internal-audit-standards>.

Appendix A – Rating Definitions

GC – “Generally Conforms” means that the assessor or the assessment team has concluded that the relevant structures, policies, and procedures of the activity, as well as the processes by which they are applied, comply with the requirements of the individual standard or elements of the Code of Ethics in all material respects. For the sections and major categories, this means that there is general conformity to a majority of the individual standard or element of the Code of Ethics and at least partial conformity to the others within the section/category. There may be significant opportunities for improvement, but these should not represent situations where the activity has not implemented the Standards or the Code of Ethics and has not applied them effectively or has not achieved their stated objectives. As indicated above, general conformance does not require complete or perfect conformance, the ideal situation, or successful practice, etc.

PC – “Partially Conforms” means that the assessor or assessment team has concluded that the activity is making good-faith efforts to comply with the requirements of the individual standard or elements of the Code of Ethics, or a section or major category, but falls short of achieving some major objectives. These will usually represent significant opportunities for improvement in effectively applying the Standards or the Code of Ethics and/or achieving their objectives. Some deficiencies may be beyond the control of the internal audit activity and may result in recommendations to senior management or the board of the organisation.

DNC – “Does Not Conform” means that the assessor or assessment team has concluded that the internal audit activity is not aware of, is not making good-faith efforts to comply with, or is failing to achieve many or all of the objectives of the individual standard or element of the Code of Ethics, or a section or major category. These deficiencies will usually have a significantly negative impact on the internal audit activity’s effectiveness and its potential to add value to the organisation. These may also represent significant opportunities for improvement, including actions by senior management or the board.

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Agenda Item 9



COTSWOLD
DISTRICT COUNCIL

Council name	COTSWOLD DISTRICT COUNCIL
Name and date of Committee	AUDIT COMMITTEE – 28 JANUARY 2021
Report Number	AGENDA ITEM 9
Subject	ANNUAL AUDIT LETTER
Wards affected	All
Accountable member	Cllr. Mike Every Deputy Leader and Cabinet Member for Finance
Accountable officer	Jenny Poole, Chief Finance Officer Jenny.Poole@cotswold.gov.uk 01285 623313
Summary/Purpose	For Members to receive and discuss details of the Annual Audit Letter for 2019/20 from the Council's external auditors (Grant Thornton).
Annexes	Annex A – Grant Thornton report – “The Annual Audit Letter for Cotswold District Council”
Recommendation/s	<i>That the Committee discuss and note the Annual Audit Letter</i>
Corporate priorities	Ensure that all services delivered by the Council are delivered to the highest standard.
Key Decision	No
Exempt	No
Consultees/ Consultation	N/A

1. BACKGROUND

- 1.1.** The Council's external auditor (Grant Thornton) has provided the Annual Audit Letter for 2019/20 (see Annex A).

- 1.2.** The Annual Audit Letter summarises the key findings arising from the work carried out by Grant Thornton at the Council for the year ended 31 March 2020. Detailed findings from the audit work were reported to the Council's Audit Committee (as those charged with governance) in Grant Thornton's Audit Findings Report on 26 November 2020. The key points from the Letter are summarised below:

Financial statements opinion

- 1.3.** The auditor issued an unqualified opinion on the Council's financial statements on 27 November 2020.

Value for money conclusion

- 1.4.** The auditor was satisfied that the Council put in place proper arrangements to ensure economy, efficiency and effectiveness in its use of resources during the year ended 31 March 2020. This was reflected in the audit opinion on 27 November 2020.

Certificate

- 1.5.** The auditor certified the completion of the audit of the accounts of Cotswold District Council in accordance with the requirements of the Code on 27 November 2020.

- 1.6.** Representatives from Grant Thornton have been invited to the meeting and will be available to answer any questions on the Annual Audit Letter.

The Annual Audit Letter for Cotswold District Council

Year ended 31 March 2020

17 December 2020

Page 47



Contents



Your key Grant Thornton
team members are:

Page 48

Peter Barber

Key Audit Partner

T: 0117 305 7897

E: Peter.A.Barber@uk.gt.com

Helen Lillington

Senior Manager

T: 0121 232 5312

E: Helen.M.Lillington@uk.gt.com

Siobhan Barnard

Assistant Manager

T: 0121 232 5121

E: Siobhan.Barnard@uk.gt.com

Section

	Page
1. Executive Summary	3
2. Audit of the Financial Statements	5
3. Value for Money conclusion	12

Appendices

A Reports issued and fees	14
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Executive Summary

Purpose

Our Annual Audit Letter (Letter) summarises the key findings arising from the work that we have carried out at Cotswold District Council (the Council) for the year ended 31 March 2020.

This Letter is intended to provide a commentary on the results of our work to the Council and external stakeholders, and to highlight issues that we wish to draw to the attention of the public. In preparing this Letter, we have followed the National Audit Office (NAO)'s Code of Audit Practice and Auditor Guidance Note (AGN) 07 – 'Auditor Reporting'. We reported the detailed findings from our audit work to the Council's Audit Committee as those charged with governance in our Audit Findings Report on 26 November 2020.

Our work

Page 49

Respective responsibilities

We have carried out our audit in accordance with the NAO's Code of Audit Practice, which reflects the requirements of the Local Audit and Accountability Act 2014 (the Act). Our key responsibilities are to:

- give an opinion on the Council's financial statements (section two)
- assess the Council's arrangements for securing economy, efficiency and effectiveness in its use of resources (the value for money conclusion) (section three).

In our audit of the Council's financial statements, we comply with International Standards on Auditing (UK) (ISAs) and other guidance issued by the NAO.

Materiality	We determined materiality for the audit of the Council's financial statements to be £790,000, which is 1.9% of the Council's gross cost of services.
Financial Statements opinion	We gave an unqualified opinion on the Council's financial statements on 27 November 2020. We included an emphasis of matter paragraph in our report in respect of the uncertainty over valuations of the Council's land and buildings, investment properties and its share of the property investments within Gloucestershire Pension Fund given the Coronavirus pandemic. This does not affect our opinion that the statements give a true and fair view of the Council's financial position and its income and expenditure for the year.
Whole of Government Accounts (WGA)	We completed work on the Council's consolidation return following guidance issued by the NAO.
Use of statutory powers	We did not identify any matters which required us to exercise our additional statutory powers.

Executive Summary

Value for Money arrangements	We were satisfied that the Council put in place proper arrangements to ensure economy, efficiency and effectiveness in its use of resources. We reflected this in our audit report to the Council on 26 November 2020.
Certificate	We certified that we have completed the audit of the financial statements of Cotswold District Council in accordance with the requirements of the Code of Audit Practice on 27 November 2020.

Working with the Council

Remote working arrangements and redeployment of staff to critical front line duties had the potential to impact on the quality and timing of the production of the financial statements, and the evidence we can obtain through physical observation

We are pleased to report that the process worked well with both teams collaborated to identify solutions to hurdles presented by remote working. Inevitably the remote working impacted on delivery and additional resources were necessary on both sides to complete the work in accordance with the new extended reporting timetable.

We would like to record our appreciation for the assistance and co-operation provided to us during our audit by the Council's staff .

Grant Thornton UK LLP
December 2020

Audit of the Financial Statements

Our audit approach

Materiality

In our audit of the Council's financial statements, we use the concept of materiality to determine the nature, timing and extent of our work, and in evaluating the results of our work. We define materiality as the size of the misstatement in the financial statements that would lead a reasonably knowledgeable person to change or influence their economic decisions.

We determined materiality for the audit of the Council's financial statements to be £790,000, which is 1.9% of the Council's gross cost of services. We used this benchmark as, in our view, users of the Council's financial statements are most interested in where the Council has spent its revenue in the year.

We also set a lower level of specific materiality for senior officer remuneration of £4,000.

We set a lower threshold of £553,000, above which we reported errors to the Audit Committee in our Audit Findings Report.

The scope of our audit

Our audit involves obtaining sufficient evidence about the amounts and disclosures in the financial statements to give reasonable assurance that they are free from material misstatement, whether caused by fraud or error. This includes assessing whether:

- the accounting policies are appropriate, have been consistently applied and adequately disclosed;
- the significant accounting estimates made by management are reasonable; and
- the overall presentation of the financial statements gives a true and fair view.

We also read the remainder of the Statement of Accounts to check it is consistent with our understanding of the Council and with the financial statements included in the Statement of Accounts on which we gave our opinion.

We carry out our audit in accordance with ISAs (UK) and the NAO Code of Audit Practice. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our opinion.

Our audit approach was based on a thorough understanding of the Council's business and is risk based.

We identified key risks and set out overleaf the work we performed in response to these risks and the results of this work.

Audit of the Financial Statements

Significant Audit Risks

These are the significant risks which had the greatest impact on our overall strategy and where we focused more of our work.

Risks identified in our audit plan	How we responded to the risk	Findings and conclusions
<p>Covid-19</p> <p>The global outbreak of the Covid-19 virus pandemic has led to unprecedented uncertainty for all organisations, requiring urgent business continuity arrangements to be implemented. We expect current circumstances will have an impact on the production and audit of the financial statements for the year ended 31 March 2020, including and not limited to;</p> <ul style="list-style-type: none"> - Remote working arrangements and redeployment of staff to critical front line duties may impact on the quality and timing of the production of the financial statements, and the evidence we can obtain through physical observation - Volatility of financial and property markets will increase the uncertainty of assumptions applied by management to asset valuation and receivable recovery estimates, and the reliability of evidence we can obtain to corroborate management estimates - Financial uncertainty will require management to reconsider financial forecasts supporting their going concern assessment and whether material uncertainties for a period of at least 12 months from the anticipated date of approval of the audited financial statements have arisen; and - Disclosures within the financial statements will require significant revision to reflect the unprecedented situation and its impact on the preparation of the financial statements as at 31 March 2020 in accordance with IAS1, particularly in relation to material uncertainties. <p>We therefore identified the global outbreak of the Covid-19 virus as a significant risk, which was one of the most significant assessed risks of material misstatement.</p>	<p>We:</p> <ul style="list-style-type: none"> • worked with management to understand the implications the response to the Covid-19 pandemic had on the organisation's ability to prepare the financial statements and update financial forecasts and assessed the implications for our materiality calculations. The draft financial statements were provided on 6 August 2020, which was in line with the planned commencement of the audit; • liaised with other audit suppliers, regulators and government departments to co-ordinate practical cross-sector responses to issues as and when they arose; • evaluated the adequacy of the disclosures in the financial statements that arose in light of the Covid-19 pandemic; • evaluated whether sufficient audit evidence could be obtained through remote technology; • evaluated whether sufficient audit evidence could be obtained to corroborate significant management estimates such as assets and the pension fund liability valuations; and • evaluated management's assumptions that underpin the revised financial forecasts and the impact on management's going concern assessment. 	<p>Our audit work did not identify any significant issues in respect of Covid-19 specific risks. This is not to say that there has not been an impact. The Council have identified a material uncertainty in relation to land and building valuations and investment property valuations. The disclosure of these has been clarified in the revised financial statements following auditor challenge.</p>

Audit of the Financial Statements

Significant Audit Risks - continued

These are the risks which had the greatest impact on our overall strategy and where we focused more of our work.

Risks identified in our audit plan	How we responded to the risk	Findings and conclusions
<p>Management override of internal controls</p> <p>Under ISA (UK) 240 there is a non-rebuttable presumed risk that the risk of management over-ride of controls is present in all entities.</p> <p>We therefore identified management override of control, in particular journals, management estimates and transactions outside the course of business as a significant risk.</p>	<p>We have:</p> <ul style="list-style-type: none"> evaluated the design effectiveness of management controls over journals; analysed the journals listing and determined the criteria for selecting high risk unusual journals; tested unusual journals made during the year and after the draft accounts stage for appropriateness and corroboration; gained an understanding of the accounting estimates and critical judgements applied made by management and considered their reasonableness; and evaluated the rationale for any changes in accounting policies, estimates or significant unusual transactions. 	<p>Our audit work, including our review of journal entries and the related control environment, did not identified any significant issues with regards to management override of controls.</p>
<p>Improper revenue recognition</p> <p>Under ISA (UK) 240 there is a rebuttable presumed risk that revenue may be misstated due to the improper recognition of revenue.</p> <p>This presumption can be rebutted if the auditor concludes that there is no risk of material misstatement due to fraud relating to revenue recognition.</p>	<p>Having considered the risk factors set out in ISA240 and the nature of the revenue streams at the Authority, we have determined that the risk of fraud arising from revenue recognition can be rebutted, because:</p> <ul style="list-style-type: none"> there is little incentive to manipulate revenue recognition opportunities to manipulate revenue recognition are very limited the culture and ethical frameworks of local authorities, including Cotswold District Council, mean that all forms of fraud are seen as unacceptable. <p>We have reviewed material revenue transactions as part of our audit and we are satisfied that there have been no changes of circumstances requiring us to alter our proposed strategy with regards to revenue recognition in the latter part of the year.</p>	<p>Our audit work has not identified any issues in respect of improper revenue recognition.</p>

Audit of the Financial Statements

Significant Audit Risks - continued

These are the risks which had the greatest impact on our overall strategy and where we focused more of our work.

Risks identified in our audit plan	How we responded to the risk	Findings and conclusions
<p>Valuation of land and buildings</p> <p>The Authority revalues its land and buildings on a rolling five-yearly basis. This valuation represents a significant estimate by management in the financial statements due to the size of the numbers involved and the sensitivity of this estimate to changes in key assumptions. Additionally, management will need to ensure the carrying value in the Authority financial statements is not materially different from the current value or fair value (for surplus assets) at the financial statements date, where a rolling programme is used.</p> <p>We therefore identified valuation of land and buildings, particularly revaluations, as a significant risk, which was one of the most significant assessed risks of material misstatement.</p>	<p>We have:</p> <ul style="list-style-type: none"> evaluated management's processes and assumptions for the calculation of the estimate, the instructions issued to valuation experts and the scope of their work; evaluated the competence, capabilities and objectivity of the valuation expert; written to the valuer to confirm the basis on which the valuation was carried out; challenged the information and assumptions used by the valuer to assess completeness and consistency with our understanding, the Council's valuer's report and the assumptions that underpin the valuation; tested revaluations made during the year to see if they had been input correctly into the Council's asset register; and evaluated the assumptions made by the valuer for those assets revalued at 31 March 2020. For the assets not formally revalued in year we have assessed how management has satisfied themselves that these assets are not materially different to current value at year end. 	<p>We identified issues with the valuation of surplus assets which resulted in a material prior period adjustment.</p> <p>As highlighted previously in this report, we included an emphasis of matter paragraph in the audit opinion to reflect the uncertainty surrounding land and building valuations at year end. In line with RICS guidance, the valuer employed by the Council included a material uncertainty in their final valuation report. Officers reflected this in the financial statements. The emphasis of matter paragraph refers to this disclosure in the accounts and draws attention to it for the readers of the financial statements and reflects the increased uncertainty in global markets created by covid-19. This is in line with other local councils.</p>

Audit of the Financial Statements

Significant Audit Risks - continued

These are the risks which had the greatest impact on our overall strategy and where we focused more of our work.

Risks identified in our audit plan	How we responded to the risk	Findings and conclusions
<p>Valuation of investment property</p> <p>The Authority revalues its investment properties on an annual basis to ensure that the carrying value is not materially different from the fair value at the financial statement date. This valuation represents a significant estimate by management in the financial statements due to the size of the numbers involved and the sensitivity of this estimate to changes in key assumptions.</p> <p>Management have engaged the services of an external valuer to estimate the current value as at 31 March 2020.</p> <p>We therefore identified valuation of investment properties, particularly revaluations as a significant risk, which was one of the most significant assessed risks of material misstatement</p>	<p>We have:</p> <ul style="list-style-type: none"> evaluated management's processes and assumptions for the calculation of the estimate, the instructions issued to valuation experts and the scope of their work; evaluated the competence, capabilities and objectivity of the valuation expert; engaged our own expert to assess the instructions to the Authority's valuer, the Authority's valuer's report and the assumptions that underpin the valuation. written to the valuer to confirm the basis on which the valuation was carried out; challenged the information and assumptions used by the valuer to assess completeness and consistency with our understanding, the Council's valuer's report and the assumptions that underpin the valuation; tested revaluations made during the year to see if they had been input correctly into the Council's asset register; and evaluated the assumptions made by the valuer. 	<p>As highlighted previously in this report, we included an emphasis of matter paragraph in the audit opinion to reflect the uncertainty surrounding investment property valuations at year end. In line with RICS guidance, the valuer employed by the Council included a material uncertainty in their final valuation report. Officers reflected this in the financial statements. The emphasis of matter paragraph refers to this disclosure in the accounts and draws attention to it for the readers of the financial statements and reflects the increased uncertainty in global markets created by covid-19. This is in line with other local councils.</p>

Audit of the Financial Statements

Significant Audit Risks - continued

These are the risks which had the greatest impact on our overall strategy and where we focused more of our work.

Risks identified in our audit plan	How we responded to the risk	Findings and conclusions
<p>Valuation of pension fund net liability</p> <p>The Authority's pension fund net liability, as reflected in its balance sheet as the net defined benefit liability, represents a significant estimate in the financial statements and group accounts.</p> <p>The pension fund net liability is considered a significant estimate due to the size of the numbers involved and the sensitivity of the estimate to changes in key assumptions.</p> <p>We therefore identified valuation of the Authority's pension fund net liability as a significant risk of material misstatement.</p>	<p>We have:</p> <ul style="list-style-type: none"> updated our understanding of the processes and controls put in place by management to ensure that the Council's pension fund net liability is not materially misstated and evaluated the design of the associated controls; evaluated the instructions issued by management to their management expert (an actuary) for this estimate and the scope of the actuary's work; assessed the competence, capabilities and objectivity of the actuary who carried out the Council's pension fund valuation; assessed the accuracy and completeness of the information provided by the Council to the actuary to estimate the liability; tested the consistency of the pension fund asset and liability and disclosures in the notes to the core financial statements with the actuarial report from the actuary; undertaken procedures to confirm the reasonableness of the actuarial assumptions made by reviewing the report of the consulting actuary (as auditor's expert) and performing any additional procedures suggested within the report; 	<p>We have received assurances from the auditor of Gloucestershire Pension Fund as to the controls surrounding the validity and accuracy of membership data; contributions data and benefits data sent to the actuary by the pension fund and the fund assets valuation in the pension fund financial statements.</p> <p>The Pension Fund's financial statements disclosed a material uncertainty regarding the valuations of property investments at the year end. Given the significant share of the Pension Fund assets that are attributable to Gloucestershire County Council, there is a similar material uncertainty associated with the Council's pension net liability and a new disclosure is to be included with the Council's revised accounts. Our audit opinion refers to this disclosure as an Emphasis of Matter.</p> <p>Our work in this area has not identified any other issues in respect of valuation of the net liability.</p>

Audit of the Financial Statements

Audit opinion

We gave an unqualified opinion on the Council's financial statements on 27 November 2020.

Preparation of the financial statements

The Council presented us with draft financial statements on 6 August which was in line with the planned commencement of the audit, and provided a good set of working papers to support them. The finance team responded efficiently to our queries during the course of the audit.

Issues arising from the audit of the financial statements

We reported the key issues from our audit to the Council's Audit Committee on 26 November 2020.

Annual Governance Statement and Narrative Report

We are also required to review the Council's Annual Governance Statement and Narrative Report. It published them on its website alongside the draft Statement of Accounts.

Both documents were prepared in line with the CIPFA Code and relevant supporting guidance. We confirmed that both documents were consistent with the financial statements prepared by the Council and with our knowledge of the Council.

Whole of Government Accounts (WGA)

We carried out work in line with instructions provided by the NAO . We issued an assurance statement which confirmed the Council was below the audit threshold.

Other statutory powers

We also have additional powers and duties under the Act, including powers to issue a public interest report, make written recommendations, apply to the Court for a declaration that an item of account is contrary to law, and to give electors the opportunity to raise questions about the Council's accounts and to raise objections received in relation to the accounts.

Certificate of closure of the audit

We certified that we have completed the audit of the financial statements of Cotswold District Council in accordance with the requirements of the Code of Audit Practice on 27 November 2020.

Value for Money conclusion

Background

We carried out our review in accordance with the NAO Code of Audit Practice, following the guidance issued by the NAO in April 2020 which specified the criterion for auditors to evaluate:

In all significant respects, the audited body takes properly informed decisions and deploys resources to achieve planned and sustainable outcomes for taxpayers and local people.

Key findings

Our first step in carrying out our work was to perform a risk assessment and identify the risks where we concentrated our work.

The risks we identified and the work we performed are set out overleaf.

As part of our Audit Findings report agreed with the Council in November 2020, we agreed recommendations to address our findings.

Overall Value for Money conclusion

We are satisfied that in all significant respects the Council put in place proper arrangements to secure economy, efficiency and effectiveness in its use of resources for the year ending 31 March 2020.

Value for Money conclusion

Value for Money Risks

Risks identified in our audit plan	How we responded to the risk	Findings and conclusions
<p>Financial sustainability</p> <p>Like many other similar local authorities, the financial outlook remains challenging. The latest MTFS shows a combined savings plan of £3.6m to balance the budget from 2020/21 to 2022/23. The impact of the Covid-19 lockdown on income generation compounded by additional costs of responding to the outbreak will place further strain on the Council's financial health.</p>	<p>Historically the Council has a strong track record of meeting its financial targets, and in a challenging year, the Council have delivered a deficit against budget of £0.271m. The Council ended the year with General Fund Reserves of £4.475m and General Fund Earmarked Reserves of £7.812m.</p> <p>As set out in our Audit Plan the Council faced a significant financial challenge pre Covid-19. At that point the Council's Medium-Term Financial Strategy indicated required savings over the medium term of £3.6m. Whilst there were specific areas identified to make these savings, this is likely to have been impacted by Covid-19.</p> <p>The global pandemic has exasperated the financial challenges faced by the Council. Although the outbreak had limited impact on 2019/20 it has serious consequences for 2020/21 and beyond. The projected lost income and increased costs, have to date only been partially offset by additional central government funding.</p> <p>It is clear from our review that the Council's financial reporting arrangements are effective and the level of reporting has increased in response to the uncertainty presented by the virus. Despite the Council's good track record of delivering savings, delivering increase savings to plug any gap in the current climate will be challenging and the use of reserves and balances is not sustainable into the long term.</p> <p>The longer-term impact of the virus is not yet known and there are likely to be significant impacts across the medium term. The Councils initial forecasts indicate that whilst the 2020/21 outturn will be impacted, and the original budget gaps remain these are likely to increase.</p>	<p>Based on the work completed we have concluded that the Council have adequate arrangements in place to deliver financial sustainability.</p> <p>We have concluded that you had good arrangements in place to set a realistic and achievable budget for 2020/21.</p> <p>We have concluded that the Council has responded appropriately to the impact of Covid-19 on its medium term financial planning. The Council recognises the inherent risk due to this and the combination of loss of income and increased costs compounded by greater expectation and continued austerity. Whilst balances and reserves are adequate any planned use of them in future budgets is not sustainable into the long term.</p> <p>The financial years 20/21 and 21/22 will see perhaps the peak of the challenge with reduced levels of income, impact on savings, and uncertainty of funding. It is therefore business critical that officers and members take immediate action to identify further mitigations by way of reducing costs or increasing income. It is also crucial the medium-term financial plan is refreshed at the earliest opportunity.</p> <p>Continued close in year monitoring and timely corrective action will be required to ensure budgets are delivered and service redesign with partners implemented.</p>

A. Reports issued and fees – Cotswold District Council

Audit fees 2019/20	Proposed fee
Council scale fee	34,557
Additional proposed audit fee at planning stage	11,250
Total proposed audit fees (excluding VAT) at planning	£45,807
Further additional fees proposed at completion	6,870
Total proposed audit fees (excluding VAT) on completion	£52,677

Reports issued

Report	Dated issued
Audit Plan	June 2020
Audit Findings Report	18 November 2020
Annual Audit Letter	17 December 2020

The Cotswold District Council Audit Plan date June 2020 included £11,250 of proposed addition fees to the scale fee to take account of the additional scepticism required on the audit and the raising of the bar by our regulator. This is reflected in the total proposed audit fees at planning above of £45,807.

Since the presentation of the audit plan we have now reflected on the additional time taken to discharge our responsibilities as a result of Covid-19. The impact of Covid-19 on the audit of the financial statements for 2019/20 has been multifaceted and further information is provided on the next page. As a result of this extra work we are proposing a further increase in fees of £6,870 in addition to those proposed at the planning stage of the audit. This brings the total proposed audit fee up to £52,677. Further details on the breakdown of all additional fees is provided on the next page.

This further charge has not been entered into lightly but reflects only a proportion of the significant additional work we have had to undertake this year to discharge our responsibilities.

We have been discussing this issue with PSAA over the last few months and note these issues are similar to those experienced in the commercial sector and NHS. In both sectors there has been a recognition that audits will take longer with commercial audit deadlines being extended by 4 months and NHS deadline by a month. The FRC has also issued guidance to companies and auditors setting out its expectation that audit standards remain high and of additional work needed across all audits. The link attached <https://www.frc.org.uk/covid-19-guidance-and-advice> (see guidance for auditors) sets out the expectations of the FRC.

Please note that these proposed additional fees are subject to approval by PSAA in line with the Terms of Appointment.

Appendix A – Cotswold District Council Audit fee variations – Further analysis

Final proposed audit fees

The table below shows the proposed variations to the original scale fee for 2019/20 subject to PSAA approval

Audit area	£	Rationale for fee variation
Scale fee	34,577	
Raising the bar	2,500	The Financial Reporting Council (FRC) has highlighted that the quality of work by all audit firms needs to improve across local audit. This required additional supervision and leadership, as well as additional challenge and scepticism in areas such as journals, estimates, financial resilience and information provided by the entity.
Pensions – (IAS) 19	1,750	We have increased the granularity, depth and scope of coverage, with increased levels of sampling, additional levels of challenge and explanation sought, and heightened levels of documentation and reporting.
PPE Valuation – work of experts	1,750	We have increased the volume and scope of our audit work to ensure an adequate level of audit scrutiny and challenge over the assumptions that underpin PPE valuations.
Housing Benefit	1,250	Note that PSAA's original scale fee for this contract was set in March 2018, so any new developments since that time need to be priced in. You are required to respond effectively to new accounting standards and we must ensure our audit work in these new areas is robust.
Investment Property – Auditor's expert	4,000	This is a direct recharge of the costs we will incur in obtaining expert valuation advise in respect of your investment properties.
Revised planning fee	45,807	
Covid-19	6,870	Over the past six months the current Covid-19 pandemic has had a significant impact on all of our lives, both at work and at home. The impact of Covid-19 on the audit of the financial statements for 2019/20 has been multifaceted. This includes: <ul style="list-style-type: none"> • Revisiting planning - we have needed to revisit our planning and refresh risk assessments, materiality and testing levels. This has resulted in the identification of a significant risk at the financial statements level in respect of Covid-19 necessitating the issuing of an addendum to our original audit plan as well as additional work on areas such as going concern and disclosures in accordance with IAS1 particularly in respect to material uncertainties. • Management's assumptions and estimates - there is increased uncertainty over many estimates including pension and other investment valuations. Many of these valuations are impacted by the reduction in economic activity and we are required to understand and challenge the assumptions applied by management. • Financial resilience assessment – we have been required to consider the financial resilience of audited bodies. Our experience to date indicates that Covid-19 has impacted on the financial resilience of all local government bodies. This has increased the amount of work that we need to undertake on the sustainable resource deployment element of the VFM criteria necessitating enhanced and more detailed reporting in our ISA260. • Remote working – the most significant impact in terms of delivery is the move to remote working. We, as other auditors, have experienced delays and inefficiencies as a result of remote working, including managing around agreed dates for receiving the accounts in light of knock on implications of other sector audits, and delays in responses during audit fieldwork. These are understandable and arise from the availability of the relevant information and/or the availability of key staff (due to shielding or other additional Covid-19 related demands). In many instances the delays are caused by our inability to sit with an officer to discuss a query or working paper. Gaining an understanding via Teams or phone is more time-consuming.
Total proposed audit fees on completion	52,677	



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Agenda Item 10



COTSWOLD
DISTRICT COUNCIL

Council name	COTSWOLD DISTRICT COUNCIL
Name and date of Committee	AUDIT COMMITTEE – 28 JANUARY 2021
Report Number	AGENDA ITEM 10
Subject	UBICO GOVERNANCE OVERVIEW AND BUSINESS PLAN UPDATE
Wards affected	ALL
Accountable member	Councillor Andrew Doherty, Cabinet Member for Environment, Waste and Recycling Email: Andrew.doherty@cotswold.gov.uk
Accountable officer	Beth Broughton, Managing Director - UBICO Tel: 01242 387701 Email: beth.broughton@ubico.co.uk
Summary/Purpose	This report provides an overview of Ubico's governance, an update on changes to the Ubico Board and Board activity in 20/21, and details of the approval process for the 21/22 Ubico Business Plan.
Annexes	Annex A – Report Update
Recommendation/s	<i>That the report be noted</i>
Corporate priorities	Deliver the highest standards of services; collecting household waste and recycling.
Key Decision	NO
Exempt	NO

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Ubico Limited

Governance Overview & Business Plan Update

Cotswold District Council Audit Committee

28 January 2021

1. Purpose

- 1.1. This report provides an overview of Ubico's governance, an update on changes to the Ubico Board and Board activity in 20/21, and details of the approval process for the 21/22 Ubico Business Plan.

2. Background

- 2.1. Ubico is a wholly owned council company (sometimes known as a teckal company), owned by seven shareholders: Cheltenham Borough Council, Cotswold District Council, Forest of Dean District Council, Gloucestershire County Council, Stroud District Council, Tewkesbury Borough Council, West Oxfordshire District Council.
- 2.2. As a council-owned (teckal) company, any of the shareholding authorities can passport work to the company without going through a public procurement process. This is advantageous as it saves the time and costs of complicated and lengthy procurement processes. In addition, further benefits of being a Ubico shareholder are as follows:
- All services are delivered at cost as if it was an in house service
 - Terms and conditions can be agreed that are appropriate in the market and are not bound by Local Government T&Cs
 - Greater flexibility to change, re-design and amend services without having to go through costly contract negotiations with an out-sourced provider

ANNEX A

- Service costs are ring-fenced to each shareholder (apart from a central corporate charge to pay for things like, HR, Finance, IT, and management) preventing any cross-subsidisation across service partnerships
- Any savings or surpluses within the partnership are returned back to the shareholder, however, each shareholder holds the financial risk if costs exceed those forecast, as would be the case in an in-house service
- Any commercial profits from activities for external parties are returned to shareholders on a proportional basis to size of the partnership contract

2.3. To retain Ubico's teckal exemption status the company must satisfy certain tests. These are:

- At least 80% of the company's turnover has to be with shareholding authorities
- The shareholders must control the company as if it were an in-house department of the authorities
- No private capital can be invested in the company

2.4. Ubico's shareholder agreement has a number of key provisions to ensure that shareholders exercise control of the company. These include:

- The right to appoint Non-Executive Directors (who are not elected members)
- The appointment of Executive Directors, including setting their remuneration
- Agreement of the annual Business Plan
- Agreeing Annual Accounts and the appointment of external auditors
- Agreeing partnership sums for the delivery of services and investment in the company (via local democratic processes)

2.5. Any changes to the shareholders agreement have to be agreed unanimously by all shareholders.

2.6. In 2017, an external Board Effectiveness Review was undertaken to provide recommendations as part of maintaining good corporate practice.

2.7. An action plan was implemented in 2018 to deliver the findings of the review, and focussed on making changes and improvements to:

ANNEX A

- Board composition
- Managing risk and audit
- Performance and financial information
- Reviewing induction and training of Directors
- Meeting frequency and engagement with shareholders

2.8. Throughout 2018, Ubico implemented considerable internal changes to improve reporting of risks and audit reports to the Board, increased the frequency of Board meetings and re-designed management information and financial information to commissioners and shareholders.

2.9. Consultation with Shareholders resulted in the design of a new board structure to fill skills gaps identified in the Effectiveness Review, with the redesigned board comprising three Executive Directors, three Non-Executive Directors from local authority shareholders, and three independently appointed Non-Executive Directors including an Independent Chair of the board.

3. Board Update and Key Activity

3.1. The new Board structure came into effect in February 2020, with an immediate focus on delivering further on the improvements suggested in the Board Effectiveness Review including:

- The formation of a Risk and Audit Committee and a Governance and Nominations Committee to offer greater opportunity to provide support to the Board in key governance areas. For example, better understanding of business risk, and ensuring the processes to mitigate risk are effective and there is compliance.
- The design of a process for annual performance reviews for all Non-Executive Directors. These reviews are due to commence from January 2021
- The adoption of a Shareholder Engagement Policy in order to help ensure that the correct processes and procedures are in place to reflect robust governance and engagement. This document has been shared with key stakeholders in our shareholder councils for their feedback.
- Convening three virtual 'Away Day' sessions to determine a proposal for a new Five Year Vision and supporting strategy for Ubico which was shared with, and supported by, the Shareholder Representatives at the Annual General Meeting.

ANNEX A

The final version of the new Five Year Vision will be recommended to Shareholders for formal approval along with the draft 2021/22 Business Plan.

- Requesting that the company resume the production of an annual report each year to accompany the annual statement of accounts, the last such report having been produced some five or six years ago. An annual report for 2019/20 has therefore been produced and has been endorsed by the Ubico Board. It was shared with our Shareholder Representatives at a formal meeting after our AGM in December, and will be published on our website in January 2021.

4. Shareholder engagement and agreement for the 2021/22 Business Plan

- 4.1. Ubico's Business Plan is a reserved matter for Shareholder approval, and, whilst unanimous agreement is always sought for each Business Plan, the Plan itself can be adopted with a majority of Shareholders in agreement.
- 4.2. The timetable for the 21/22 Business Plan process is set out in the table below. Member engagement on the draft Business Plan themes for 2021/22 is currently underway, via a presentation to Shareholder Representatives/Portfolio holders, Cabinet or Scrutiny, as determined by each authority.

Date	Activity
October 2020	Draft 21/22 Business Plan themes presented to Ubico's Board of Directors
December 2020 – February 2021	Opportunity for member engagement on 21/22 draft Business Plan themes via presentation to Shareholder Representatives/Portfolio holders, Cabinet or Scrutiny
February 2021	Presentation of draft written 21/22 Business Plan to Ubico's Board of Directors
February–March 2021	Presentation of draft written 21/22 Business Plan to Shareholder

ANNEX A

	Representatives for any further comments or feedback
March– April/May 2021	Shareholder resolution circulated for sign off for approval by Shareholder via delegated authority of the Shareholder or by Cabinet

- 4.3. At Cotswolds, the presentation was made to key officers including S151 and the Publica commissioning officers for their engagement and feedback early in the process, and next it will be presented to the portfolio holder.

Report author	Beth Boughton, Managing Director beth.boughton@ubico.co.uk 012472 387701
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Agenda Item 11



COTSWOLD
DISTRICT COUNCIL

Council name	COTSWOLD DISTRICT COUNCIL
Name and date of Committee	AUDIT COMMITTEE - 28 JANUARY 2021
Report Number	AGENDA ITEM 11
Subject	ARRANGEMENTS FOR INVESTIGATING ALLEGATIONS UNDER THE MEMBER CODE OF CONDUCT
Wards affected	ALL
Accountable member	Cllr Patrick Coleman, Chair of Audit Committee Email: patrick.coleman@cotswold.gov.uk
Accountable officer	Patrick Arran, Monitoring Officer Email: patrick.arran@cotswold.gov.uk
Summary/Purpose	To inform the Audit Committee of the Committee for Standards in Public Life best practice recommendations and to provide draft Arrangements for investigating complaints under the Code of Conduct
Annexes	Annex A – Draft Arrangements for investigating alleged breaches of the Member Code of Conduct
Recommendation/s	It is recommended that Audit Committee: a) Notes the requirement that the Committee for Standards in Public Life Best Practice recommendations should be adopted by all councils b) Notes that the LGA Model Code of Conduct and the draft Arrangements implement all but two of the Best Practice recommendations c) Considers the draft Arrangements for investigating complaints appended to this report and, subject to any changes it wishes to make, recommend them to the next appropriate meeting of Council for adoption. d) Authorise the Monitoring Officer to provide town and parish councils with the proposed Arrangements for investigating complaints for information and comment prior to consideration by Council at the next appropriate meeting e) Instructs the Monitoring Officer to ensure that the register of members gifts and hospitality is updated and published quarterly

	<p>f) Instructs the Monitoring Officer & Section 151 Officer to provide a report on any separate bodies set up or owned by the Council as part of the Annual Governance Statement to the committee and giving a full picture of its relationship with those bodies</p> <p>g) Consequent upon all of these recommendations being approved, authorise the Monitoring Officer to make a report to the Committee for Standards in Public Life that the best practice recommendations have been adopted in their entirety</p>
Corporate priorities	Not applicable to this report
Key Decision	NO
Exempt	NO
Consultees/ Consultation	No consultation is required, but the Monitoring Officer will consult informally with town and parish councils about the arrangements as they will be covered by them with the District Council as the Relevant Authority.

1. Background

This report will inform the Committee of the Best Practice recommendations set out in the Committee on Standards in Public Life (CSPL) report called “Local Government Ethical Standards” dated the 30th January 2019. It will also provide a draft document which will set out a process for investigating complaints under the Code of Conduct (the Arrangements). The full report is available online [here](#)

- 1.1 The CSPL undertook a review of the ethical framework for members and the purpose of the study and subsequent report was to provide assurance that the current framework following the implementation of the Localism Act 2011 was achieving its aim of ensuring that the standards expected by the public were being maintained and promoted. Members will recall that the Localism Act abolished the Standards Board for England with the intention that ethical standards would be maintained by Councils at a local level and that member conduct would be judged at the ballot box.
- 1.2 The CSPL review concluded that robust standards arrangements are needed to safeguard local democracy, maintain high standards of conduct, and to protect ethical practice in local government. The terms of reference for the review were to examine the structures, processes and practices in local government in England for:
- maintaining codes of conduct for local councillors
 - investigating breaches fairly and with due process
 - enforcing codes and imposing sanctions for misconduct
 - declaring interests and managing conflicts of interest
 - whistle blowing
- 1.3 The CSPL also assessed whether the existing structures, processes and practices are conducive to high standards of conduct in local government and were to make any recommendations for how they can be improved.

- 1.4 As part of its review, the CSPL made 15 best practice recommendations which are contained in the report. The expectation was that the best practice recommendations should be adopted by all councils. The CSPL wrote to all local authority Chief Executives in July 2020 to follow up the recommendations and again in the autumn to ask for progress against the recommendations. To date, this authority has not provided an update whilst the existing Code and Arrangements were considered by the Monitoring Officer who came into post late summer.
- 1.5 Overall, CSPL appears to be satisfied that the current arrangements in England are working and, whilst it accepted that the benefits of devolved arrangements should remain, this required strengthening to deal with the minority of councillors who do not adhere to the Nolan Principles and engage in disruptive or abusive behaviour. The Committee also discovered some perceived risks in relation to the rules around conflicts of interest and gifts and hospitality which they considered to be inadequate.
- 1.6 The CSPL have made a number of recommendations - which are set out in its report - and which they believed strike the balance between allowing ethical standards to be dealt with locally whilst providing a system which can hold to account those who commit the most serious or persistent breaches. The key recommendations include:
- A rebuttable presumption that Councillors public behaviour is in their Official Capacity
 - The criminal offences relating to Disclosable Pecuniary Interests should be abolished
 - A new power for local authorities to suspend councillors without allowances for up to six months
 - A right of appeal for suspended councillors to the Local Government Ombudsman
 - Revised rules on declaring interests, gifts and hospitality
 - Local authorities will retain ownership of their own Codes of Conduct
 - Strengthened role for the Independent Person
 - Greater transparency about the number and nature of Code complaints.
- 1.7 The report was to the Government and it is acknowledged that a number of the recommendations will need legislative change, as it stands any legislative intervention will inevitably be delayed by the pandemic and any issues arising from Brexit. The Monitoring Officer will provide further updates to the Committee as appropriate.
- 1.8 The Monitoring Officer has set out below the best practice recommendations together with his commentary as to the situation at Cotswold DC.
- 1.9 The Monitoring Officer advises the Committee to make a recommendation to Council to adopt the proposed draft Arrangements. Coupled with the LGA Model Code and the other recommendations in this report, the best practice recommendations will have been adopted. This will also enable Cotswold District Council to overtly demonstrate that it has considered and adopted all or some of the best practice recommendations should a review be carried out by CSPL. It must be noted however, that this is not compulsory and they are recommendations, not stipulations.

2. Best Practice Recommendations¹

Best practice 1: Local authorities should include prohibitions on bullying and harassment in codes of conduct. These should include a definition of bullying and harassment, supplemented with a list of examples of the sort of behaviour covered by such a definition.

Comment - The majority of the cases reviewed by CSPL related to bullying or harassment, or other disruptive behaviour. The LGA Model Code of Conduct has a prohibition on bullying and harassment together with definitions of bullying and harassment.

Best practice 2: Councils should include provisions in their code of conduct requiring councillors to comply with any formal standards investigation, and prohibiting trivial or malicious allegations by councillors.

Comment – This is contained in the LGA Model Code which has gone further and added that members will undertake Code of Conduct training and that members will comply with any sanction imposed on them following a finding that they have breached the Code.

Best practice 3: Principal authorities should review their code of conduct each year and regularly seek, where possible, the views of the public, community organisations and neighbouring authorities.

Comment – This recommendation results from experiences where Councils have not set out a Code of Conduct in the traditional sense but have merely stated that they expect compliance with the Nolan Principles. This has been built into the Arrangements.

Best practice 4: An authority's code should be readily accessible to both councillors and the public, in a prominent position on a council's website and available in council premises.

Comment – The Council does make the Code of Conduct available online as part of the Constitution, the CSPL requirement goes further and suggests that they should not be "*inaccessible on a local authority's website or as an annex to the authority's constitution*".

Best practice 5: Local authorities should update their gifts and hospitality register at least once per quarter, and publish it in an accessible format, such as CSV.

Comment – The Council does publish any Gifts and Hospitality on the website under individual councillor names. Consideration will need to be given as to whether this should be subject to more formal arrangements even if it produces a nil return. In addition, members will need to be reminded to check whether they need to update their declarations of interest at least once per year and in any event if their circumstances change.

¹ These are based on the assumption that Council will adopt the LGA Model Code of Conduct at its meeting on the 20th January 2021 (the date of publication of this report)

Best practice 6: Councils should publish a clear and straightforward public interest test against which allegations are filtered.

Comment - The standards bodies in Scotland, Wales and Northern Ireland all make use of a 'public interest' test when filtering complaints. These tests set clear expectations to those making complaints and ensure consistency of approach. A public interest test has been included in the draft Arrangements which will be considered below

Best practice 7: Local authorities should have access to at least two Independent Persons.

Comment – Council is considering a report on the 20th January 2021 to appoint two Independent Persons and to re-appoint an existing Independent Persons so it will have access to three IP's and will be compliant with this requirement.

Best practice 8: An Independent Person should be consulted as to whether to undertake a formal investigation on an allegation and should be given the option to review and comment on allegations which the responsible officer is minded to dismiss as being without merit, vexatious, or trivial.

Comment – This is included in the draft Arrangements as part of the process.

Best practice 9: Where a local authority makes a decision on an allegation of misconduct following a formal investigation, a decision notice should be published as soon as possible on its website, including a brief statement of facts, the provisions of the code engaged by the allegations, the view of the Independent Person, the reasoning of the decision-maker, and any sanction applied.

Comment – The publication of findings is within the Council's current Arrangements and is included in the draft Arrangements appended to this report.

Best practice 10: A local authority should have straightforward and accessible guidance on its website on how to make a complaint under the code of conduct, the process for handling complaints, and estimated timescales for investigations and outcomes.

Comment – As mentioned previously, the Council does have guidance on its website, but the draft Arrangements are intended to provide a more detailed description of the process with clear guidance to comply with the recommendation. It is good practice to include informal resolution of complaints as a first consideration where there is a breach of the Code of Conduct, but which is not considered serious enough to investigate. Involving the Independent Person in the initial consideration of the complaint provides adequate safeguards to the process.

Best practice 11: Formal standards complaints about the conduct of a parish councillor towards a clerk should be made by the chair or by the parish council as a whole, rather than the clerk in all but exceptional circumstances.

Comment – The CSPL are of the view, with which the Monitoring Officer concurs, that Parish Councils should take corporate responsibility when allegations of a councillor bullying an employee – normally only the Clerk is employed in smaller councils – are received. This is not a controversial proposal and is any event part of the employer’s duty of care to the employee. Clearly, if the Chair is alleged to be the person carrying out the conduct, other members of the Council should report.

Best practice 12: Monitoring Officers’ roles should include providing advice, support and management of investigations and adjudications on alleged breaches to parish councils within the remit of the principal authority. They should be provided with adequate training, corporate support and resources to undertake this work.

Comment – This is something which is included in the draft Arrangements. However, the role cannot extend beyond providing advice in relation to ethical matters and would not include advising on governance issues. Parish Councils will need to take advice from their Association(s) on these matters.

Best practice 13: A local authority should have procedures in place to address any conflicts of interest when undertaking a standards investigation. Possible steps should include asking the Monitoring Officer from a different authority to undertake the investigation.

Comment – The Authority has one Deputy Monitoring Officer, namely Susan Gargett the Legal Services Manager, who would act in the unlikely event of a conflict for the Monitoring Officer. If she were unable to act for any reason, it would be normal practice for a Monitoring Officer from another authority to be asked to assist, this would be on a reciprocal basis and should be cost neutral. This has been included in the draft Arrangements.

Best practice 14: Councils should report on separate bodies they have set up or which they own as part of their annual governance statement, and give a full picture of their relationship with those bodies. Separate bodies created by local authorities should abide by the Nolan principle of openness, and publish their board agendas and minutes and annual reports in an accessible place.

Comment – This is something that is already in existence but could be re-stated where appropriate.

Best practice 15: Senior officers should meet regularly with political group leaders or group whips to discuss standards issues

Comment – There is nothing controversial in this recommendation and meetings can take place by exception. Again, this is referred to in the draft Arrangements.

- 2.1 If Council adopts the LGA Model Code and the draft Arrangements are acceptable, then all but two of the best practice recommendations will have been adopted by the Council. In respect of the two recommendations which it was not appropriate to build into the Model Code and Arrangements, the Monitoring Officer has set out recommendations to deal with these.

2.2 The two outstanding which need to be actioned are:

Best practice 5: Local authorities should update their gifts and hospitality register at least once per quarter, and publish it in an accessible format, such as CSV.

Best practice 14: Councils should report on separate bodies they have set up or which they own as part of their annual governance statement and give a full picture of their relationship with those bodies. Separate bodies created by local authorities should abide by the Nolan principle of openness and publish their board agendas and minutes and annual reports in an accessible place.

- 2.3 It is recommended that the committee considers whether it could demonstrate compliance with best practice recommendation 5 by instructing the Monitoring Officer to update and publish the gifts and hospitality register quarterly. Best practice recommendation 14 could be satisfied by inclusion in the Annual Governance Statement as suggested.
- 2.4 Once adopted, this will enable the Monitoring Officer to notify the CPSL that the authority has formally adopted its recommendations and authority is requested to do this on the authority's behalf.

3. Arrangements for dealing with complaints under the code of conduct

Section 28 (6) of the Localism Act 2011 provides that a relevant authority other than a parish council must have in place—

- (a) arrangements under which allegations can be investigated, and
- (b) arrangements under which decisions on allegations can be made

3.1 In order to implement the CSPL best practice recommendations, the Monitoring Officer has provided draft Arrangements for the Committee to consider recommending to Council for adoption. The draft Arrangements are intended to replace the current arrangements in their entirety. The draft Arrangements contain references to guide members to the corresponding best practice recommendations

3.2 Section 28 (7) of the Localism Act state that the authority must ensure the appointment of at least one independent person:

- (a) whose views are to be sought, and taken into account, by the authority before it makes its decision on an allegation that it has decided to investigate, and
- (b) whose views may be sought—
 - (i) by the authority in relation to an allegation in circumstances not within paragraph (a)

- 3.3 The primary purpose of the Independent Person is to provide a check and balance to the arrangements adopted by a Council to determine complaints under the Code of Conduct to ensure that members have an independent view before making decisions on breach and sanctions. This is primarily a safeguard to the rights of individual members in the absence of a body which oversees standards with the abolition of the Standards Board for England and is reinforced in the recent Committee on Standards in Public Life review of the ethical standards regime in England which recommends at least two.
- 3.4 The authority must seek the views of the Independent Person before it makes a decision when there has been an investigation– i.e. the Hearings Panel. The authority may seek the views of the Independent Person in relation to allegation before a decision has been made to investigate. This has normally manifested in the involvement of the Independent Person at the point when the Monitoring Officer is making a preliminary decision who will seek the view – but not be bound by – the Independent Person.
- 3.5 It is the role of the District Council to provide the process under which complaints against town and parish councillors can be investigated. The District Council has responsibility to make findings and recommend sanctions. As such the Monitoring Officer has recommended that, if approved, the draft Arrangements are sent to the town and parish council by way of informal consultation prior to adoption by Council.
- 3.6 It is not intended to provide a commentary on the proposed arrangements, suffice to say that they are intended to be a guide to complainants and members and set out the process in a logical way. They incorporate the CSPL best practice recommendations which are referenced in footnotes in the document.

4. FINANCIAL IMPLICATIONS

There are no financial implications arising from the recommendations in this report.

5. LEGAL IMPLICATIONS

All legal implications are set out in the body of the report.

6. RISK ASSESSMENT

There are no tangible risks identified as a result of the recommendations made in this report other than a reputational risk if the authority does not adopt the CSPL best practice recommendations.

7. EQUALITIES IMPACT

There are no equality implications arising from the recommendations in this report.

8. CLIMATE CHANGE IMPLICATIONS

There are no climate change implications arising from the recommendations in this report.

9. ALTERNATIVE OPTIONS

No alternative options have been considered.

10. BACKGROUND PAPERS

None

ARRANGEMENTS FOR DEALING WITH COMPLAINTS UNDER THE CODE OF CONDUCT ABOUT DISTRICT AND TOWN & PARISH COUNCILLORS¹

Most councillors conduct themselves appropriately and in accordance with the Code of Conduct. Councillors have both individual and collective responsibility to maintain these standards, support expected behaviour and challenge behaviour which falls below expectations.

The Localism Act places a general duty on the Council to ensure that high standards of conduct are maintained and demonstrated to the public. An authority must have an effective, fair, impartial, and transparent complaints and investigation procedure to enable it to make decisions on allegations which both councillors and the public can have confidence. Sanctions should be imposed in a consistent way and only where there is a genuine breach.

This procedure applies when a complaint is received that a member of Cotswold District Council or a town / parish councillor has, or may have, failed to comply with the Code of Conduct for Members ('the Code'). The District Council has adopted the Local Government Association Model Code of Conduct (the Code)² which it will review each year and regularly seek, where possible, the views of the public, community organisations and the town and parish councils.³ The Code will be readily accessible to both councillors and the public and will be placed in a prominent position on the District Councils website and available in its premises.⁴

1. General

The person making the complaint will be referred to as "the complainant" and the person against whom the complaint is made will be referred to as the "subject member".

1.2 The Monitoring Officer is the officer of the Council who is responsible for administering the system of complaints about member misconduct and as part

¹ References to best practices recommendations throughout this document refer to the recommendations made by the Committee for Standards in Public Life report

² This assumes that it will be adopted by Council on the 20th January 2021

³ **Best practice 3:** Principal authorities should review their code of conduct each year and regularly seek, where possible, the views of the public, community organisations and neighbouring authorities.

⁴ **Best practice 4:** An authority's code should be readily accessible to both councillors and the public, in a prominent position on a council's website and available in council premises.

of that role may nominate another officer of suitable experience and seniority to carry out any of the functions listed in this procedure.

- 1.2.1 The Monitoring Officer will provide advice, support and management of investigations and adjudications on alleged breaches to town and parish councils within Cotswold District.⁵ However, the Monitoring Officer cannot provide advice to town and parish councils in relation to matters outside of the Code, e.g. decision making not involving a breach of the Code and meeting procedure and etiquette.
- 1.2.2 The Monitoring Officer will usually appoint a deputy to act when he or she is unavailable or has an actual or potential conflict of interest. Susan Gargett, Legal Services Manager is the Deputy Monitoring Officer at Cotswold District Council. If there is no deputy or the deputy is unavailable, the Monitoring Officer may ask a monitoring officer from a different authority to undertake the investigation.⁶
- 1.3 The Council appoints Independent Persons from outside the authority to assist the Monitoring Officer and Hearings Panel in considering complaints. The Independent Persons currently appointed by the District Council are Michael Paget-Wilkes, John Acton and Phyllida Pyper.⁷
- 1.4 No member or officer of Cotswold District Council or any town or parish council will participate in any stage of the arrangements if he or she has, or may have, any conflict of interest in the matter.

2. Making a complaint⁸

- Complaints should be made in writing by e-mail at patrick.arran@cotswold.gov.uk
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⁵ **Best practice 12:** Monitoring Officers' roles should include providing advice, support and management of investigations and adjudications on alleged breaches to parish councils within the remit of the principal authority. They should be provided with adequate training, corporate support and resources to undertake this work.

⁶ **Best practice 13:** A local authority should have procedures in place to address any conflicts of interest when undertaking a standards investigation. Possible steps should include asking the Monitoring Officer from a different authority to undertake the investigation.

⁷ **Best practice 7:** Local authorities should have access to at least two Independent Persons.

⁸ **Best practice 10:** A local authority should have straightforward and accessible guidance on its website on how to make a complaint under the code of conduct, the process for handling complaints, and estimated timescales for investigations and outcomes.

- 2.1 Complaints about councillors may be made by anyone, but complaints about the conduct of a town or parish councillor towards a clerk should be made by the chair or by the parish council as a whole, rather than the clerk in all but exceptional circumstances.⁹ The Monitoring Officer may require the town or parish council to seek to resolve the complaint itself informally in the first instance.
- 2.2 An oral complaint will be accepted where the complainant is unable to write due to a physical or mental disability or there is a language barrier. Where an oral complaint is received it will be transcribed and sent to the complainant for their approval and the Monitoring Officer will talk them through it.
- 2.3 Anonymous complaints will only be accepted in exceptional circumstances. Further information regarding confidentiality and anonymous complaints is set out below.
- 2.4 A complaint must provide substantiated information and should outline an indication of the form of resolution the complainant is seeking. Further information regarding the range of sanctions available is set out in paragraph 9 below.
- 2.5 If the complaint identifies criminal conduct or breach of other regulations by any person, the Monitoring Officer is authorised to report this to the Police or other prosecuting or regulatory authority, in addition to any action taken pursuant to the Code. In the case of alleged criminal conduct the complaint may be held in abeyance pending the outcome of any criminal investigation to ensure that no criminal investigation is prejudiced (Referred to as Sub Judice).
- 2.6 If a complainant wishes their identity to be withheld, they should state this and provide full reasons why they believe their request is justified when submitting the complaint. Any request for confidentiality will be considered by the Monitoring Officer at the initial assessment stage of these Arrangements. In reaching his/her decision the Monitoring Officer may also consult with the Independent Person.

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- ⁹ **Best practice 11:** Formal standards complaints about the conduct of a parish councillor towards a clerk should be made by the chair or by the parish council as a whole, rather than the clerk in all but exceptional circumstances.

- 2.7 As a matter of fairness and natural justice the subject member will usually be told who has complained about them and receive details of the complaint. However, in exceptional circumstances, the Monitoring Officer may withhold the complainant's identity if they are satisfied that the complainant has reasonable grounds for believing that they or any witness relevant to the complaint may be at risk of physical harm, or his or her employment may be jeopardised if their identity is disclosed, or where there are medical risks (supported by medical evidence) associated with the Complainant's identity being disclosed.
- 2.8 If the Monitoring Officer decides to refuse a request by a complainant for confidentiality, they will offer the complainant the option to withdraw the complaint, rather than proceed with his or her identity being disclosed. The Monitoring Officer will balance whether the public interest in taking action on a complaint will outweigh the complainant's wish to have his or her identity withheld from the subject member.
- 2.9 The Monitoring Officer may discontinue a complaint if they consider it appropriate to do so where the subject member ceases to be a councillor for any reason. Where a complaint is discontinued the Monitoring Officer will write to the complainant setting out the reasons for their decision.
- 2.10 If an anonymous complaint is received it will be considered by the Monitoring Officer at the initial assessment stage of these Arrangements. In reaching his / her decision the Monitoring Officer may also consult with the Independent Person.
- 2.11 The principles of fairness and natural justice referred to in paragraph 2.7 will also be applied to anonymous complaints and such complaints will only be accepted if they include documentary or photographic evidence indicating an exceptionally serious or significant matter.
- 2.12 The Monitoring Officer will acknowledge receipt of the complaint within a maximum of 10 working days of all required information being provided. The complainant will be given details about how the complaint will be dealt with and provided with a copy of these Arrangements. At the same time, the Monitoring Officer will write to the subject member and copy in their Group Leader and / or Whip if applicable (and in the case of a complaint about a town or parish council member to the Clerk) with a copy of the complaint and the name of the complainant, (unless anonymity has been requested and accepted as valid by the Monitoring Officer).

- 2.13 The subject member may, within 10 working days of being provided with a copy of the complaint, make written representations to the Monitoring Officer which must be taken into account when deciding how the complaint should be dealt with. Representations received after this time may be taken into account at the discretion of the Monitoring Officer but will not be considered after the Monitoring Officer has issued the initial assessment of the complaint.
- 2.14 Whilst the Monitoring Officer will deal with complaints at the earliest convenience, a decision regarding whether the complaint merits formal investigation or another course of action will normally be taken within a maximum of 20 working days of either receipt of representations from the subject member or where no representations are submitted 20 working days of the expiry of the period mentioned in paragraph 2.12 above. The complainant and the subject member will be informed should there be a delay in completing any stage of the process.

3. Stage 1 – Procedure for Initial Assessment of Complaint

- 3.1 The complaint will be automatically rejected if:
- The complaint is not against one or more named member of Cotswold District Council or any town or parish council within Cotswold District; or
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 - The complaint is against a current member of Cotswold District Council or any town or Parish Council within Cotswold District but the subject member was not acting in their capacity as a member of that council at the time of the alleged failure to comply with the Code. (The Monitoring Officer will consider all of the circumstances before reaching a conclusion as to the status of the member at the time of the alleged breach of the Code)
- 3.1.1 The Monitoring Officer may at his / her discretion, consult with the Independent Person in these circumstances.
- 3.1.2 Where a complaint is rejected on any of the above grounds, the Monitoring Officer will write to the complainant explaining why their complaint cannot be dealt with under this procedure.
- 3.2 The Monitoring Officer may request further information from either the complainant, the subject member or any other persons the Monitoring Officer considers appropriate before reaching a decision.

- 3.3 Where a complaint is by an officer or a member about a member of the same council which would be more appropriately dealt with informally, the Monitoring Officer will refer the matter to the relevant Group Leader and may, but will not have to, consult the Independent Person.
- 3.4 In all other cases, the Monitoring Officer will consider the complaint and, consult with the Council's Independent Person before reaching a decision¹⁰ (initial assessment) as to whether the complaint merits investigation, or another course of action. Where the complaint relates to a town or parish council member, the Monitoring Officer may also seek input from the clerk of the town or parish council before deciding whether the complaint merits formal investigation or other action.
- 3.5 If the complaint has not been rejected on either of the grounds in 3.1 the Monitoring Officer will then go on to apply the following criteria¹¹ in deciding whether a complaint should be accepted for investigation, dealt with informally, or rejected:
- Unless a pattern of behaviour is established, a substantially similar allegation has previously been made by the complainant to the Monitoring Officer (unless sufficient new evidence is provided), or the complaint has been the subject of an investigation by another regulatory authority;
 - The complaint is about something that happened so long ago that those involved are unlikely to remember it clearly enough to provide credible evidence, or where the lapse of time means there would be little benefit or point in taking action now;
 - The allegation is anonymous
 - The complaint is of an interpersonal nature that would more properly be dealt with by referring the matter to the members Group Leader for informal resolution

¹⁰ **Best practice 8:** An Independent Person should be consulted as to whether to undertake a formal investigation on an allegation and should be given the option to review and comment on allegations which the responsible officer is minded to dismiss as being without merit, vexatious, or trivial.

¹¹ **Best practice 6:** Councils should publish a clear and straightforward public interest test against which allegations are filtered.

- The allegation discloses a potential breach of the Code of Conduct, but the alleged conduct is not serious enough to merit any action and
- The resources needed to investigate and determine the complaint are wholly disproportionate to the allegations or
- In all the circumstances there is no overriding public benefit in carrying out an investigation.
- The complaint appears to be malicious, vexatious, politically motivated or tit for tat;
- The complaint suggests that there is a wider problem throughout the Authority;

3.6 After consulting with the Independent Person the Monitoring Officer will then give his/her decision on how the complaint will be dealt with. The Monitoring Officer may in exceptional circumstances refer the question as to how to proceed to the Chair person of the Audit Committee.

3.7 If the Monitoring Officer decides that no further action is appropriate, a decision notice will be sent to the complainant and the subject member. The decision notice will summarise the allegation, give the decision of the Monitoring Officer and the reasons for their decision.

4. Stage 2 - Informal Resolution

4.1 In appropriate cases, and at any stage, the Monitoring Officer may seek to resolve the complaint informally, without the need for a formal investigation. Informal resolution may be appropriate for example where: -

- There is a breach of the Code but this is minor, trivial or technical in nature
- It is apparent that the Subject member is relatively inexperienced as a member
- The member has admitted making an error which would not warrant a more serious sanction and has taken action to address this e.g. withdrawing comments.
- The member has apologised
- Training or conciliation would be a more appropriate response.

4.2 Types of informal resolution might include:

- An explanation by the subject member to the complainant of the circumstances surrounding the complaint;
- An apology from the subject member;
- An agreement from the subject member to attend relevant training or to take part in a mentoring process;
- Offering to engage in a process of mediation or conciliation between the subject member and the complainant; or
- Any other action capable of resolving the complaint.

4.3 Where the Monitoring Officer seeks to resolve the complaint informally he or she will provide the subject member with a reasonable timescale within which to attempt to resolve the complaint (usually this will be 10 working days) and provide the subject member with the contact details for an Independent Person who will be available to the subject member to give them advice on the severity of the complaint and what form of resolution they would consider appropriate. (Providing such guidance will not prevent the Independent Person from giving a view to the Hearings Panel.)

4.4 Before deciding upon a course of action the subject member may seek guidance from a Group Whip, Leader of the Group, the Independent Person, and/or the Monitoring Officer. The Monitoring officer may also seek the complainant's views to ascertain what form of informal resolution they would find acceptable, particularly if the form of resolution they have specified in their complaint is not possible.

4.5 At the end of the 10 working day period referred to at paragraph 4.3 above, the Monitoring Officer will, in consultation with the Independent Person, seek to establish whether the subject member has resolved the complaint to the Complainant's satisfaction.

4.6 Where it has been possible to agree a form of resolution between the subject member and the complainant there will be no further action taken in respect of the complaint and the Monitoring Officer will notify both the complainant and the subject member of this decision.

4.7 Where it has not been possible to agree a form of resolution between the subject member and the complainant, the Monitoring Officer will decide if the complaint merits formal investigation. Where the subject member makes a

reasonable offer of local resolution, but it is rejected by the complainant, the Monitoring Officer will take account of this in his or her decision.

5. Stage 3 – Formal Investigation

- 5.1 Where the Monitoring Officer, in consultation with the Independent Person, decides that a complaint merits investigation he/she will appoint an Investigating Officer who may be a Council officer, an officer from another Council, or an external investigator. However, if the facts and evidence are self-sufficient, the Monitoring Officer may dispense with a formal investigation and present the facts him / herself.
- 5.2 The Investigating Officer will follow guidance issued by the Monitoring Officer on the investigation of complaints. The guidance will follow the principles of proportionality and the cost effective use of council resources and shall be interpreted in line with these principles. The Investigating Officer should aim to complete their investigation within a maximum of 1 month of their appointment.
- 5.3 At the end of their investigation, the Investigating Officer will produce a draft report and send copies to the complainant and subject member for comments on matters of fact. The Investigating Officer will take any such comments received during a period to be specified by the Investigating Officer into account before issuing their final report to the Monitoring Officer.

6. Investigating Officer finding of no failure to comply with the Code of Conduct

- 6.1 Where the Investigating Officer's report finds that the subject member has not failed to comply with the Code, the Monitoring Officer, in consultation with the Independent Person, will review the Investigating Officer's report and if satisfied, will confirm the finding of no failure to comply with the Code.
- 6.2 The Monitoring Officer will write to the complainant and the subject member (and to the clerk of the town or parish council, where the complaint relates to a town or parish council member), with a copy of the decision and the Investigating Officer's report.
- 6.3 If the Monitoring Officer is not satisfied that the investigation has been conducted thoroughly, the Investigating Officer may be asked to reconsider the report and the conclusions.

- 7 Investigating Officer finding of sufficient evidence of failure to comply with the Code of Conduct

- 7.1 Where the Investigating Officer's report finds that the Subject member has failed to comply with the Code, the Monitoring Officer will review the Investigating Officer's report and will then, having consulted the Independent Person, either send the matter for hearing before the Hearings Panel or seek informal resolution in accordance with paragraph 7.2 below.
- 7.2 Informal Resolution - If the Monitoring Officer believes that the matter can reasonably be resolved without the need for a hearing, for example because informal resolution has not yet been considered, they will consult with the Independent Person and the complainant and seek to agree a fair resolution. The types of resolution available are as set out in paragraph 4.2 of these Arrangements.
- 7.2 If the subject member and the complainant accept the suggested resolution, the Monitoring Officer will report the outcome to the Standards Panel and the clerk to the town or parish Council (if appropriate) for information but will take no further action.
- 7.3 If the complainant or the subject member refuses informal resolution in principle or to engage with the agreed outcome, the Monitoring Officer will refer the matter for a hearing without further reference to the complainant or the subject member.

8. Stage 4 - Hearing

Where, in the opinion of the Monitoring Officer, informal resolution is not appropriate or the complainant and/or subject member refuses to accept informal resolution, then the Monitoring Officer will report the Investigating Officer's findings to the Hearings Panel which will conduct a hearing before deciding whether the Member has failed to comply with the Code and, if so, what action (if any) to take in respect of the Member. The Hearings Panel will be constituted in accordance with council Standing Orders and will adopt whatever process it considers appropriate.

9. Action available to the Hearings Panel

Where the Hearings Panel finds that a subject member has failed to comply with the Code, it will publish a decision notice on its website (in the case of a town or parish council the Hearings Panel will provide a decision notice to be published on its website) of its findings in respect of the Subject member's conduct¹² setting out the following:

- A brief statement of facts
- The provisions of the code engaged by the allegations
- The view of the Independent Person
- The reasoning of the decision-maker
- Any sanction applied.
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- and it may -
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- Recommend to the relevant council that the member should be censured;
- Require the member to provide an apology
- Request the member remove any social media content which led to the complaint
- Recommend to the subject member's Group Leader (or in the case of ungrouped members recommend to Council) that he/she be removed from any or all committees or sub committees of the Council;
- Instruct the Monitoring Officer (or recommend to the town or parish council) to arrange training for the Member;
- Recommend to Council (or recommend to the town or parish council) that the subject member be removed from all outside appointments to which they have been appointed or nominated by the Council (or by the town or parish council);
- Withdraw (or recommend to the town or parish council that it withdraws) facilities provided to the subject member by the council such as a computer, website and/or e-mail and internet access; or
- Place such restrictions on the Subject member's access to staff, buildings or parts of buildings which may be reasonable in the circumstances.

10. Appeals

There is no right of appeal against the substantive decision of the Monitoring Officer or of the Hearings Panel

¹² **Best practice 9:** Where a local authority makes a decision on an allegation of misconduct following a formal investigation, a decision notice should be published as soon as possible on its website, including a brief statement of facts, the provisions of the code engaged by the allegations, the view of the Independent Person, the reasoning of the decision-maker, and any sanction applied.

11. Withdrawal of a Complaint

In the event that a complainant withdraws a complaint at any time prior to a decision having been made by the Hearings Panel, the Monitoring Officer may, following consultation with the Independent Person, decide that no further steps be taken in respect of that complaint.

In taking such a decision the Monitoring Officer will take into account whether there has been any intimidation or attempt to intimidate any person who is or is likely to be:

- a complainant,
- a witness, or
- involved in the administration of any investigation or proceedings, in relation to the allegation that the subject member has failed to comply with the Council's Code.

12. Revision of these Arrangements

In individual cases the Monitoring Officer may, in consultation with the Chairperson of Audit & Standards Committee, revise these Arrangements, as he or she considers appropriate, to enable the process to be dealt with efficiently. Any such revisions are to be reported to the next meeting of the Audit Committee.

13. Review of these Arrangements

These Arrangements were last reviewed and adopted in 2021 and shall be reviewed every 3 years thereafter or earlier where there is a change in law or where circumstances warrant an earlier review. The Monitoring Officer will seek to meet regularly with political group leaders or group whips to discuss standards issues.¹³

¹³ **Best practice 15:** Senior officers should meet regularly with political group leaders or group whips to discuss standards issues.

Agenda Item 12



COTSWOLD
DISTRICT COUNCIL

Council name	COTSWOLD DISTRICT COUNCIL
Name and date of Committee	AUDIT COMMITTEE – 28 JANUARY 2021
Report Number	AGENDA ITEM 12
Subject	UPDATE TO COUNCIL CONTRACT RULES
Wards affected	All
Accountable member	Cllr. Mike Evely Deputy Leader and Cabinet Member for Finance
Accountable officer	Jenny Poole, Chief Finance Officer Jenny.Poole@cotswold.gov.uk 01285 623313
Summary/Purpose	For Members to receive a proposed update to the Council's Contract Rules. Members views will be reported to the Cabinet in February for consideration.
Annexes	Annex A – Update to the Contract Rules – with track changes Annex B – Update to the Contract Rules – clean copy with track changes accepted.
Recommendation/s	<i>That the Committee discuss the draft Contract Rules and provides its views to the Cabinet for consideration.</i>
Corporate priorities	Ensure that all services delivered by the Council are delivered to the highest standard.
Key Decision	No
Exempt	No
Consultees/ Consultation	The draft Contract Rules have been subject to consultation with the finance, legal and counter fraud teams and the Council Management Team.

1. BACKGROUND

- 1.1.** The current Council Contract Rules were last updated 2015. The Procurement Team have carried out a review of the Rules to ensure that they comply with latest legislation and reflect the UK departure from the European Union.
- 1.2.** The Cabinet will consider the revised Contract Rules on 8 February 2021. The Audit Committee is asked to review the amendments to the Contract Rules and to provide feedback for the Cabinet to consider.
- 1.3.** The Council's lead procurement officer will attend the meeting to support Members for this item.

2. MAIN POINTS

- 2.1.** An update to the Contract Rules with track changes showing proposed updates is attached at **Annex A**. A version of the updated Contract Rules, with track changes accepted, is also attached at **Annex B**. **Annex B** is the version of the Contract Rules which the Cabinet will ask to consider on 8th February 2021.

3. FINANCIAL IMPLICATIONS

- 3.1.** There are no financial implications from this report. However, compliance with the Council's Contract Rules will support the best use of taxpayers' money.

4. LEGAL IMPLICATIONS

There are no legal implications from this report.

5. RISK ASSESSMENT

- 5.1.** There are no risks associated with this report.

6. ALTERNATIVE OPTIONS

- 6.1.** The Audit Committee is able to recommend amendments to the Contract Rules to Cabinet for consideration.

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. ~~Exemptions and~~ Waivers
- Section 3 – Tendering Process
- 7. Advertising
- 8. Suitability assessment and Pre-Qualification
- 9. Electronic Tendering
- 10. Dividing into Lots
- 11. Submission and Opening of Tenders and Quotes
- 12. Arithmetical Errors and Post Tender Clarification
- 13. ~~Tender~~ Evaluations
- 14. Awarding Contracts
- 15. Debrief
- Section 4 – Contract Formalities
- 16. Execution of contracts
- 17. Records of Quotes, Tenders and contracts
- 18. Bonds and Parent Company Guarantees
- 19. Embedded Leases and Embedded Derivatives
- Section 5 – Specific Types of Tendering
- 20. Framework Agreements and Dynamic Purchasing Systems
- 21. Draw Down Agreements
- 22. Collaborations and joint working
- 23. Procurement by Consultants
- 24. Nominated and Named Sub-Contractors
- 25. Amendments to Contracts
- 26. 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. Local Government Transparency Code ~~transparency code~~;
 - 1.1.2 The relevant Public Contract Regulations ~~European procurement rules~~ when applicable and whilst they have a direct effect in the UK (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 (which includes template documentation) 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 , the provision of services or the supply of supplies or for the supply of goods 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 (except where services or works are required by the Authority as part of the land transaction) e.g. development agreements
 - 2.2.3 contracts relating to the placement of deposits or raising of loans under the treasury management strategy;

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2.2.4 purchases made at public auction.

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.

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

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, [the Regulations](#) 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 monitoring;
- 4.2.6 Checking to see if a corporate contract already exists. E.g. stationery contract.
- 4.2.7 Where the procurement involves a potential change to 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 Equality Act 2010.
 - 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 ~~with a value of and Tenders below £25,000 or less £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 ~~with a value above £25,000£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.
- 4.3 Where any procurement may result in any employee either of the Authority or of a service provider being affected by any transfer arrangements, Authorised Officers must ensure that the application of the Transfer of Undertaking Protection of Employment Regulations 2006 (TUPE) is ~~considered~~ ~~and 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 Cabinet for decision, unless otherwise stated elsewhere in the Authority's Constitution

CONTRACT VALUES

- 5.1 Where the total value for a purchase is within the values in the first column below, unless the Holder procures via a compliant Framework Agreement, Draw Down Agreement or Dynamic Purchasing System the award procedure in the second column must be followed:

Estimated Total Contract Value	Contract Letting Requirements & Forms of Contract
<p><u>Up to £10,000</u> <u>£10,000 and below</u></p>	<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 <u>two 2</u> written Quotes, where <u>this is possible and via the Procurement Portal where appropriate.</u></p> <p>Contracts shall be by purchase order with <u>the relevant</u> standard terms and conditions attached <u>or otherwise drawn to the attention of the Supplier.</u></p>
<p><u>From £10,001 to £50,000</u> <u>Above £10,000 to £25,000</u></p>	<p><u>At least three written quotes shall be sought through the Portal using the Request for Quote template</u></p> <p><u>Where a procurement opportunity with a value estimated to be £25,000 or above is Advertised, it must also advertised on Contract Finder using the Portal within 24 hours of any adverts appearing with unrestricted and full direct internet access to relevant contract documents.</u></p> <p><u>A pre- qualification stage is not permitted but appropriate suitability questions may be asked in the Rest for Quote.</u></p> <p><u>If the lowest Quote received exceeds £25,000, the contract shall not be awarded unless the contract is below the relevant Threshold and either</u></p> <ul style="list-style-type: none"> <u>• a waiver is approved in accordance with Rule 6.1 or</u> <u>• the Section 151 Officer gives approval.</u> <p><u>Unless a waiver or approval of the Section 151 Officer is given, a new procurement will be required which must be carried out in accordance with the above £25,000 to Threshold procedures</u></p> <p><u>Shall be advertised on the website of the Authority</u></p>

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	<p>(and/or other public advertisement as determined by the Authorised Officer) unless, in consultation with the S151 officer, and the Council's Solicitor, it is agreed to approach suppliers on an ad hoc basis (in which case 3 written quotes shall be sort).</p>
<p>From £50,001 to EU Threshold</p> <p>Above £25,000 to Threshold</p>	<p>Shall be advertised on the website of the Authority and on Contract Finder using the Authority's e-procurement system (within 24 hours of any other adverts appearing) (and/or other public advertisement as determined by the Authorised Officer) together with unrestricted and full direct internet access to relevant contract documents</p>

	<p>An open procedure shall be followed for goods and services.</p> <p>Pre-Qualification Questionnaires (PQQ's) can be used in procurements above the lower EU threshold for goods and services for tender opportunities for works contracts.</p> <p>A formal written contract prepared/approved by the Council's Solicitor must be utilised.</p> <p>A full competitive procurement shall be undertaken through the Portal using an Invitation to Tender.</p> <p>The opportunity must be advertised on Contract Finder (within 24 hours of any other adverts appearing) (and/or other public advertisement as determined by the Authorised Officer) together with unrestricted and full direct internet access to relevant contract documents.</p> <p>A pre-qualification stage is not permitted except for procurements of works contracts above the Threshold for supplies and services. A PAS91 pre-qualification questionnaire must be used.</p> <p>A formal written contract prepared or approved by the Authority Solicitor must be used</p> <p>If the lowest Tender received exceeds the relevant Threshold then the contract shall not be awarded. A new procurement will be required which must be carried out in accordance with the Threshold and Above procedure</p>
EU Threshold and Above	<p><u>A full competitive procurement shall be undertaken through the portal using an Invitation to Tender</u></p> <p><u>Procurement opportunities shall be advertised</u></p> <ul style="list-style-type: none"> • <u>Either in the Find a Tender Service as required by law</u> • <u>On Contract Finder within the time limit specified in the Regulations</u> <p><u>The Procurement Advisor, consultation with the Authority's Solicitor, shall advise on the most appropriate procurement procedure to be used when conducting a procurement. The Regulations set out the permitted procurement procedures; the two most common procedures are:</u></p>

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- Open Procedure – a one stage process where anyone can submit a tender
- Restricted Procedure – a two-stage process where a Selection Questionnaire is used to shortlist Candidates who are then invited to submit a tender.

The following procedures can only be used in certain circumstances. See the Procurement Code for further detail.

- **Innovation Partnership:**

This may be used when the Authority is seeking innovative ideas where solutions are not already available on the market and there is an intention to include both the development of the outcome and its subsequent purchase (subject to meeting agreed performance levels and maximum costs) in the procurement.

A structured partnership will be established for the development of an innovative product, service or works and the subsequent purchase of the resulting supplies, services or works, provided that they correspond to the agreed performance levels and costs.

- **Competitive dialogue**

This can be used where either of the following apply:

- I. the need of the Authority cannot be met without adaption of the readily available solutions;
- II. they include design or innovative solutions;
- III. specific circumstances related to the nature, the complexity or the legal and financial makeup or because of the risks attaching to them;
- IV. the technical specifications cannot be established with sufficient precision with reference to a standard UK Technical Assessment, common technical specification or technical reference;
- V. where, in response to an open or a restricted procedure, only irregular or unacceptable tenders were submitted, provided that the Authority includes in the procedure all of, and only, the

Candidates that meet certain criteria and submitted tenders in accordance with the formal requirements of the failed procedure

• **Competitive Procedure with negotiation**

This procedure can be used for the same reasons as competitive dialogue. With this procedure, the Authority can negotiate with Candidates who have submitted tenders to seek improved offers.

A formal written contract prepared or approved by the Authority's Solicitor must be used.

Shall be advertised in the Official Journal of the European Journal (OJEU), on the website of the Authority and on Contract Finder using the Authority's e-procurement system (within 3 days of the receipt of OJEU notice at publications office or within 24 hours of the OJEU notice being published) (and/or other public advertisement as determined by the Authorised Officer)

Pre-Qualification Questionnaires (PQQ's) can be used in procurements above the lower EU threshold for goods and services for tender opportunities for goods, services **and works**.

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:

- 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.

The following procedures can only be used in certain circumstances. See the Procurement Code for further detail.

Innovation Partnership;

~~This may be used when the Authority is seeking innovative ideas where solutions are not already available on the market and there is also an intention to include~~

~~both the development of the outcome and its subsequent purchase (subject to meeting agreed performance levels and maximum costs) in the procurement.~~

~~A structured partnership will be established for the development of an innovative product, service or works and the subsequent purchase of the resulting supplies, services or works, provided that they correspond to the agreed performance levels and costs.~~

Competitive dialogue

~~This can be used where either of the following apply:~~

~~(i) the need of the Authority cannot be met without adaptation of readily available solutions;~~

~~(ii) they include design or innovative solutions;~~

~~(iii) specific circumstances related to the nature, the complexity or the legal and financial makeup or because of risks attaching to them;~~

~~(iv) the technical specifications cannot be established with sufficient precision with reference to a standard, European Technical Assessment, common technical specification or technical reference;~~

~~(v) where, in response to an open or a restricted procedure, only irregular or unacceptable tenders were submitted, provided that the Authority includes in the procedure all of, and only, the tenderers that meet certain criteria and submitted tenders in accordance with the formal requirements of the failed procedure~~

Competitive Procedure with negotiation.

~~This procedure can be used for the same reasons as competitive dialogue. With this procedure the Authority can negotiate with~~

	<p>Candidates who have submitted tenders to seek improved offers.</p> <p>A formal written contract prepared/approved by the Council's Solicitor must be utilised.</p>
Light Touch Regime	<p>Contracts involving the following goods and services are subject to a 'light touch' regime if the value of the contract is below the prescribed threshold contained in the <u>prescribed Threshold EU Regulations</u>;</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>

	A formal written contract prepared/approved by the Authority's Council's Solicitor must be utilised.
Concessions	<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 consideration for their services solely through third party sources or partly through payment from the contracting authority along with income received from third parties e.g. a services concession is where a supplier has a contract to manage an Authority's catering services for its staff. The Authority does not doesn't pay the Supplier to run the services and its income is solely through the staff using the facilities. The risk in the concession making a profit is with the Supplier and not the Authority.</p> <p><u>A formal written contract prepared/approved by the Authority's Solicitor must be utilised</u></p>
Disposal of assets (other than land)	Where the Authority is selling or disposing of assets without the provision of services then the Authority's obligation is to achieve the best value for the items. This could be achieved by obtaining quotes or conducting a full tender depending upon the items being disposed of. Any disposal must be in accordance with the Authority's Finance Rules.
Disposal of Land	These contract rules apply where the Authority is disposing of or acquiring land and there is an element of services or works required by the Authority as part of the transfer (E.g. regeneration projects)

6. EXEMPTIONS AND WAIVERS

6.1 Subject to the written approvals referred to in Contract Rule 6.2 below, waivers of any of these Contract Rules shall only be given in the following exceptional circumstances:-

6.1.1 Where the ~~supplies, works or services goods, materials, works or services~~ are of a unique or specialised nature or are identical or similar to or compatible with an existing provision so as to render only one or two sources of supply appropriate, including:

- an upgrade or
- where the contract concerns, wholly or mainly, repairs to or the supply of parts for existing proprietary machinery, plant or equipment and the repairs to or the supply of parts cannot be

carried out practicably by alternative ~~Suppliers/Contractors~~;
or

- 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, ~~or supplies 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 ~~Authority's 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; (subject to the action being reported to the next Cabinet Meeting) 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 ~~Where the Authority is purchasing a property, or is taking a service back in-house, which has associated contracts and in the opinion of the Authorised Officer it is in the Authority's best interests to acquire those contracts; or~~
~~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 ~~prescribed~~ relevant ~~EU~~ Threshold.

Where it is possible to waive these Contract Rules, any such waiver must be agreed by:

- 6.2.1 Cabinet for contracts above £100,000.00 or the ~~Chief Executive Head of Paid Service~~ in consultation with the Leader of the Authority, ~~the Section 151 Officer and the Authority's Solicitor~~ if the matter requires an urgent decision and a meeting of the Cabinet cannot be called; or

6.2.2 The Budget Holder (if authority do so has been delegated to them in accordance with the Constitution), in consultation with the Section 151 Officer and the Council's Solicitor if the contract does not exceed is £100,000.00 or less.

6.3 A record of the decision and the reasons for it shall be kept and the wavier itself shall be sent to Procurement. kept by the Council's Solicitor.

SECTION 3: QUOTATION AND TENDERING PROCESSTENDERING AND QUOTATION PROCESS

7. ADVERTISING (above ~~£25,000~~£10,000.00)

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
- Any requirements for participating in the procurement

7.2 Where adverts are placed on Contract ~~Finder~~Finder, unrestricted and full direct internet access to relevant contract documents shall be available on the Authority's website and the Authority's Procurement portal e-procurement system free of charge when the advert is placed.

7.3 Opportunities with a value over the relevant relevant EU Threshold must also be advertised on the Find a Tender website in the Official Journal of the European Union (OJEU) by submitting a Contract Notice using the Authority's Procurement portal e-procurement system

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~~Contract are suitably assessed. Financial and due diligence checks must be undertaken for all contracts where the value of the contract is above £10,000

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 lower EU threshold (supply and services level) Level 1 a Pre-Qualification Questionnaire (PQQ) stage is permitted. Officers must use form PAS91 or such other required PQQ template required by law or by the Government.

8.5 **Above EU Threshold**

Procurements above the EU threshold can use a Pre-Qualification Questionnaire (PQQ) stage. Officers must use the Selection Questionnaire PQQ form issued by the Government or for works contract form, PAS91 or such other templates as required by law or by the Government. ~~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 Advisor, S151 Officer and the Council's Solicitor.~~

Any deviations from the standard form must be reported to the Cabinet Office. Changes to the form are not permitted without the consent of the Procurement Advisor, Section 151 Officer and the Authority's solicitor

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

8.7 ~~Financial and due diligence checks must be undertaken where the value of the contract is above £10,000.00~~ for all contracts

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

9. **ELECTRONIC TENDERING**

9.1 ~~On the 18th October 2018, electronic procurement and electronic communications became compulsory for above Threshold procurements. Except in the limited circumstances contained in the Regulations, all communication and information exchange, including electronic submission of tenders, shall be performed used electronic means of communication in accordance with the requirements of the Regulations. Until electronic tendering becomes compulsory, the Authorised Officer following consultation with the Procurement Advisor or Council's Solicitor may authorise:~~

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9.2

Except for procurements with a value of £10,000 or below, the procurement shall be carried through the Portal unless otherwise permitted by these Contract Rules or by the Procurement Advisor and the Section 151 Officer. For quotes under £10,000 the Portal should be used where appropriate to do so.

~~9.1.1 the transmission of Quotes and Tenders by electronic means;~~

~~9.1.2 the carrying out of an electronic auction where satisfied that it is in the interests of the Authority to do so;~~

~~9.1.3 the carrying out of the whole tendering process and the award of the contract by electronic means, using the Authority's e-procurement system, 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~~subject matter of such lots.

10.2 For an above ~~EU-T~~ 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 whether:

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

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. SUBMISSION AND OPENING OF TENDERS AND QUOTES INVITATION-TO-TENDER

11.1 Tenders and Quotes shall be submitted in accordance with requirements set out in in the Invitation to Tender or Request for Quote

~~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.~~

11.2 Tenders and Quotes must be submitted electronically via the Portal and the Authorised Officer shall ensure that the submissions are kept secure and unopened until the specified date and time. The Authorised Officer shall carry out opening of the Tenders and Quotes in accordance with instructions given by the Procurement Adviser.

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11.3 No Tenders or Quotes received after the specified date and time for receipt shall be accepted or considered by the Authority unless the Authorised Officer, after consulting with the Procurement Adviser, the Section 151 Officer and the Monitoring Officer is satisfied that there is sufficient evidence that either:

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- the Tender or quote was dispatched in sufficient time for it to have for it to have arrived before the closing date and time
 - Technical difficulties with the Portal prevented the Tender or Quote from being submitted before the closing date and time
- ~~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 Procurement Adviser, s151 Officer and the Legal Adviser, 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~~

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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.~~

~~Tenders (over £50,000.00)~~

12.2 ~~All Tenders received 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 Adviser and remain unopened until the time and date specified for their opening.~~

12.3 ~~Where tenders are submitted electronically via the Authority's e-procurement system, authorised officers shall ensure that they are kept secure and unopened until the specified date and time.~~

12.4 ~~Tenders shall be opened by at least one officer nominated by the Budget Holder and the Procurement Adviser or their nominated officer. An immediate record shall be made of the Tenders received including names, amount of tender and the date and time of opening.~~

~~Quotes (over £10,000.00)~~

~~All quotes received shall be addressed to the Authorised Officer in a plain sealed envelope endorsed with the words "Quote – Do Not Open followed by the subject matter to which it relates (but no other name or mark indicating the sender). Quotes shall be kept in a safe place by the Authorised Officer and remain unopened until the time and date specified for their opening.~~

~~Quotes shall be opened by the Authorised Officer who shall keep a note on file of the names, amount of tender and the date and time of opening.~~

~~If the submission of quotes is electronically under Contract Rule 9.1, the Authorised Officer shall ensure that the quotes are not opened until the time and date specified for their opening.~~

- 12.5 ~~No Tenders or Quotes received after the specified date and time for receipt 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 or Quote having been despatched in sufficient time for it to have arrived before the closing date and time~~

12 ARITHMETICAL ERRORS, POST TENDER CLARIFICATION AND ~~ABNORMALLY AND ABNORMALLY~~ LOW TENDERS

12.1 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 officers of the Tender or Quote reveals arithmetical errors or ~~discrepancies which~~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.

12.2 in and above Threshold 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.

All other post-tender clarifications shall:

- 12.2.1 only be undertaken following consultation with the Procurement Adviser and the ~~Monitoring Officer-Council's Solicitor~~; and
- 12.2.2 not disclose commercially sensitive information supplied by other Candidates ~~for the contract~~

13 TENDER EVALUATION

13.1 Tenders and Quotes shall be evaluated in accordance with the relevant regulations and the award criteria set out in the Invitation to Tender or

Request for Quote.

- 13.2 All contracts shall be awarded ~~on the basis of~~based on the ~~offer which~~offer, which represents the most economically advantageous, taking into account price and/or quality, to the Authority.
- 13.3 The award criteria shall be predetermined and listed in the Invitation to Tender ~~or Request for -documentation~~Quotation documentation. In addition, the criteria shall be strictly observed at all times throughout the contract award procedure by any officer involved in the tender evaluation.
- 13.4 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~~Each officer involved in the evaluation process and held on file by the Authorised Officer must complete a declaration of interest form.
- 13.5 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.

14.5. AWARDING CONTRACTS ~~(Over £10,000.00)~~

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

14.2 Depending on what is being procured and whether or not it is an above Threshold procurement 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~~Tender or Request for Quote.

14.3 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.

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14.4 For contracts with a value of £25,000 or above, regardless of whether the contract award opportunity was advertised, a contract award notice containing the name of the Supplier, 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 the contract award. If below Threshold, the award notice must state, whether or not the Supplier is a Small and Medium-sized enterprise (SME) or voluntary, community and social enterprise (VCSE)

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 no challenges. Authorised Officer shall notify the Procurement Adviser and the Council Solicitor immediately following receipt of a challenge.~~

15.6 ~~For contracts over £10,000.00 the purchase order shall not be issued until the formal written contract has been completed.~~

156. DEBRIEFING

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

167. EXECUTION OF CONTRACTS

167.1 All contracts not exceeding ~~£25,000~~ £10,000.00 shall be signed by the relevant Budget Holder, unless the ~~Authority's Council's~~ Solicitor requires that the contract be sealed.

167.2 All contracts exceeding ~~£25,000~~ £10,000.00 but not exceeding £50,000.00 shall be signed by the ~~Authority's Council's~~ Solicitor unless the ~~Authority's Council's~~ Solicitor requires that the contract be sealed.

167.3 All contracts exceeding £50,000.00 shall be executed as a deed by the ~~Authority's Council's~~ Solicitor and the common seal affixed to the contract unless the Authority's Solicitor considers it more expedient to sign the contract.

~~18.16.4~~ Electronic signatures may only be permitted as a method of executing contracts with prior consent of the Section 151 officer having first obtained advice from the Authority's Solicitor.

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RECORDS OF QUOTES TENDERS AND CONTRACTS

178.1 The Procurement Adviser shall maintain a list of all Tenders and Quotes over £25,000 received. For procurements not exceeding £25,000, the Authorised Officer is responsible for keeping records of Tenders and Quotes received in such form as required by the Procurement Adviser.

178.2 All contracts with a value of £25,000 and above shall be kept by the Authority's Solicitor and a copy shall be sent to the Procurement Adviser.

~~A Contracts Register of all contracts awarded over £5,000.00 shall be maintained by the Authority~~

178.3 All contracts below that value shall be kept securely by the Budget Holder in accordance with the Authority's retention policy and a copy sent to the Procurement Adviser.

~~All contracts over £10,000.00 shall be kept by the Council's Solicitor~~

189. BONDS AND PARENT COMPANY GUARANTEES

~~189.1~~ Bonds or Parent Company Guarantee will be required on all works contracts above £1,000,000.00 or for a contract of a lesser value if considered appropriate by the Section 151 Officer following consultation with the ~~Authority's Council's~~ Solicitor

~~189.2~~ Bonds or Parent Company Guarantee may be required for any contract if considered appropriate by Section 151 Officer following consultation with the ~~Authority's Council's~~ Solicitor

~~189.3~~ Bonds shall be a minimum of 10% of the contract value.

~~1920.~~ **EMBEDDED LEASES & EMBEDDED DERIVATIVES**

~~1920.1~~ Prior to the award of a contract the Authorised Officer must notify the S151 officer where under the contract:

~~1920.1.1~~ the Authority will have use or control of or will be paying for the use of a specific asset or group of assets; or

~~1920.1.2.~~ contains a clause that caps the price the Authority has to pay for supplies or services or there is floor price on the price the Authority has to pay for supplies or services; or

~~20.1.3~~ ~~19.1.3~~ the prices the Authority has to pay under the contract, increase by more than 2 times RPI; or

~~20.1.4~~ ~~19.1.4~~ the prices the Authority has to pay, increase by some other form of Indices or commodity price.

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SECTION 45: SPECIFIC TYPES OF TENDERING

~~204.~~ **FRAMEWORK AGREEMENTS**

~~204.1~~ **FRAMEWORK AGREEMENTS AND DYNAMIC PURCHASING SYSTEMS SET UP BY OTHER CONTRACTING AUTHORITIES**

~~204.2~~ External Framework Agreements and Dynamic Purchasing Systems (DPS), 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.

~~204.3~~ The Framework Agreement and DPS 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 and DPS 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 or DPS.

~~204.4~~ The approval of the Procurement Adviser or Council's Solicitor shall be sought before signing up to a new Framework Agreement or DPS.

~~204.5~~ A Call-Off contract as set out in the Framework Agreement or DPS 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

~~204.6~~ The Authority may carry out procurement exercises to set up Framework Agreements or DPS 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 or the DPS without having to carry out a further ~~procurement~~ 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.

~~204.7~~ Once a Framework Agreement or DPS is established, Quotes and Tenders for contracts may be invited from Suppliers included on Framework Agreement up to the limit stated in the Framework or DPS.

~~204.8~~ The Authority will need to carry out a procurement exercise to select the Suppliers to include on the Framework Agreement or DPS. 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 or DPS.

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

~~204.10~~ The call off of a contract under a framework with a value of £25,000.00 or over shall be published on Contract Finder

~~212.~~ DRAW DOWN AGREEMENTS

~~212.1~~ Authorised Officers may award Draw Down Agreements to individual suppliers where services, supplies or works are required on an ad hoc basis. E.g.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.

~~212.2~~ Authorised Officer shall carry a procurement process for the award of the Draw Down Agreement in accordance with these contract rules

223. COLLABORATIONS AND JOINT PROCUREMENT

223.1 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 relevant Chief Executive, Chief Finance Officer ~~Director~~ and Procurement Adviser.

234. PROCUREMENT BY CONSULTANTS

234.1 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.

234.2 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.

234.3 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.

234.4 No Consultant shall make any decision on whether to award a contract or ~~whewhom~~ a contract should be awarded to. This decisions rests with the Awarding Officer who should sign the Tender Acceptance Form

245. NOMINATED AND NAMED SUB-CONTRACTORS

245.1 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 these Contract Procedure Rules

SECTION 56

CONTRACT MANAGEMENT AND AMENDMENTS TO CONTRACTS DURING THEIR TERM

2526. AMENDMENTS TO CONTRACTS

Above Threshold Contracts

256.1 An above Threshold Contract, Framework Agreement or DPS can only be changed if permitted by the Regulations. Advice must be sought from the Authority's Solicitor before making any changes to an above Threshold Contract or Framework Agreement

~~A contract may be changed in any of the following circumstances:~~

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~~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)~~

~~(iii)(i) 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)~~

~~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
40% (goods and/or services) 15% (works) of the initial value of the contract.~~

Below Threshold Contracts

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~~265-2~~ In limited circumstances and having regard to the Regulations and advice from the Authority's solicitor, the Awarding Officers may authorise changes to be made to contracts below Threshold Contracts.

~~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 Contract Rule 26.1 b) or c) above and the initial contract value exceeded the EU Threshold, a modification of contract notice shall be published in the OJEU~~

~~267.~~ **CONTRACT MANAGEMENT**

27.1 Authorised Officers need to actively monitor and manage a Suppliers ~~Contractor's~~ performance throughout the contract life to ensure milestones, KPI's, deliverables and outcomes are achieved and risks and, where appropriate, ~~business~~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) in line with the Commissioning and Procurement User Guide and ~~A~~an exit strategy included in the tender and procurement documentation and the contract.

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DEFINITIONS

<u>Advertised</u>	<u>As defined in Regulation 110 of the Public Contracts Regulations 2015. "An opportunity is advertised if the Authority does anything to put the opportunity in the public domain or bring the opportunity to the attention of economic operators generally or to any class or description of economic operators which is potentially open-ended, with a view to receiving responses from economic operators who wish to be considered for the award of the contract"</u>
Authorised Officer	An officer who is authorised to undertake the procurement in question and who has received corporate training on these Contract Rules.
<u>Authority's Solicitor</u>	<u>Means the senior legal adviser for the Authority which may provide shared service representation.</u>
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	Means a contract awarded to a supplier under a Framework Agreement
<u>Concessions Contracts</u>	<u>an agreement where Suppliers are given the right to exploit works or services provided for their own gain.</u>
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	<u>Bodies which</u> Bodies, which are subject to the EU Regulations.
<u>Contractor</u>	<u>any person, company or supplier who has been awarded a contract in accordance with these contract rules.</u>
<u>Council's Solicitor</u>	<u>Means the senior legal Adviser for the Authority</u>

Director	Means the chief officers for the Authority, director or the Council's Solicitor
Draw down contract	A contract with a single supplier where goods, services or works are requested on an ad hoc basis
<u>Dynamic Purchasing System (DPS)</u>	<u>A DPS is a procedure available to purchase commonly used goods, works or services. It is similar to a Framework Agreement but suppliers can join at any time</u>
EU Regulations	The UK regulations implementing the EC public procurement directives.
EU Threshold	European Commission which determine whether a procurement has to be carried out in
<u>Find a Tender</u>	<u>Where notices for all above Threshold procurements opportunities and contract awards must be placed</u>
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	Means 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 <u>contract, which binds the parent of a subsidiary company as follows</u> ; 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 for the Authority
<u>Procurement Contract Regulations (PCR15)</u>	<u>The UK regulations implementing the public procurement directives</u>

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Quote	A quotation of price and any other relevant matter (without the formal issue of an Invitation to Tender).
Regulation 84 Report	Means the report about the procurement required to be compiled under Regulation 84 of the Public Contracts Regulations 2015
Substantial	<p>In relation to a change to an existing contract of framework agreement means where one of the following conditions is met:-</p> <p>(a) the change renders the contract or the framework agreement materially different in character from the one initially concluded;-i</p> <p>(b) the modification introduces conditions which, had they been part of the initial procurement procedure, would have;-i</p> <p>(i) allowed for the admission of other candidates than those initially selected;-i</p> <p>(ii) allowed for the acceptance of a tender other than that originally accepted, or-or</p> <p>(iii) attracted additional participants in the procurement procedure;-i</p> <p>(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;-i</p> <p>(d) the modification extends the scope of the contract or framework agreement considerably;-i</p> <p>(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)(i) (d).</p>
Supplier	A person or body of persons providing, or seeking to provide-provide supplies, services or works to the Authority.
Tender	A Candidate's proposal submitted in response to an Invitation to Tender.
<u>Threshold</u>	<u>Means the values set out in the Public Contract Regulations which determine if a procurement needs to be carried in accordance with the Public Contract Regulations</u>

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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. Submission and Opening of Tenders and Quotes
- 12. Arithmetical Errors and Post Tender Clarification
- 13. Evaluation
- 14. Awarding Contracts
- 15. Debrief
- Section 4 – Contract Formalities
- 16. Execution of contracts
- 17. Records of Quotes, Tenders and contracts
- 18. Bonds and Parent Company Guarantees
- 19. Embedded Leases and Embedded Derivatives
- Section 5 – Specific Types of Tendering
- 20. Framework Agreements and Dynamic Purchasing
Systems
- 21. Draw Down Agreements
- 22. Collaborations and joint working
- 23. Procurement by Consultants
- 24. Nominated and Named Sub-Contractors
- 25. Amendments to Contracts
- 26. 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. Local Government Transparency Code;
 - 1.1.2 The relevant Public Contract Regulations when applicable and whilst they have a direct effect in the UK (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 (which includes template documentation) 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, the provision of services or the supply of supplies.
- 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 (except where services or works are required by the Authority as part of the land transaction) e.g. development agreements;
 - 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;

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.

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

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, the Regulations 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 monitoring;

- 4.2.6 Checking to see if a corporate contract already exists. E.g. stationery contract.
- 4.2.7 Where the procurement involves a potential change to 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 Equality Act 2010.
 - 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 with a value of £25,000 or less 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 Tenders with a value above£25,000, 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.

4.3 Where any procurement may result in any employee either of the Authority or of a service provider being affected by any transfer arrangements, Authorised Officers must ensure that the application of the Transfer of Undertaking Protection of Employment Regulations 2006 (TUPE) is 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 Cabinet for decision, unless otherwise stated elsewhere in the Authority's Constitution.

CONTRACT VALUES

- 5.1 Where the total value for a purchase is within the values in the first column

below, unless the Holder procures via a compliant Framework Agreement, Draw Down Agreement or Dynamic Purchasing System the award procedure in the second column must be followed:

Estimated Total Contract Value	Contract Letting Requirements & Forms of Contract
£10,000 and below	<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 two written Quotes, where possible and via the Procurement Portal where appropriate</p> <p>Contracts shall be by purchase order with the relevant standard terms and conditions attached or otherwise drawn to the attention of the Supplier.</p>
Above £10,000 to £25,000	<p>At least three written quotes shall be sought through the Portal using the Request for Quote template</p> <p>Where a procurement opportunity with a value estimated to be £25,000 or above is Advertised, it must also advertised on Contract Finder using the Portal within 24 hours of any adverts appearing with unrestricted and full direct internet access to relevant contract documents.</p> <p>A pre- qualification stage is not permitted but appropriate suitability questions may be asked in the Rest for Quote.</p> <p>If the lowest Quote received exceeds £25,000, the contract shall not be awarded unless the contract is below the relevant Threshold and either:</p> <ul style="list-style-type: none"> • a waiver is approved in accordance with Rule 6.1 or • the Section 151 Officer gives approval. <p>Unless a waiver or approval of the Section 151 Officer is given, a new procurement will be required which must be carried out in accordance with the above £25,000 to Threshold procedures</p>

<p>Above £25,000 to Threshold</p>	<p>A full competitive procurement shall be undertaken through the Portal using an Invitation to Tender.</p> <p>The opportunity must be advertised on Contract Finder (within 24 hours of any other adverts appearing) (and/or other public advertisement as determined by the Authorised Officer) together with unrestricted and full direct internet access to relevant contract documents.</p> <p>A pre-qualification stage is not permitted except for procurements of works contracts above the Threshold for supplies and services. A PAS91 pre-qualification questionnaire must be used.</p> <p>A formal written contract prepared or approved by the Authority Solicitor must be used</p> <p>If the lowest Tender received exceeds the relevant Threshold then the contract shall not be awarded. A new procurement will be required which must be carried out in accordance with the Threshold and Above procedure</p>
<p>EU Threshold and Above</p>	<p>A full competitive procurement shall be undertaken through the portal using an Invitation to Tender</p> <p>Procurement opportunities shall be advertised</p> <ul style="list-style-type: none"> • Either in the Find a Tender Service as required by law; • On Contract Finder within the time limit specified in the Regulations. <p>The Procurement Advisor, in consultation with the Authority's Solicitor, shall advise on the most appropriate procurement procedure to be used when conducting a procurement. The Regulations set out the permitted procurement procedures; the two most common procedures are:</p> <ul style="list-style-type: none"> • Open Procedure – a one stage process where anyone can submit a tender • Restricted Procedure – a two-stage process where a Selection Questionnaire is used to shortlist Candidates who are then invited to submit a tender. <p>The following procedures can only be used in certain circumstances. See the Procurement Code for further detail.</p>

	<ul style="list-style-type: none"> • Innovation Partnership; This may be used when the Authority is seeking innovative ideas where solutions are not already available on the market and there is an intention to include both the development of the outcome and its subsequent purchase (subject to meeting agreed performance levels and maximum costs) in the procurement. A structured partnership will be established for the development of an innovative product, service or works and the subsequent purchase of the resulting supplies, services or works, provided that they correspond to the agreed performance levels and costs. • Competitive dialogue This can be used where either of the following apply: <ul style="list-style-type: none"> • the need of the Authority cannot be met without adaption of the readily available solutions; • they include design or innovative solutions; • specific circumstances related to the nature, the complexity or the legal and financial makeup or because of the risks attaching to them; • the technical specifications cannot be established with sufficient precision with reference to a standard UK Technical Assessment, common technical specification or technical reference; • where, in response to an open or a restricted procedure, only irregular or unacceptable tenders were submitted, provided that the Authority includes in the procedure all of, and only, the Candidates that meet certain criteria and submitted tenders in accordance with the formal requirements of the failed procedure • Competitive Procedure with negotiation This procedure can be used for the same reasons as competitive dialogue. With this procedure, the Authority can negotiate with Candidates who have submitted tenders to seek improved offers.
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	<p>A formal written contract prepared or approved by the Authority's Solicitor must be used.</p> <ul style="list-style-type: none"> • Light Touch Regime <p>Contracts involving the following goods and services are subject to a 'light touch' regime if the value of the contract is below the prescribed threshold contained in the prescribed Threshold:</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 Authority's Solicitor must be utilised.</p>
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Concessions	<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 consideration for their services solely through third party sources or partly through payment from the contracting authority along with income received from third parties e.g. a services concession is where a supplier has a contract to manage an Authority's catering services for its staff. The Authority does not pay the Supplier to run the services and its income is solely through the staff using the facilities. The risk in the concession making a profit is with the Supplier and not the Authority.</p> <p>A formal written contract prepared/approved by the Authority's Solicitor must be utilised</p>
Disposal of assets (other than land)	<p>Where the Authority is selling or disposing of assets without the provision of services then the Authority's obligation is to achieve the best value for the items. This could be achieved by obtaining quotes or conducting a full tender depending upon the items being disposed of. Any disposal must be in accordance with the Authority's Finance Rules.</p>
Disposal of Land	<p>These contract rules apply where the Authority is disposing of or acquiring land and there is an element of services or works required by the Authority as part of the transfer (E.g. regeneration projects)</p>

6. WAIVERS

6.1 Subject to the written approvals referred to in Contract Rule 6.2 below, waivers of any of these Contract Rules shall only be given in the following exceptional circumstances:-

6.1.1 Where the supplies, works or services are of a unique or specialised nature or are identical or similar to or compatible with an existing provision so as to render only one or two sources of supply appropriate, including:

- an upgrade; or
- where the contract concerns, wholly or mainly, repairs to or the supply of parts for existing proprietary machinery, plant or equipment and the repairs to or the supply of parts cannot be carried out practicably by alternative Suppliers; or

- 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, or supplies 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 Authority'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; (subject to the action being reported to the next Cabinet Meeting) 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 Where the Authority is purchasing a property, or is taking a service back in-house, which has associated contracts and in the opinion of the Authorised Officer it is in the Authority's best interests to acquire those contracts; 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 prescribed relevant Threshold. Where it is possible to waive these Contract Rules, any such waiver must be agreed by:
- 6.2.1 Cabinet for contracts above £100,000 or the Chief Executive in consultation with the Leader of the Authority, the Section 151 Officer and the Authority's Solicitor if the matter requires an urgent decision and a meeting of the Cabinet cannot be called; or
- 6.2.2 The Budget Holder (if authority do so has been delegated to them in accordance with the Constitution) , in consultation with the Section 151 Officer and the Council's Solicitor if the contract does not exceed £100,000.
- 6.3 A record of the decision and the reasons for it shall be kept and the wavier itself shall be sent to Procurement.

SECTION 3: QUOTATION AND TENDERING PROCESS

7. ADVERTISING (above £25,000)

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
- Any requirements for participating in the procurement

7.2 Where adverts are placed on Contract Finder, unrestricted and full direct internet access to relevant contract documents shall be available on the Authority's website and the Authority's Procurement portal free of charge when the advert is placed.

7.3 Opportunities with a value over the relevant relevant Threshold must also be advertised on the Find a Tender website by submitting a Contract Notice using the Authority's Procurement portal

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

8.1 Authorised Officers are responsible for ensuring that all Candidates for a Contract are suitably assessed. Financial and due diligence checks must be undertaken for all contracts where the value of the contract is above £10,000

Under 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 lower EU threshold (supply and services Level) a pre-Qualification Questionnaire (PQQ) stage is permitted. Officers must use PAS91 or such other required template required by law or by the Government.

Above Threshold

- 8.5 Procurements above the Threshold can use a pre-Qualification stage. Officers must use the Selection Questionnaire form issued by the Government or for works contract form, PAS91 or such other templates as required by law or by the Government.
- 8.6 Any deviations from the standard form must be reported to the Cabinet Office. Changes to the form are not permitted without the consent of the Procurement Advisor, Section 151 Officer and the Authority's solicitor
- 8.7 Any Candidate eliminated from a procurement where a pre-qualification process has been undertaken must be notified following evaluation of that stage in the process.

9. ELECTRONIC TENDERING

- 9.1 On the 18th October 2018, electronic procurement and electronic communications became compulsory for above Threshold procurements. Except in the limited circumstances contained in the Regulations, all communication and information exchange, including electronic submission of tenders, shall be performed used electronic means of communication in accordance with the requirements of the Regulations.
- 9.2 Except for procurements with a value of £10,000 or below, the procurement shall be carried through the Portal unless otherwise permitted by these Contract Rules or by the Procurement Advisor and the Section 151 Officer. For quotes under £10,000 the Portal should be used where appropriate 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 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 whether:
- 10.3.1 tenders can be submitted for one, for several or for all of the lots or.
 - 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. SUBMISSION AND OPENING OF TENDERS AND QUOTES

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

11.2 Tenders and Quotes must be submitted electronically via the Portal and the Authorised Officer shall ensure that the submissions are kept secure and unopened until the specified date and time. The Authorised Officer shall carry out opening of the Tenders and Quotes in accordance with instructions given by the Procurement Adviser.

11.3

No Tenders or Quotes received after the specified date and time for receipt shall be accepted or considered by the Authority unless the Authorised Officer, after consulting with the Procurement Adviser, the Section 151 Officer and the Monitoring Officer is satisfied that there is sufficient evidence that either;

- the Tender or quote was dispatched in sufficient time for it to have for it to have arrived before the closing date and time
- Technical difficulties with the Portal prevented the Tender or Quote from being submitted before the closing date and time.

12 ARITHMETICAL ERRORS, POST TENDER CLARIFICATION AND ABNORMALLY LOW TENDERS

12.1 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 officers 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.

12.2 in and above Threshold 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.

All other post-tender clarifications shall:

12.2.1 only be undertaken following consultation with the Procurement Adviser and the Monitoring Officer; and

12.2.2 not disclose commercially sensitive information supplied by other Candidates

13 EVALUATION

13.1 Tenders and Quotes shall be evaluated in accordance with the relevant regulations and the award criteria set out in the Invitation to Tender or Request for Quote.

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

13.3 The award criteria shall be predetermined and listed in the Invitation to Tender or Request for Quotation documentation. In addition, the criteria shall be strictly observed at all times throughout the contract award procedure by any officer involved in the tender evaluation.

13.4 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. Each officer involved in the evaluation process and held on file by the Authorised Officer must complete a declaration of interest form.

13.5 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.

14. AWARDING CONTRACTS

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

14.2 Depending on what is being procured and whether or not it is an above Threshold 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 or Request for Quote.

14.3 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.

14.4 For contracts with a value of £25,000 or above, regardless of whether the contract award opportunity was advertised, a contract award notice containing the name of the Supplier, 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 the contract award. If below Threshold, the award notice must state, whether or not the Supplier is a Small and Medium-sized enterprise (SME) or voluntary, community and social enterprise (VCSE).

15. DEBRIEFING

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

16. EXECUTION OF CONTRACTS

16.1 All contracts not exceeding £25,000 shall be signed by the relevant Budget Holder, unless the Authority's Solicitor requires that the contract be sealed.

16.2 All contracts exceeding £25,000 but not exceeding £50,000.00 shall be signed by the Authority's Solicitor unless the Authority's Solicitor requires that the contract be sealed.

16.3 All contracts exceeding £50,000.00 shall be executed as a deed by the Authority's Solicitor and the common seal affixed to the contract unless the Authority's Solicitor considers it more expedient to sign the contract.

16.4 Electronic signatures may only be permitted as a method of executing contracts with prior consent of the Section 151 officer having first obtained advice from the Authority's Solicitor

RECORDS OF QUOTES TENDERS AND CONTRACTS

17.1 The Procurement Adviser shall maintain a list of all Tenders and Quotes over £25,000 received. For procurements not exceeding £25,000, the Authorised Officer is responsible for keeping records of Tenders and Quotes received in such form as required by the Procurement Adviser.

17.2 All contracts with a value of £25,000 and above shall be kept by the Authority's Solicitor and a copy shall be sent to the Procurement Adviser.

17.3 All contracts below that value shall be kept securely by the Budget Holder in accordance with the Authority's retention policy and a copy sent to the Procurement Adviser.

18. BONDS AND PARENT COMPANY GUARANTEES

- 18.1 Bonds or Parent Company Guarantee will be required on all works contracts above £1,000,000.00 or for a contract of a lesser value if considered appropriate by the Section 151 Officer following consultation with the Authority's Solicitor
- 18.2 Bonds or Parent Company Guarantee may be required for any contract if considered appropriate by Section 151 Officer following consultation with the Authority's Solicitor
- 18.3 Bonds shall be a minimum of 10% of the contract value.

19. EMBEDDED LEASES & EMBEDDED DERIVATIVES

- 19.1 Prior to the award of a contract the Authorised Officer must notify the S151 officer where under the contract:
- 19.1.1 the Authority will have use or control of or will be paying for the use of a specific asset or group of assets; or
 - 19.1.2 contains a clause that caps the price the Authority has to pay for supplies or services or there is floor price on the price the Authority has to pay for supplies or services; or
 - 19.1.3 the prices the Authority has to pay under the contract, increase by more than 2 times RPI; or
 - 19.1.4 the prices the Authority has to pay, increase by some other form of Indices or commodity price.

SECTION 4: SPECIFIC TYPES OF TENDERING

20. FRAMEWORK AGREEMENTS

FRAMEWORK AGREEMENTS AND DYNAMIC PURCHASING SYSTEMS SET UP BY OTHER CONTRACTING AUTHORITIES

- 20.1 External Framework Agreements and Dynamic Purchasing Systems (DPS), 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.

- 20.2 The Framework Agreement and DPS 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 and DPS 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 or DPS.

20.3 The approval of the Procurement Adviser or Council's Solicitor shall be sought before signing up to a new Framework Agreement or DPS.

20.4 A Call-Off contract as set out in the Framework Agreement or DPS 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

20.5 The Authority may carry out procurement exercises to set up Framework Agreements or DPS to allow it to choose Suppliers who meet its pre-qualification requirements. The Authority can then Call-Off Suppliers from the Framework Agreement or the DPS 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.

20.6 Once a Framework Agreement or DPS is established, Quotes and Tenders for contracts may be invited from Suppliers included on Framework Agreement up to the limit stated in the Framework or DPS.

20.7 The Authority will need to carry out a procurement exercise to select the Suppliers to include on the Framework Agreement or DPS. 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 or DPS.

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

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

21. DRAW DOWN AGREEMENTS

21.1 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.

21.2 Authorised Officer shall carry a procurement process for the award of the Draw Down Agreement in accordance with these contract rules

22. COLLABORATIONS AND JOINT PROCUREMENT

22.1 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 relevant Chief Executive, Chief Finance Officer and Procurement Adviser.

23. PROCUREMENT BY CONSULTANTS

23.1 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.

23.2 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.

23.3 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.

23.4 No Consultant shall make any decision on whether to award a contract or whom a contract should be awarded to. This decisions rests with the Awarding Officer who should sign the Tender Acceptance Form

24. NOMINATED AND NAMED SUB-CONTRACTORS

24.1 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 Procedure Rules

SECTION 5

CONTRACT MANAGEMENT AND AMENDMENTS TO CONTRACTS DURING THEIR TERM

25. AMENDMENTS TO CONTRACTS

Above Threshold Contracts

25.1 An above Threshold Contract, Framework Agreement or DPS can only be changed if permitted by the Regulations. Advice must be sought from the Authority's Solicitor before making any changes to an above Threshold Contract or Framework Agreement.

Below Threshold Contracts

25.2 In limited circumstances and having regard to the Regulations and advice from the Authority's solicitor, the Awarding Officers may authorise changes to be made to contracts below Threshold Contracts.

26. CONTRACT MANAGEMENT

- 27.1 Authorised Officers need to actively monitor and manage a Suppliers 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) in line with the Commissioning and Procurement User Guide An exit strategy included in the tender and procurement documentation and the contract.

DEFINITIONS

Advertised	As defined in Regulation 110 of the Public Contracts Regulations 2015. "An opportunity is advertised if the Authority does anything to put the opportunity in the public domain or bring the opportunity to the attention of economic operators generally or to any class or description of economic operators which is potentially open-ended, with a view to receiving responses from economic operators who wish to be considered for the award of the contract"
Authorised Officer	An officer who is authorised to undertake the procurement in question and who has received corporate training on these Contract Rules.
Authority's Solicitor	Means the senior legal adviser for the Authority which may provide shared service representation.
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	Means a contract awarded to a supplier under a Framework Agreement
Concession Contracts	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.
Draw down contract	A contract with a single supplier where goods, services or works are requested on an ad hoc basis

Dynamic Purchasing System (DPS)	A DPS is a procedure available to purchase commonly used goods, works or services. It is similar to a Framework Agreement but suppliers can join at any time
Find a Tender	Where notices for all above Threshold procurements opportunities and contract awards must be placed
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	Means 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
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 for the Authority
Procurement Contract Regulations (PCR15)	The UK regulations implementing the public procurement directives
Quote	A quotation of price and any other relevant matter (without the formal issue of an Invitation to Tender).
Regulation 84 Report	Means the report about the procurement required to be compiled under Regulation 84 of the Public Contracts Regulations 2015

Substantial	<p>In relation to a change to an existing contract of framework agreement means where one of the following conditions is met:-</p> <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.
Threshold	Means the values set out in the Public Contract Regulations which determine if a procurement needs to be carried in accordance with the Public Contract Regulations

Agenda Item 13



COTSWOLD
DISTRICT COUNCIL

Council name	COTSWOLD DISTRICT COUNCIL
Name and date of Committee	AUDIT COMMITTEE – 28 JANUARY 2021
Report Number	AGENDA ITEM 13
Subject	CAPITAL, INVESTMENT AND TREASURY MANAGEMENT STRATEGIES 2021/22
Wards affected	ALL
Accountable member	Cllr Mike Every, Deputy Leader and Cabinet Member for Finance Email: Mike.Every@cotswold.gov.uk
Accountable officer	Jenny Poole, Chief Finance Officer Email: jenny.poole@cotswold.gov.uk
Summary/Purpose	The purpose of this report is to present the draft Capital, Investment and Treasury Management Strategies 2021/22 for consultation as part of the budget setting process.
Annexes	Annex A – Draft Medium Term Financial Strategy Annex B – Capital Strategy Annex C – Investment Strategy Annex D – Treasury Management Strategy
Recommendation/s	<i>That Audit Committee considers the draft Capital, Investment and Treasury Management Strategies for 2021/22 and provides feedback to the Cabinet for consideration as part of the Council's budget setting process.</i>
Corporate priorities	The draft budget for 2021/22 reflects the financial implications of the Council Priorities as approved in the Council Plan in September 2020.
Key Decision	NO
Exempt	NO
Consultees/ Consultation	The Medium Term Financial Strategy and draft Budget for 2021/22 has been developed in consultation with the Council's statutory officers, Publica management, Ubico management, and members of the Cabinet. Consultation has been carried out with members of the Overview and Scrutiny Committee and with the District's residents, businesses and community organisations.

1. BACKGROUND

- 1.1. Cabinet approved its draft Medium Term Financial Strategy (MTFS) for the period 2021/21 to 2024/25 and the associated budget proposals for 2021/22 for consultation on 7 September 2020. The Overview and Scrutiny Committee considered the proposed MTFS and 2021/22 budget on 1 December 2020. The budget and MTFS have now been updated to reflect the following:
 - A. The government's announcement of the provisional local government settlement 2021/22;
 - B. Estimates of the income from the Business Rates Retention Scheme 2021/22;
 - C. Estimated council tax base 2021/22 and the Collection Fund deficit from council tax collection in 2020/21; and
 - D. Provision for changes which have arisen since 7 September 2020;
- 1.2. The MTFS, attached as **Annex A**, has been updated to reflect all of the above changes and the draft Capital, Investment and Treasury Management Strategies have been prepared using the latest iteration of the MTFS and the detailed budget proposals for 2021/22.
- 1.3. The Audit Committee fulfils the role of the Council's Treasury Management Advisory Panel. The Audit Committee's role is to consider the draft Capital, Investment and Treasury Management Strategies and to provide views to the Cabinet for consideration as part of the Council budget setting process. Council will also consider the views of the Audit Committee when setting the Budget and MTFS in February 2021.

2. MAIN POINTS

- 2.1. Local authorities are legally obliged to "have regard" to the CIPFA Treasury Management Code and the Prudential Code by relevant Capital Finance Regulations.
- 2.2. Local authority investment decisions in property and assets as a means to generate income have been under increased scrutiny in the past year. This has resulted in changes to the Treasury Management Code, the Prudential Code and increased scrutiny on loans from the Public Works Loan Board.
- 2.3. The Council is required to approve a Capital Strategy, an Investment Strategy as well as a Treasury Management Strategy. The three Strategies also link with the Council's Capital Programme, Medium Term Financial Strategy and the detailed budgets for 2021/22. Any changes to the draft Capital Programme, Medium Term Financial Strategy or 2021/22 revenue budget require changes to the three Strategic documents. Cabinet and Council will consider a report which brings together all of these strategic documents in February 2021.
- 2.4. The proposed Capital Strategy for 2020/21 is attached as **Annex 'B'**, the Investment Strategy is attached as **Annex 'C'** and the Treasury Management Strategy is attached as **Annex 'D'**.
- 2.5. The draft Strategies have been based on a template provided by the Council's treasury advisors, Arlingclose, which has been modified to this Council's circumstances.

- 2.6. The Treasury Management Strategy investment options have been selected to minimise the risk to the Council's investments whilst providing the scope and flexibility of investment options to enable the Council to maximise its investment returns.
- 2.7. In response to the Council's Climate Emergency declaration, an additional policy on Environmental, Social and Governance Investment is in development. The Council is working with its treasury advisors, Arlingclose, on this draft policy. The policy will be presented to the next Audit Committee for consideration.
- 2.8. The views of the Audit Committee will be reported to Cabinet and Council during February 2021.

3. FINANCIAL IMPLICATIONS

- 3.1. The savings due from the Council's Recovery Investment Strategy and the income from Treasury Management transactions are included in the Council's Medium Term Financial Strategy and detailed budget proposals for 2021/22. The Cabinet will consider these proposals in February 2021.
- 3.2. With the Bank of England base rate now at an historical low of 0.1%, the 2021/22 budget includes a reduction of income from Treasury Management investment returns of £189,000. The 2020/21 budget of £545,000 reduces to £356,000 in 2021/22.

4. LEGAL IMPLICATIONS

- 4.1. None directly as a result of this report.

5. RISK ASSESSMENT

- 5.1. There are risks of financial institutions failing given the current economic conditions. These risks are mitigated through application of the Council's Treasury Management Strategy. The strategy sets out the minimum credit criteria that are required before the Council will invest with a counterparty, but it should be noted that these are not the sole criteria applied. For example, credit default swaps and information from the financial press will also be taken into account.
- 5.2. There are risks of interest rates remaining low over the medium term which impact upon the Council's ability to generate investment income. These risks are considered in the draft Treasury Management Strategy, the Capital Strategy and the Medium Term Financial Strategy and the associated Budget detailed budget papers.
- 5.3. The processes for identification and management of risks associated with the Capital Strategy are set out within the document.

6. ALTERNATIVE OPTIONS

- 6.1. The Audit Committee can recommend changes to the draft Strategies for the Cabinet and Council to consider.

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Cotswold District Council

Medium Term Financial Strategy

2021/22 to 2024/25

Introduction

The Council approved a new Corporate Plan for the period 2020 to 2024 [Corporate Plan](#) in September 2020. The Plan sets out the Council's aims, priorities and principles.

"Aim, priorities and principles

Cotswold District is at the heart of the larger area of the Cotswolds – an area that's known around the world for its natural beauty and heritage. Around 84,000 people call our district home, and they deserve the services and support that a progressive council can provide.

This corporate strategy recognises and embraces the challenges facing the district, and states our aims and ambitions. It is underpinned by a set of action plans that describe in detail how we plan to deliver these ambitions.

Our aims is to recreate a council that's proactive and responsive to the needs of our residents and businesses in a fast-changing environment, and to build for the future while respecting our heritage.

We will do this by:

- delivering our services to the highest standards
- responding to the challenges presented by the climate crisis
- providing good quality social rented homes
- presenting a local plan that's green to the core
- helping residents and communities access the support they need for good health and wellbeing
- supporting businesses to grow in a green, sustainable manner, and to provide high value jobs

Our principles:

Everything we do is built on the following principles:

- rebuilding trust and confidence in the council by promoting a culture of openness and transparency
- providing value for money for our residents and businesses by using our resources wisely and investing in the district's fabric and future
- listening to the needs of our community, and acting on what we hear."

The Council has an ambitious agenda and this Medium Term Financial Strategy sets out the financial parameters in which to deliver the Council's Corporate Plan. Investment in Council Priorities will be through:

- Capital programme investment, for example, delivery of new social housing, installation of facilities for charging electric vehicle, partnership working to deliver green energy generation;

- One-off revenue funding from Council reserves for projects, for example, reviewing the Local Plan to make it green to the core, temporary extra resource to develop a green travel plan;
- A permanent increase to the Council’s revenue budget to provide additional resources in priority service areas, for example, funding a post to combat fly-tipping.

Annex A sets out the details of the Council’s plans for revenue income and expenditure, capital income and expenditure and earmarked reserve funded expenditure.

Service Provision

The Council has a small Management Team of directly employed officers who support the Council and who work with service providers to deliver the Council’s priorities. The Council uses a number of local authority owned companies to deliver the majority of its services. Publica Group (Support) Ltd provides commissioning advice and support to the Council as well as directly providing many services. Ubico Ltd provides waste collection, street cleansing and other environmental services. SLM provides the Council’s leisure and cultural services across the District.

The 2020/21 contract costs for these significant partners are:

Publica £8.71 million

Ubico £6.98 million

SLM provides a contribution to the Council of around £100,000 per annum. However, during 2020/21, SLM has been significantly impacted by the Covid-19 pandemic as fewer customers have been able to attend the leisure centres and the Corinium Museum. In order to ensure that these facilities, which are vital to the physical and mental health and wellbeing of residents, are able to re-open the Council has waived the income from this contract and has also provided additional financial support to the contractor.

Financial Context

The Council’s current service provision costs £24.5 million each year and is funded by:

Fees, charges and grants for specific services	£12.0 million
Retained Business Rates	£3.2 million
Rural Services Delivery Grant from the Government	£0.6 million
New Homes Bonus Grant from the Government	£3.2 million
Council tax	£5.5 million

At the end of the last financial year, on 31 March 2020, the Council held capital resources of £10.02 million, revenue reserves of £7.81 million and a General Fund balance of £4.48 million.

For 2020/21, the Council was planning to increase its General reserve by £0.21 million. Due to the impact of Covid-19 on the Council's finances, Council approved a revised budget in September 2020. The Council now expects to use £0.22 million of the General Fund and the net impact of Covid-19 is expected to cost the Council £0.44 million.

In 1997, the Council transferred its social housing to a registered provider. Following the transfer, the Council was debt free and held significant levels of capital receipts and revenue reserves. Since 1997, the capital and revenue reserves have funded projects and investments have contributed towards the delivery of the Council's priorities. The Council is now facing the prospect of borrowing to fund capital investment for the first time since the housing stock transfer.

For a full picture of the Council's financial management, this Financial Strategy should be read together with the Council's Capital, Investment and Treasury Management Strategies. Further information on how the Council plans to deliver its Priorities is contained within the following strategies:

- [Green Economic Growth Strategy](#) approved on 7 December 2020
- [Climate Emergency Strategy](#) approved on 23 September 2020
- [Recovery Investment Strategy](#) approved on 23 September 2020

This Medium Term Financial Strategy sets out the financial envelope within which the Council will deliver its Priorities.

National and Local Financial Risks

Fair Funding Review

The Government decides how to spend income generated from taxation through a Spending Review. The Spending Review announced in 2020 was limited to the 2021/22 financial year. The Spending Review determines the overall funding available for each Government Department. The Ministry for Housing, Communities and Local Government (MHCLG) is responsible for the allocation of its share of funding from the Spending Review to individual councils.

For a number of years MHCLG has been conducting a "Fairer Funding Review" to change the method of allocating funding to individual councils. The outcome of the Review poses a significant risk to the level of funding this Council receives from the Government. The outcome of the Fairer Funding Review was to be implemented in the 2021/22 financial year. For various reasons, including the negotiation of the UK's exit from the European Union and responding to the Covid-19 pandemic, MHCLG has delayed consultation upon and implementation of the Fairer Funding Review until 2022/23.

The Council has been planning for this change of funding for several years and the MTFs includes the possible impact of reduced Government funding and includes savings targets to address the reduced funding.

Business Rates Retention

The Council administers Business Rates (National Non Domestic Rates) of around £44.73 million per annum on behalf of the Government. The Council retains some Business Rates income as part of its core Government Funding. For the 2020/21 financial year, this amounts to £3.15 million.

In 2013, the Government (MHCLG) implemented the Business Rates Retention Scheme for local authorities. Each year MHCLG sets the "baseline" funding for local authorities from business rate retention. For this Council, the baseline funding for 2020/21 is £1.88 million. As part of the Business Rate Retention Scheme, the Council shares business rate income received above the baseline with Government on a 50/50 basis. The Cotswold District has seen a significant increase in income from

business rates since 2013 as the economy has grown. The growth retained by this Council now represents £1.27 million of additional Government funding over the £1.88 million baseline.

The Fairer Funding Review will reset this Council's level of Business Rate Retention. It is also likely that the share of the gain from economic growth will change. For both of these reasons, the Council is facing a significant risk that its core Government funding will fall sharply - a financial 'cliff-edge'.

New Homes Bonus

Another part of the Council's core government funding comes from New Homes Bonus. This grant is a reward to Councils for delivery against the Government's national priority of increasing the number of homes. The value of the grant depends upon the increase in the Council's "Council Taxbase".

Originally, New Homes Bonus grant was paid for a period of six years. In later years, the period that the grant was payable for was reduced to four years. The grant for 2020/21 is payable for one year only. Funding from the New Homes Bonus Scheme is being reviewed as part of the MHCLG Fairer Funding Review.

The value of New Homes Bonus to the Council in 2020/21 is £3.17 million. MHCLG has announced that a further New Homes Bonus will be paid in 2021/22 - again this will be for one year only. The MTFS reflects that the Bonus will reduce, so that only the 2021/22 grant and "legacy" grant payments will be due in 2021/22 and 2022/23.

Given that the Government still wishes to increase the supply of new homes nationally, it is likely that there will be an alternative funding stream from the Government related to the local provision of housing.

The Council's plan for addressing reduced Government Funding is set out in the Recovery Investment Strategy. This Strategy assumes there will be some replacement funding from Government for New Homes Bonus. Should this not be provided, the Council will need to increase income or find alternative savings.

Cost of service delivery in a rural area

The Council covers a large geographical area, some 450 square miles, with many small towns and villages. This low population density means that the cost of delivery of Council services at a local level is high. For example, the Council collects recycling and waste from every property in the District, meaning that our vehicles need to travel many miles per household. This means that the Council requires more vehicles and operatives to deliver the service per household than in urban areas where households are collected together.

The Government has recognised this cost driver and has provided Rural Services Delivery Grant funding since 2016. For 2020/21 the grant is worth £602,000 on top of funding from Retained Business Rates. This grant remains available in 2021/22 but the implementation of the Fairer Funding Review in 2022/23 puts this funding at risk.

Covid-19 impact upon income and costs

The Council set its budget for 2020/21 on 26th February 2020, just before the Covid-19 lockdown. Demand fell for the Council's income generating services from early in March 2020, and this decline accelerated following the announcement of the first lockdown on 23 March 2020. The Council's service related income has continued to be impacted throughout the year.

In addition to reduced service income, the Council has also faced pressure on its expenditure budgets. In particular, providing emergency accommodation for individuals and families facing homelessness; collecting additional waste and recyclable materials presented by households and ensuring that the Council's leisure contractor was able to fulfil its contractual obligations.

The Council has been regularly reporting the impact of Covid-19 on its finances to the Government. In response the Government has provided grant funding in recognition of expenditure pressures and compensation for income losses.

The financial impact of Covid-19 has been felt across the Council's services and therefore across many of the 2020/21 service budgets. In September 2020, Council approved a revised budget for 2020/21 which:

- revised income budgets to reflect forecast service income for 2020/21;
- revised expenditure budgets to reflect additional cost pressure in 2020/21;
- incorporated the initial three tranches of funding received from Government for Covid-19 and the promised support for income losses; and
- set out revised funding for the 2020/21 budget.

The basis for the proposed budget for 2021/22 is the original 2020/21 budget. However, it does reflect the ongoing impact of Covid-19 on income and expenditure and further funding announced by the Government in the Provisional Local Government Finance Settlement.

Recession

The national economy is expected to enter a period of recession. This will impact the Council through increasing demand for services such as: housing benefit and local council tax support; homelessness and housing; and support for local businesses and the community.

Financially, income from the Council's cash investments will fall significantly due to interest rate reductions as interest on cash deposits will fall from around 1% to 0.4% per annum. However, the Council will be able to reduce its borrowing costs either by using some of its cash balances to provide cash flow for some of its planned capital expenditure (rather than raising finance from external borrowing) or enter into loans at historically low interest rates. Further information on the Council investments and borrowing plans are set out in the Capital, Investment and Treasury Management Strategies. [\(LINK\)](#)

Development of the Proposed Budget 2021/22 and Medium Term Financial Strategy

The basis of the 2021/22 budget is the original budget for 2020/21, excluding the changes required to reflect the impact of Covid-19 in 2020/21. The budget for 2021/22 and the MTFS reflects the following:

1. The impact of inflation;
2. Investment in Council Priorities;
3. Provision for the impact of Covid-19 and support from Government;
4. Unavoidable budget pressures;
5. Planned savings;

6. Changes to income from fees and charges and Government grants for specific services;
7. Changes to Government funding;
8. Estimates of the council tax base and the Council's Council Tax proposal;
9. Estimates of income from Business Rates Retention;
10. Changes to the Capital Programme; and
11. Use of revenue reserves;

The Council engages with its partners in Publica and Ubico to develop its budget proposals. A detailed analysis of all of the changes to the budget over the life of the MTFS is included in **Annex A**. Details of key items in the 2021/22 budget and plans for 2022/23 to 2024/25 are set out below:

1 Impact of inflation

The Council has provided for inflation on salaries for Council and Publica employees and allowances for Members in 2021/22 based upon an assumed local government pay award of 1%. The Government has announced a public sector pay freeze but with an increase of £250 for employees earning less than the national median wage of £24,000 per annum. The final value of the local government pay award will depend upon the outcome of national local government pay negotiations.

Consumer Price Inflation (CPI) is expected to remain at, or just above, ½% during most of the winter, before rising quite sharply towards the 2% national target. As pay inflation is linked to the rate of inflation in the economy, the MTFS assumes pay inflation will increase to 2.5% from 2022/23 and continue at that level for the remainder of the life of the MTFS.

Inflation in the Ubico environmental services contract reflects employee pay award inflation, and additional costs of repairs and maintenance to the vehicle fleet as the fleet ages.

2 Investment in Council Priorities

Over the life of the MTFS, the Council is planning to invest in the Council Priorities as follows:

a. £750,000 towards addressing climate change

This funding will kickstart our action plan to make the Cotswold District “green to the core”. Actions include:

- 1 encouraging residents to switch to electric vehicles by delivering charging points across the district;
- 2 reviewing our use of offices and buildings as large numbers of staff continue working from home;
- 3 identifying opportunities to use our assets to support our climate strategy;
- 4 minimising costs so we can use more of our funding in support of climate action.

b. £740,000 over the next three years towards reviewing our local plan. The outcome is to ensure new developments in the District suit the needs of our communities and protect our landscapes and heritage.

c. £100,000 over two years to plan and develop better, greener transport options in the District, including cycle and walking routes and innovative bus options.

d. £35,000 each year to continue our fight against fly-tipping

- e. **£25,000** towards a review of open space on new developments, working with housebuilders and residents on new public open space.
- f. **£23,000** towards helping individuals with complex needs, who are facing homelessness to access secure accommodation and support.
- g. **£350,000** over three years to fund our Recovery Investment Strategy which aims to make the money we have go further and maximise our support for the District in its recovery from Covid-19. We will invest in:
 - 1 specialist skills and expert advice on how we can invest in the economic recovery of the district;
 - 2 giving our workforce access to training to build skills and knowledge fit for the new working environment created by Covid-19;
 - 3 enabling the production of new truly green energy supplies in the district; and
 - 4 delivering additional social housing.

3 Provision for the impact of Covid-19 and support from Government

Covid-19 will continue to impact Council income and expenditure until the vaccine rollout progresses sufficiently so that the Government lifts national and local restrictions. The Council's budget for 2021/22 assumes that the impact of Covid-19 will continue until 30 June 2021. The Provisional Local Government Settlement for 2021/22 recognises the ongoing impact of Covid-19 on the Council's finances and the Government has proposed additional funding for associated cost pressures of £377,000. The Government is also extending financial support for loss of income from fees and charges. Provision for a loss of £500,000 from fees and charges is included in the budget for 2021/22. Of these losses, the budget therefore assumes that the Government will fund £356,000.

The impact of Covid-19 on the collection of Council Tax and Business Rates in 2020/21 will be shown in the Collection Fund account at the end of the 2020/21 financial year. Losses on the Collection Fund are usually "repaid" from the Council's revenue account in full in the following financial year. The Government has provided for losses in 2020/21 to be spread over the following three financial years – 2021/22 to 2023/24. This change of practice is reflected in this Strategy.

4 Unavoidable budget pressures

In addition to inflationary pressure, the Council monitors external factors which impact upon its budget. Unavoidable funding pressure arises from the following:

- a. Complying with financial reporting requirements. For example, providing for the payment of interest and repayment of borrowing related to the Capital Programme (Minimum Revenue Provision);
- b. Changing market conditions. For example, the processing cost of recycling materials, the impact of lower interest rates on Council investment returns and reducing demand for Council services which lowers income from fees and charges;
- c. Decisions taken by other bodies which impact upon this Council. For example, the County Council decision about the disposal of "sharps" collected from pharmacies, and changes to Governance arrangements in third parties which increase contract sums; and
- d. Changes to the Government legislation or regulation. For example, changes to external audit regulations are increasing the work carried out by the Council's external auditors, who are therefore raising the external audit fee.

The most significant unavoidable budget pressures include:

Ubico has forecast that the contract sum for 2021/22 requires growth of £460,000 including an increased leasing cost of £400,000 for the new vehicle fleet. The Council will receive the leasing payment of £400,000 and use £297,000 of this funding to pay for the capital financing costs associated with investment in the vehicle fleet during 2020/21 and £75,000 will reflect interest income. The remaining £46,000 will increase the Council’s capital receipts.

Other environmental services contracts and income from the disposal of recycling material require additional funding of £175,000 due to a combination of higher levels of recycling material being presented and lower market values particularly for sale of cardboard.

The 2020/21 capital programme assumes that the investment in the vehicle fleet of £2.22 million will be funded from borrowing. The revenue impact of providing for the repayment of the debt, £297,000, and external interest is £19,000. This will be fully funded from the additional £400,000 lease payment due from Ubico.

Planning income was lower than budget during 2019/20. Assuming that demand for the planning service recovers to the 2019/20 actual level, the budget requires realigning to £800,000, a reduction of £170,000.

An additional £35,000 has been included to fund the pay scale for the new Chief Executive post over the cost of the Head of Paid Service post which was approved at Council on 23 September 2020.

The Council has to pay business rates and utilities bills on its own land and buildings. A review of these budgets has identified budget increases of £18,000.

The Council will be carrying out a property review of the Cotswold Club. While this review is carried out there will be a void period costing £3,000 for 2021/22. Other income budgets require realignment by £9,000 to reflect actual income due to the Council.

These cost pressures can be partially funded by savings in various supplies and services budgets which amount to £167,000.

The provision of additional car park capacity in Cirencester at the Whiteway Car Park is expected to increase income by £142,000.

The procurement of a new computer system for council tax, business rates and housing benefit administration has provided software licence savings of £50,000.

Details of all unavoidable costs over the life of the MTFs are set out in **Annex A2**.

5 Planned Savings

The Council has included the following savings targets over the life of the Financial Strategy:

	2021/22 £000	2022/23 £000	2023/24 £000	2024/25 £000
Savings	388	2,559	1,288	850

These savings will be delivered through:

1. changes to Council policy, which increases income or reduces the cost of service provision;
2. through return on investments made to support delivery of the Council Priorities;
3. efficiencies delivered through the Council’s service delivery partners;
4. new Government funding streams; or

5. changes to the Council’s asset portfolio.

A tactical plan for delivery of these savings is included in the Recovery Investment Strategy.

The Council will seek to maximise the use of the land and property assets it owns to support delivery of the Council priorities. The Council will also seek to work in partnership with other public sector service providers to make best use of the public estate within the District and the County.

The Council will consider business cases for the acquisition, disposal or enhancement of assets including the contribution towards Council Priorities, financial implications, risk, legal and governance matters. The Council will ensure that appropriate due diligence is carried out in line with the requirements set out in the Council’s Capital Strategy.

6 Fees, charges and Government grants for specific services

The Council charges for many of the services it provides including car parking, planning advice and garden waste collection. The Government sets some fees, such as planning application fees. Where the Council has the discretion to set its own fees, the Council will charge for these services to ensure they are not subsidised by other taxpayers. The Council may decide to subsidise some fees and charges. Reasons for this will be clearly set out and will be subject to decision by councillors.

The budget proposals for 2021/22 include the following change to fees and charges:

The Council plans to continue with its budget resolution from February 2020 to increase garden waste service fees to make the service cost neutral over three years. For 2021/22, this means implementing the planned increase to £40 for each bin licence. The revenue benefit is expected to be £155,000. It reflects the deferral of the previous Council decision to increase the fee to £35 in 2020/21 due to the suspension of the service during the first lockdown and the planned £5 increase in 2021/22.

The Council also intends to introduce charges for the delivery of waste and recycling containers which is expected to deliver additional income of £60,000.

In previous years, the cost of the bulky waste collection service has exceeded the income from service charges. In order to eliminate this subsidy, the charge for the service will increase from £14 to £25 for the collection of up to three items. The charge for additional items will remain at £5 per item, with an upper limit of six items. To support those residents on the lowest income, a discount of 50% will apply to residents in receipt of housing benefit or local council tax support.

7 The Provisional Local Government Settlement 2021/22

The Government announced the Provisional Local Government Settlement 2021/22 in December 2020. The settlement is for 2021/22 only. There were, however, a number of other announcements affecting 2021/22 and the two subsequent financial years. Government funding for 2021/22 is summarised below:

2021/22 only grants

Covid-19	£377,000
Lower Tier Services Grant	£690,819
Rural Services Delivery Grant	£632,183
New Homes Bonus	£2,092,561

The Council no longer receives any Revenue Support Grant. Instead, core government funding is from income retained from Business Rates collection. For 2021/22, the Government has set the Council's baseline funding from Retained Business Rates at £1,878,315. This baseline funding is increased by local growth in business rates above the baseline. This growth is shared 50:50 with the Government. Further details are set out under point 9 – Retained Business Rates.

The Government announced an extension to the Sales, Fees and Charges grant which compensates local authorities for the impact of Covid-19 on income. The value of this grant will depend upon the impact upon sales, fees and charges income to the Council that will be reported to Government during 2021/22. The Council must fund the first 5% of losses and the Government then contributes 75% of losses above that amount.

The Government has also announced that it will fund 75% of the losses incurred in 2020/21 on the collection of Council Tax and Business Rates. This grant funding will be supported for 2021/22 and the following two financial years, in line with the provision to spread Collection Fund deficits over three financial years. The value of this grant is estimated to be £32,000 for Council Tax for each of the next three financial years and £36,000 for Business Rates for each of the next three financial years.

The Council is facing a significant risk to the level of Government funding from 2022/23. Further details are set out in the National and Local Risk section of this Strategy.

8 Council Tax Base and Council Tax Proposal

The Council's current council tax for a Band D property is £133.93 for the full year. Each year the Government sets the maximum increase that a council may apply without requiring a local referendum. For district councils in 2021/22, the maximum increase is 2% or £5, whichever is the higher.

In order to deliver against its Priorities, the Council has recognised the need to generate income to fund investment in Council services. The Council therefore proposes implementing the maximum increases to council tax over the life of the MTFS.

For residents on low income, the Council has a Local Council Tax Support Scheme available to provide financial support with council tax payments. The Scheme was revised for 2020/21 to make it more generous.

Slower growth in housing supply and an assumed increase in Local Council Tax Support payments has affected the Council Tax Base for 2021/22. The Tax Base has grown by the equivalent of just 30.56 band D properties.

The outcome from a £5 Council Tax increase (for Band D properties) and growth in the Tax Base is an increase in overall income from Council Tax in 2021/22 of £214,000.

9 Retained Business Rates

A key element of funding from the Government is from retained business rates. The MTFS assumes the Council will be compensated (through section 31 grant) for any negative impact upon business rates which relate to any nationally announced discounts or reliefs to businesses (such as those previously announced in the Chancellor's Autumn Statements and Budgets).

The retained business rates scheme was due to be changed from April 2021. This has now been deferred until April 22. The MTFS has been updated to reflect forecast income from the revised scheme using advice from Pixel Financial Management who are providing expert advice to support local authorities and national bodies such as Sparse and the Local Government Association.

The Gloucestershire Business Rates Pool

The Gloucestershire Business Rates Pool was set up in 2013/14 to maximise the business rate income retained within the County and to support economic growth within the area of the Local Enterprise Partnership. Since 2013/14 the Pool has delivered the following surpluses/(losses):

	Pool Surplus/(Loss)	Cotswold DC Share
	£	Surplus/(Loss)
		£
2013/14	774,862	25,156
2014/15	(2,336,565)	(228,988)
2015/16	877,948	114,854
2016/17	2,138,143	275,600
2017/18	3,992,000	482,179
2018/19	14,270,000	497,975
2019/20	4,547,000	539,000

For 2018/19, the Council was part of the Gloucestershire 100% business rates retention pool pilot, which included all of the Gloucestershire local authorities and aimed to maximise the retention of business in Gloucestershire. In return for the gain of retaining all of the growth above baseline funding within Gloucestershire, some of the central government grants such as Rural Services Delivery Grant and Revenue Support Grant were directly funded from the Business Rates Retention Scheme.

The results of the 100% pool pilot were very successful with county-wide gain being in excess of £14 million. Of this gain, 20% was set aside for strategic economic development, 50% was allocated to the County Council to reflect the higher risk to the County Council of being part of the pool and the remaining 30% was shared across the District Councils. The District Council gain was allocated according to growth at a District Level and an equal share of the pool proportion gain so that each District gained from being part of the pool.

For 2019/20 the pool was no longer a 100% pilot, and reverted to the original 50/50 pool. The windfall gain for this Council was allocated to the Council Priorities Fund for investment in priority projects.

The Gloucestershire Business Rates Pool continues in operation in 2020/21 and 2021/22. The MTFS assumes that any windfall gain associated with the Business Rates Pool will be allocated to the Council Priorities Fund.

Each year the Council forecasts whether its collection of Business Rates will be higher than anticipated, resulting in a “surplus” on the Collection Fund, or lower than anticipated, resulting in a “deficit” on the Collection Fund.

Where this Council forecasts a surplus on the Collection Fund, the surplus is paid out in the following financial year to the County Council (10%), Government (50%) and the District Council (40%). Similarly, where the Council forecasts a deficit, the deficit is recovered in the same proportions in the following financial year.

For 2020/21, the forecast is a Collection Fund deficit of £19,043,032. Of this £17,441,911 is as a result of additional Government business rate relief awarded in 2020/21 in response to the economic impact of Covid-19. The Council will receive a Government grant of £6,976,764 in 2020/21 to reflect its 40% share of the cost of this additional relief. This grant will be recorded in the General Fund (revenue budget) rather than the Collection Fund. In order for this grant to be used to fund the Collection Fund deficit in 2021/22, a transfer from the General Fund to an earmarked reserve - the Business Rate Smoothing Reserve - will take place on 31 March 2021.

The proportion of the Collection Fund deficit which relates to financial years before 2020/21 is £1,240,636. This is referred to as the historical deficit. Of this historical deficit, Cotswold District Council’s share is £496,254 which will be funded in 2021/22.

The Collection Fund deficit which relates to the 2020/21 financial year is £360,485. This is an exceptional deficit resulting from Covid-19. This Council’s share of the exceptional 2020/21 deficit is £144,194. This deficit will be spread equally over the next three financial years 2021/22 to 2023/24 at £48,065 per annum.

The Government has promised a grant to fund 75% of the exceptional deficit.

The Council’s share of the Collection Fund deficit to be funded in 2021/22 totals £7,521,083. The Business Rates Smoothing Reserve will be used to fund £7,425,196 of this deficit.

The budget for 2021/22 includes the following key data from the business rates estimate for 2021/22:

	2021/22 £
Estimate of business rate income to the District (including £66,217 from solar farms)	13,654,017
Tariff to government	(11,485,278)
Section 31 Grants – reflecting impact of central government decisions on local government financing	2,203,207
Estimated Levy Payable to Government	(996,071)
Net Retained Business Rates 2021/22	3,375,875
Collection Fund Surplus/(Deficit) forecast to end 2019/20	(7,521,083)
Transfer from Business Rates Smoothing Reserve	7,425,196
Net Overall Income from Retained Business Rates	3,279,988

10 Capital Programme, Investment and Borrowing

The Council has set out its plans for investment in Council Priorities in various strategies including: this Medium Term Financial Strategy, the Climate Emergency Strategy and the Green Economic Growth Strategy. This investment is for service provision rather than investment to generate income to the Council. As such, the Council should be able to access borrowing from the Public Works Loans Board. The Council acknowledges that funding significant capital investment from its own internal resources is not possible and that external borrowing will be necessary. The Council is required to provide for the eventual repayment of debt from revenue. The Council's Recovery Investment Strategy sets out the return on investment which new investments will be required to meet to fund both the revenue cost of the investment and to provide additional income to the Council.

The Council plans to invest in the following capital projects over the life of the MTFS:

Capital Projects	2021/22 £000	2022/23 £000	2023/24 £000	2024/25 £000
Disabled Facilities Grants	650	650	650	650
Other housing investment	50	50	50	50
ICT	350	200	200	200
Planning Document electronic storage	200	0	0	0
Climate Change /Electric Vehicle Charging Points	150	150	150	150
Environmental Services vehicles	35	270	977	32
Household Waste and Recycling containers	55	55	55	55
Community Capital Projects	50	50	50	50
Provision for investment in leisure facilities	1,580	0	0	0
Provision for Cirencester multi-storey car park	0	6,379	6,379	0
Recovery Investment Strategy Capital Provision	15,200	20,000	19,000	0
Total	18,320	27,804	27,511	1,187

Planned funding for the Capital Programme is set out below:

Funding	2021/22 £000	2022/23 £000	2023/24 £000	2024/25 £000
External sources	650	650	650	650
Capital receipts	1,020	2,579	3,014	287
Revenue Resources	250	955	250	250
Borrowing	16,400	23,620	23,597	0
Total Funding	18,320	27,804	27,511	1,187

Further information is contained within the Council's Capital, Investment and Treasury Management Strategies.

11 Earmarked Reserves

Earmarked reserves are amounts set aside for specific policy purposes or for general contingencies and cash flow management. Revenue reserves result from events that have allowed or required monies to be set aside, year-end surpluses or circumstances that have led to anticipated expenditure being delayed or cancelled. Revenue reserves can be used for revenue or capital purposes.

Capital reserves are created from usable capital receipts. Capital reserves are not available for revenue purposes.

It is the responsibility of the Chief Financial Officer to advise the Council about the level of reserves that should be held and to ensure that there are clear protocols for their establishment and use.

Section 25 of the Local Government Act 2003 places a specific personal duty on the Chief Financial Officer to report on the adequacy of reserves and the robustness of the budget. The Chief Finance Officer includes this report in the budget setting report to Council in February each year.

The Council holds an earmarked reserve to support funding on Council Priorities. The use of Council Priorities Fund over the life of the MTFS is set out below:

Key use of earmarked reserves	2021/22 £000	2022/23 £000	2023/24 £000	2024/25 £000
Publica transformational change	95			
Additional car parking provision in Cirencester	60	60	60	
Local Plan Refresh	10	355		
Local Transport Engineer	50	25		
Recovery Investment Strategy and Economic Development	150	74		
Cirencester multi-story car park	68	705		
Covid-19 contingency for additional costs of Ubico contract	235			
Street Signs – carry forward from 2020/21	20			
Other	10	10	10	2
Total	6988	1,229	70	2

Conclusion

The Council has approved an ambitious Corporate Plan for delivery over the next few years. This Medium Term Financial Strategy sets out the financial envelope for delivery of this Plan.

There are some significant risks to the Council from changes to Government funding. The Council has been planning for these changes and has approved a Recovery Investment Strategy to respond to potential reductions in Government funding.

In order to deliver action to support the new Council Priorities, the Council will need to invest in capital projects and this will require the Council to borrow for the first time since 1997. The MTFS reflects the financial implications of the borrowing plans set out in the Capital Strategy. All new capital investment will be subject to governance arrangements set out in the approved Recovery Investment Strategy and the due diligence requirements set out in the Capital Strategy.

The net cost of the Council's revenue plans, over the life of this Strategy, is as follows:

	2021/22 £000	2022/23 £000	2023/24 £000	2024/25 £000
Budget (surplus)/deficit	(6)	923	731	243

The forecast deficits in 2022/23 and 2023/24 reflect the impact of reduced funding from Government from the MHCLG Fairer Funding Review in 2022/23 and the slightly later delivery of some savings through the Council’s Recovery Investment Strategy which are expected in 2023/24 and 2024/25.

The Council will manage these budget deficits through application of the General Fund Balance. The forecast level of General Fund Balance is set out below:

	31 March 2022 £000	31 March 2023 £000	31 March 2024 £000	31 March 2025 £000
General Fund Balance	2,292	3,002	2,271	2,082

Overall, the Council revenue and capital plans are affordable and the forecast balances on Council resources is set out below:

	31 March 2022 £000	31 March 2023 £000	31 March 2024 £000	31 March 2025 £000
Capital Reserves	4,960	3,094	793	1,079
Earmarked Revenue Reserves	3,822	2,593	2,523	2,521
General Fund Balance	2,292	3,002	2,271	2,082

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	2020/21 £000s	2020/21 Revised £000s	2021/22 £000s	2022/23 £000s	2023/24 £000s	2024/25 £000s
Expenditure base budget	23,413	23,413	24,820	24,159	22,520	22,009
Inflation - Salaries Retained Staff and Members Allowances	26	30	26	26	26	26
Inflation - Publica	213	234	85	215	215	215
Inflation - Ubico			213	215	218	220
Inflation - Other Contracts	140	140	16	16	16	16
Total Inflationary Increases	379	404	340	472	475	477
Unavoidable budget pressures - See Annex A2	1,728	1,992	(613)	448	303	716
Provision for impact of Covid 19 2021/22			377	(377)		
Government Grant for Impact of Covid 19 2021/22			(377)	377		
Savings						
Savings - Publica and Leisure Contracts	(329)	(294)	(25)	(75)	0	(0)
Recovery Investment Strategy	(774)	(695)	(363)	(2,484)	(1,288)	(850)
Total Expenditure	24,416	24,820	24,159	22,520	22,009	22,352
Income base budget	(12,256)	(12,256)	(9,360)	(11,602)	(11,883)	(11,883)
Inflation				(100)		(130)
Impact of Covid 19 on Sales, Fees and Charges			500	(500)		
Sales, Fees and Charges Grant			(356)	356		
Unavoidable budget pressures - See Annex A2	100	2,896	(2,386)	(38)	0	(241)
Total Income	(12,156)	(9,360)	(11,602)	(11,883)	(11,883)	(12,254)
Net cost of service	12,260	15,461	12,557	10,636	10,126	10,098
Central Government Funding						
Retained Business Rates Estimate	(3,150)	(3,150)	(3,280)	(2,900)	(2,959)	(3,078)
Revenue Support Grant/Covid 19 Gov Funding	0.000	(2,765)				
Lower Tier Services Grant			(691)			
Rural Services Delivery Grant	(602)	(602)	(632)	0	0	0
New Homes Bonus	(3,169)	(3,169)	(2,093)	(665)	0	0
Overall Central Government Funding	(6,921)	(9,687)	(6,696)	(3,564)	(2,959)	(3,078)
Council Tax						
Estimated Council Tax Base	41,817.6	41,817.6	41,848.2	42,350.3	42,858.5	43,372.8
Band D Council Tax	133.93	133.93	138.93	143.93	148.93	153.93
Council Tax Yield	(5,601)	(5,601)	(5,814)	(6,095)	(6,383)	(6,676)
Local Council Tax Support Grant			(88)			
Tax income guarantee - 75%			(32)	(32)	(32)	
Collection Fund (Surplus)/Deficit - Council Tax	49	49	67	(53)	(53)	(100)
Overall Funding Position	(12,473)	(15,238)	(12,563)	(9,713)	(9,395)	(9,855)
Budget (Surplus)/Deficit	(212)	223	(6)	923	731	243

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Unavoidable Budget Pressures	2020/21	2020/21 Revised	2021/22	2022/23	2023/24	2024/25
Expenditure						
Revenue Impact of increase to external borrowing - MRP	683,000	(67,000)	297,143	328,000	472,400	591,971
Loan repayments offsetting MRP on external borrowing for loans					(400,000)	
Revenue Impact of increases to external borrowing - interest	99,348	0	19,290	119,720	376,216	263,915
Interest from Ubico re vehicle lease payments			(75,000)			
Interest on loans to third parties - offsetting interest costs					(145,500)	0
GCC Waste Incentive Grant Reduction	45,000	65,000				
Review of statutory officers	50,000	50,000	35,000			
Flytipping - saving from end of funding for temporary resource			(35,000)			
Flytipping Officer temporary resource made permanent			35,000			
Additional Ubico contract cost - transfer of green waste to site in Purton		68,000				
Waste Service Review	610,000	610,000				
Increase to Ubico contract sum 2021/22			60,000			
Additional fleet hire costs in Ubico contract			400,000			
Use of capital receipts to fund MRP re vehicle fleet - from Ubico lease payments			(297,143)			(139,571)
Members Allowances re new Scheme approved May 2019	47,005	47,005				
Council Chamber Webcasting Ongoing Support and Maintenance	20,000	20,000				
Severn Wye funding for investment in SMEs climate change measures	3,000	3,000				
Climate Change Manager Post	70,000	70,000				
Contribution to election fund	10,000	10,000				
Green Energy Supply	6,100	6,100				
Insurance Premiums	23,280	23,280				
External Valuation Resource - Property Services	10,000	10,000				
Support of in-cab system for waste and recycling vehicles	26,000	26,000				
Enhanced support for communications team	5,000	5,000				
Community Welfare Grants	20,000	20,000				
Additional costs for homeless service		50,000				
Savings from Civica Revs and Bens System Licences			(50,000)			
One-off costs impact of Covid 19		1,157,000	(1,157,000)			
One-off savings related to impact of Covid 19		(181,000)	181,000			
Recycling Materials Processing Costs			78,000			
Business Rates and Utilities budget alignment			18,000			
Publica contract variation - Support for Statutory Officers and Members			13,000			
Savings in Supplies and Services Budgets			(167,000)			
Collection of sharps from pharmacies - end of NHS Contract			12,000			
Strengthening Publica Board of Directors			5,000			
External Audit Fees - changes to national regulatory framework driving increase			15,000			
Total Expenditure Budget Pressures	1,727,733	1,992,385	(612,710)	447,720	303,116	716,316
Indicative car parking income from Decked Car Parking Cirencester				0		(241,000)
Impact of lump sum payment in to pension fund (2020/21) on investment income			(16,000)	(16,000)		
Reduced planning income	100,000	100,000	170,000			
Additional income Whiteway Car Park and other additional car parking in Cirencester		(17,646)	(142,054)			
Loss of Investment Income - acquisition of strategic site in MIM				3,200		
Loss of investment income due to lower interest rates			189,000			
Additional Car Parking - linked to acquisition of strategic site in MIM				(25,000)		
Loss of income from housing benefit overpayments as a result of new claimants claiming via universal credit		118,000				
Recycling Materials Market Value Changes			97,000			
Realignment of income budgets to reflect actual income			12,000			
One-off Covid 19 Impact upon income		2,696,000	(2,696,000)			
Total Income Growth/Budget Pressures	100,000	2,896,354	(2,386,054)	(37,800)	0	(241,000)
TOTAL	1,827,733	4,888,739	(2,998,764)	409,920	303,116	475,316

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	2020/21 As per Approved MTFS £000	2020/21 Revised £000	2021/22 £000	2022/23 £000	2023/24 £000	2024/25 £000
Capital Reserves						
Opening Balance of capital receipts and capital grants	(8,060)	(10,023)	(5,267)	(4,960)	(3,094)	(793)
Expenditure:						
Private Sector Housing Renewal Capital Grant - DFGs	700	700	700	700	700	700
ICT Capital funding	200	120	200	200	200	200
Business World Upgrades - Finance and HR System	15	0				
Replacement of Idox/Uniform system (ICT)		0	150			
Planning documents and scanning solution		0	200			
Car Park Improvements		245				
Additional investment in Car Parking at Rugby Club	192	390				
Provision for further electric vehicle charging points	150	600	150	150	150	150
Replace pay and display machines	125	125				
Provision for Ubico Ltd waste vehicles	1,410	2,080	35	270	977	32
In-cab technology		140				
Ubico contract - roller brake testing	52	52				
Waste receptacles growth in properties and replacements	55	55	55	55	55	55
Contribution to Rural Broadband scheme	500	500				
Capital works on Corinium Museum		241				
Community Projects Fund	50	115	50	50	50	50
Barn Theatre Loan		20				
Barn Theatre Grant - from CPF Carry forward		4				
Potential new capital schemes						
Investment in Cirencester Leisure Centre			1,200			
Replacement Leisure equipment	380		380			
Investment in multi-storey car parking Cirencester	4,758	0	0	6,379	6,379	
Investment in Strategic Property Acquisition (Council 27 June 19)		1,875				
Investment in Strategic Property Acquisition (Council 27 June 19) additional borrowing requirement - changed to funding from capital receipts		2,485				
Recovery Investment Strategy			15,200	20,000	19,000	
Webcasting and Audio Visual Investment	80	80				
Acquisition of Strategic Site Moreton-in-Marsh		980				
Packers Leaze Depot - flood prevention works		80				
Financing:						
Borrowing for Waterloo Car Park Development	(4,758)	0	0	(3,620)	(3,620)	
Borrowing other investments	0	(2,220)	(16,400)	(20,000)	(19,977)	0
Capital Financed from Revenue	(250)	(250)	(250)	(250)	(250)	(250)
Earmarked reserves funding Cirencester multi-storey car park	(705)			(705)		
Earmarked reserves funding Strategic Prop Acquisition Council 27 June 19		(1,795)				
Earmarked reserves funding roller brake testing	(52)	(52)				
DFG Grant / Better Care Fund	(650)	(650)	(650)	(650)	(650)	(650)
Right to Buy and other misc. capital receipts	(150)	(150)	(150)	(150)	(150)	(150)
Loan repayment from Ubico Ltd for waste vehicles	(765)	(765)	(860)	(860)	(860)	(860)
Application of Ubico receipts to fund MRP			297	297	297	437
Unilateral Undertaking funding for development of MIM Site		(250)				
Estimated Closing Balance of Capital Receipts	(6,723)	(5,267)	(4,960)	(3,094)	(793)	(1,079)

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Revenue Reserves

	2020/21 As per MTFS £000	2020/21 Revised £000	2021/22 £000	2022/23 £000	2023/24 £000	2024/25 £000
Council Priorities Fund (and CPF allocations)						
Opening balance	(2,441)	(4,045)	(2,070)	(1,372)	(143)	(73)
Income						
Contribution to CPF From review of earmarked reserves		(873)				
Allocation of financial gain from Business Rates Pool	(350)	(350)				
Windfall gain from BR Pool 2019/20		(189)				
Street Signs underspend in 2020/21 carry forward to 2021/22		(20)				
Expenditure/Commitments						
Defibrulators		32				
Additional Resources - Legal, Property, ERS		70				
WWI Grants		4				
Funding capital expenditure multi-storey car park (Waterloo)	705			705		
Acquisition of strategic prop in Cirencester		1,795				
Kemble Housing (Funding Allocation Sept 2017)		81				
Revenue contribution to 2020 Vision Programme		0	95			
CIL/S.106 Implementation Project Resource			2	10	10	2
Gloucestershire Wildlife Trust Contributions	3	3				
Funding OMH Demolition and Redevelopment		65				
Decked car parking in Cirencester		118				
Coach Park BOTW (Feb 16)		52				
Cemeteries repairs and maintenance		20				
Kemble Housing		20				
DFG - Relocation Revenue Grants	5	5				
Additional car parking provision Cirencester	60		60	60	60	
Climate Change Studies		105				
Members ICT Smoothing Fund	5	5				
Local Plan Carry Forward of Previous Funding		92				
Local Plan Refresh	400	375	10	355		
Transport Engineer Post funded from LP Refresh		25	50	25		
Media and comms - especially Corporate Plan and budget consultation		5				
Development of Health, Wellbeing and Leisure Strategy	50	50				
Resource to support fundraising for the Corinium Museum	20	20				
Resources to support development and implementation of Recovery Investment Strategy and Economic Development	350	126	150	74		
Property Services - Options Appraisals	50	32				
Contribution to feasibility study on Cirencester light railway - Council 22/1/20	13	13				
Communications Funding for Market Research, Council Plan, Flytipping, Car Parking Project etc.	30	35				
Roller brake testing	52	52				
New and Replacement Street and District Signage	20	20				
LED lighting in Council buildings and improve external lighting	20	20				
New noise equipment and resource for Air Quality	20	10				
Legal Fees re health and safety case		20				
Open Space Review		25				
Housing First		23				
Waterloo Car Park Planning Application			68			
Devolution White Paper - Gloucestershire Unitary Authorities		75				
Strategic Site Moreton-In-Marsh Revenue Support		4	8			
Ubico - provision for additional costs re waste collection from residents - work from home/covid 19 lockdowns etc.			235			
Green Homes Grants - work in partnership enabling local residents to access grants		10				
Street Signs carry forward of budget from 2020/21			20			
Closing balance	(988)	(2,070)	(1,372)	(143)	(73)	(71)

Revenue Reserves

	2020/21 As per MTFS £000	2020/21 Revised £000	2021/22 £000	2022/23 £000	2023/24 £000	2024/25 £000
Other Earmarked Reserves (excluding CPF)						
Opening balance	(3,120)	(3,767)	(2,450)	(2,450)	(2,450)	(2,450)
Income						
Expenditure						
Community Led Housing Grant - community led housing officer post	39	39				
Community Led Housing Grant - other expenditure	361	361				
Housing First		37				
Barn Theatre Grant part funded from reserves and part from Community Projects Fund		7				
Trf to Council Priorities Fund		873				
Closing balance	(2,720)	(2,450)	(2,450)	(2,450)	(2,450)	(2,450)
Total of Earmarked reserves	(3,708)	(4,520)	(3,822)	(2,593)	(2,523)	(2,521)
General fund working balance						
Opening balance	(4,746)	(4,475)	(651)	(2,292)	(3,002)	(2,271)
Impact of Senior Management Changes		333				
Lump sum contribution to Gloucestershire LGPS	3,268	3,268	(1,634)	(1,634)		
Revenue budget (surplus)/deficit for the year	(212)	223	(6)	923	731	243
Closing balance on the General Fund	(1,690)	(651)	(2,292)	(3,002)	(2,271)	(2,028)
Total of Council revenue reserves (GF and Earmarked Reserves)	(5,398)	(5,171)	(6,114)	(5,595)	(4,794)	(4,549)

Cotswold District Council

Capital Strategy 2021/22

Introduction

This Capital Strategy gives a high-level overview of how capital expenditure, capital financing and treasury management activity contribute to the provision of local public services along with an overview of how associated risk is managed and the implications for future financial sustainability. It has been written in an accessible style to enhance understanding of these sometimes technical areas.

Decisions made this year on capital and treasury management will have financial consequences for the Council for many years into the future. They are therefore subject to both a national regulatory framework and to a local policy framework, summarised in this report.

Capital Expenditure and Financing

Capital expenditure is where an authority spends money on assets, such as property or vehicles, that will be used for more than one year. In local government this includes spending on assets owned by other bodies, and loans and grants to other bodies enabling them to buy assets. The Council has some limited discretion on what counts as capital expenditure, for example assets costing below £10,000 are not capitalised and are treated as operational expenditure, which is charged to the Council's revenue account.

- For details of the Council's policy on capitalisation, see the Council's accounting policies which are contained within the annual Statement of Accounts: [Statement of Accounts 2019-20](#)

In 2021/22, the Authority is planning capital expenditure of £18.3 m as summarised below:

Table 1: Prudential Indicator: Estimates of Capital Expenditure

	2019/20 actual £million	2020/21 forecast £million	2021/22 budget £million	2022/23 budget £million	2023/24 budget £million
General Fund services	5.5	10.9	18.3	27.8	27.5
Capital investments	2.2	0	0	0	0
TOTAL	7.7	10.9	18.3	27.8	27.5

The main General Fund capital projects include provision of social housing, supporting local economic development, investment in green energy provision and projects to reduce carbon emissions. The Council will continue to support the community through the allocation of Disabled Facilities Grants, investment in community leisure and cultural facilities and investment in car park facilities.

Capital investments include loans and shares made for service purposes and property held primarily for financial return in line with the definition in the *CIPFA Treasury Management Code*. At the time of preparing this Strategy, the Council does not plan to incur any capital expenditure on investments. However, the differentiation between capital expenditure on General Fund Services and Investments

will be included within the individual business cases for capital projects developed under the Council’s Recovery Investment Strategy.

Governance: Service managers contribute annually, in the autumn, to the Council’s revenue budget and capital programme. The Finance Team collates proposed changes to the Capital Programme for consideration by the Cabinet as part of the Council’s budget setting process. The financing cost (which can be nil for projects funded from Council resources or external grants) is included in the Medium Term Financial Strategy and detailed budgets for the forthcoming financial year. The Council’s Overview and Scrutiny Committee considers both the Medium Term Financial Strategy and the detailed budget. The comments of the Overview and Scrutiny Committee are reported to Cabinet when the Medium Term Financial Strategy and detailed budget proposals are considered. Cabinet recommends the final Capital Programme and revenue budgets to Council in February each year.

In September 2020, the Council approved a Recovery Investment Strategy: [Recovery Investment Strategy](#). Under this Strategy the Council has established a Capital Programme Investment Board which will consider business cases for projects which support the aims and objectives of the Recovery Investment Strategy. Once the Board has considered business cases the Cabinet and/or Council will consider the views of the Board when approval is sought to access capital funding.

➤ For full details of the Council’s proposed capital programme see the revenue and budget papers considered by Cabinet and Council in February 2021: [link to be added when Cabinet papers are published](#)

All capital expenditure must be financed, either from external sources (government grants and other contributions), the Council’s own resources (revenue, reserves and capital receipts) or debt (borrowing, leasing and Private Finance Initiative). The planned financing of the above expenditure is as follows:

Table 2: Capital financing

	2019/20 actual	2020/21 forecast £million	2021/22 budget £million	2022/23 budget £million	2023/24 budget £million
External sources	1.5	0.9	0.7	0.7	0.7
Capital resources	5.9	5.7	1.0	2.5	3.0
Revenue resources	0.3	2.1	0.2	1.0	0.3
Debt	0.0	2.2	16.4	23.6	23.6
TOTAL	7.7	10.9	18.3	27.8	27.5

Debt is only a temporary source of finance, since loans and leases must be repaid, and this is therefore replaced over time by other financing, usually from revenue which is known as minimum revenue provision (MRP). Alternatively, proceeds from selling capital assets (known as capital receipts) may be used to replace debt finance. Planned MRP and use of capital receipts are as follows:

Table 3: Replacement of debt finance

	2019/20 actual £million	2020/21 forecast £million	2021/22 budget £million	2022/23 budget £million	2023/24 budget £million
Capital resources	0	0	0.3	0.3	0.7
Revenue resources	0	0	0	0.3	0.4
TOTAL	0	0	0.3	0.6	1.1

Minimum Revenue Provision Policy

Before the start of the financial year, a statement of Minimum Revenue Provision Policy for the forthcoming financial year must be approved by Full Council.

The broad aim of the Policy is to ensure that Minimum Revenue Provision (MRP) is charged over a period that is reasonably commensurate with the period over which the capital expenditure, which gave rise to the debt, provides benefits.

Where the Council's overall Capital Financing Requirement is £nil or a negative amount there is no requirement to charge MRP.

International Financial Reporting Standards (IFRS) require Private Finance Initiative (PFI) schemes and Operating Leases to be brought onto the Balance Sheet. Where this is the case, such items are classed (in accounting terms) as a form of borrowing. MRP for these items is matched against the principal repayment embedded within the PFI or lease agreement, and the impact upon the revenue account is therefore neutral.

The Council will use the Asset Life Method for calculating MRP. Under this method MRP is determined by the life of the asset for which the borrowing is undertaken. This can be calculated by either of the following methods:

- (a) Equal Instalments: where the principal repayment made is the same in each year, or
- (b) Annuity: where the principal repayments increase over the life of the asset.

The annuity method has the advantage of linking MRP to the benefits arising from capital expenditure, where these benefits are expected to increase over the life of the asset.

MRP commences in the financial year following that in which the expenditure is incurred or, in the year following that in which the relevant asset becomes operational.

The estimated life of the asset will be determined in the year that MRP commences and will not be subsequently revised. However, additional repayments can be made in any year which will reduce the level of payments in subsequent years.

If no life can be reasonably attributed to an asset, such as freehold land, the life is taken to be a maximum of 50 years. In the case of freehold land on which a building or other structure is constructed, the life of the land will be treated as equal to that of the structure.

In instances where the Government permits revenue expenditure to be capitalised, the Statutory Guidance sets out the number of years over which the charge to revenue must be made. The maximum useful life for expenditure capitalised by virtue of a direction under s16(2)(b) is 20 years.

The General Fund MRP charge, using the asset life method, is estimated at £0.3 million for 2021/22.

The Authority’s cumulative outstanding amount of debt finance is measured by the capital financing requirement (CFR). This increases with new debt-financed capital expenditure and reduces with MRP and capital receipts used to replace debt. The CFR is expected to increase by £16.1 million during 2021/22. Based on the above figures for expenditure and financing, the Authority’s estimated CFR is as follows:

Table 4: Prudential Indicator: Estimates of Capital Financing Requirement

	31.3.2020 actual £million	31.3.2021 forecast £million	31.3.2022 budget £million	31.3.2023 budget £million	31.3.2024 budget £million
General Fund services	0	2.2	18.3	41.3	63.8
Capital investments	0	0	0	0	0
TOTAL CFR	0	2.2	18.3	41.3	63.8

Asset management: The Council recognises that management of the Council's asset base is critical to delivering efficiency savings, enhancing returns from the Council’s assets and ensuring that assets remain in top condition to deliver efficient and effective services to residents.

During 2020/21, the Council commenced a targeted review of its strategic assets. The review is being led by the Leader and Deputy Leader and Cabinet Member for Finance. Where there are opportunities to use assets more effectively to deliver the Council’s priorities, business cases will be presented to the Cabinet or Council for approval.

The Council’s Audit Committee receives information on the Council’s asset portfolio as part of consideration of the financial statements.

Asset disposals: When a capital asset is no longer needed, it may be sold so that the proceeds, known as capital receipts, can be spent on new assets or to repay debt. The Authority is currently also permitted to spend capital receipts on service transformation projects until 2022/23. Repayments of capital grants, loans and investments also generate capital receipts. The Authority plans to receive £3.9 million of capital receipts in the coming financial years as follows:

Table 5: Capital receipts receivable

	2019/20 actual £million	2020/21 forecast £million	2021/22 budget £million	2022/23 budget £million	2023/24 budget £million
Asset sales	0.6	0.1	0.1	0.1	0.1
Loans repaid (Ulico)	0.4	0.8	0.9	0.9	0.9
TOTAL	1.0	0.9	1.0	1.0	1.0

➤ The Asset Sale receipts in the table above includes receipts from “Right to Buy” asset disposals from Bromford Housing Association.

➤ The Council does not intend to make use of the flexibility to use capital receipts on service transformation projects. Instead, the revenue impact of transformational change is funded through the application of revenue earmarked reserves.

➤ **Treasury Management**

Treasury management is concerned with keeping sufficient but not excessive cash available to meet the Authority’s spending needs, while managing the risks involved. Surplus cash is invested until required, while a shortage of cash will be met by borrowing, to avoid excessive credit balances or overdrafts in the bank current account. The Authority is typically cash rich in the short-term as revenue income is received before it is spent, but cash poor in the long-term as capital expenditure is incurred before being financed. The revenue cash surpluses are offset against capital cash shortfalls to reduce overall borrowing.

Due to decisions taken in the past, the Council is currently debt free and as at 31 December 2020 held £28.5 million in treasury investments at an average rate of 1.44%.

Borrowing strategy: The Authority’s main objectives when borrowing are to achieve a low but certain cost of finance while retaining flexibility should plans change in future. These objectives are often conflicting, and the Authority therefore seeks to strike a balance between cheap short-term loans (currently available at around 0.10%) and long-term fixed rate loans where the future cost is known but higher (currently 1.5 to 2.5%).

The Council will use up to £2.5 million of its treasury balances to fund its borrowing requirement. This is known as internal borrowing. When interest rates are so low, it is more cost effective to use some cash in this way. The Council is losing around 0.1% on the cash investment but saving the costs of long term finance currently 1.5 to 2.5%.

Projected levels of the Authority’s total outstanding debt (which comprises borrowing, PFI liabilities, and leases) are shown below, compared with the capital financing requirement (see above).

Table 6: Prudential Indicator: Gross Debt and the Capital Financing Requirement

	31.3.2020 actual £million	31.3.2021 forecast £million	31.3.2022 budget £million	31.3.2023 budget £million	31.3.2024 budget £million
Debt (incl. PFI & leases)	0	0	16.0	39.0	63.0
Capital Financing Requirement	0	2.2	18.3	41.3	63.8

Statutory guidance is that debt should remain below the capital financing requirement, except in the short-term. As can be seen from table 6, the Authority expects to comply with this in the medium term.

Liability benchmark: To compare the Authority’s actual borrowing against an alternative strategy, a liability benchmark has been calculated showing the lowest risk level of borrowing. This assumes that cash and investment balances are kept to a minimum level of £12.5 million at each year-end. This benchmark is currently £-12.4 million, reflecting the fact that the Council is debt free and its cash balances are invested through application of the Treasury Management Strategy. Over the next three years, the liability benchmark moves to £-0.3 million reflecting a use of capital receipts and earmarked reserves and use of internal borrowing to partially fund the Capital Programme.

Table 7: Borrowing and the Liability Benchmark

	31.3.2020 actual £million	31.3.2021 forecast £million	31.3.2022 budget £million	31.3.2023 budget £million	31.3.2024 budget £million
Outstanding borrowing	0	0	16.0	39.0	63.0
+Liability benchmark	-12.4	-2.7	-3.4	-1.2	-0.1

Affordable borrowing limit: The Authority is legally obliged to set an affordable borrowing limit (also termed the authorised limit for external debt) each year. In line with statutory guidance, a lower “operational boundary” is also set as a warning level should debt approach the limit.

Table 8: Prudential Indicators: Authorised limit and operational boundary for external debt in £m

	2020/21 limit (revised) £million	2021/22 limit £million	2022/23 limit £million	2023/24 limit £million
Authorised limit - borrowing	10	26	49	71
Authorised limit - PFI and leases	0	0	0	0
Authorised limit - total external debt	10	26	49	71
Operational boundary - borrowing	5	21	44	66
Operational boundary - PFI and leases	0	0	0	0
Operational boundary - total external debt	5	21	44	66

- Further details on borrowing set out in the Treasury Management Strategy.

Treasury investment strategy: Treasury investments arise from receiving cash before it is paid out again. Investments made for service reasons or for pure financial gain are not generally considered to be part of treasury management.

The Authority’s policy on treasury investments is to prioritise security and liquidity over yield, that is to focus on minimising risk rather than maximising returns. Cash that is likely to be spent in the near term is invested securely, for example with the Government, other local authorities or selected high-quality banks, to minimise the risk of loss. Money that will be held for longer terms is invested more widely, including in bonds, shares and property, to balance the risk of loss against the risk of receiving returns below inflation. Both near-term and longer-term investments may be held in pooled funds, where an external fund manager makes decisions on which particular investments to buy and the Authority may request its money back at short notice.

Table 9: Treasury management investments

	31.3.2020 actual £million	31.3.2021 forecast £million	31.3.2022 budget £million	31.3.2023 budget £million	31.3.2024 budget £million
Near-term investments	12.4	2.7	3.4	1.4	0.3

Longer-term investments	12.5	12.5	12.5	12.5	12.5
TOTAL	24.9	15.2	15.9	13.9	12.8

➤ Further details on treasury investments can be found in the Treasury Management Strategy.

Risk management: The effective management and control of risk are prime objectives of the Authority’s treasury management activities. The treasury management strategy therefore sets out various indicators and limits to constrain the risk of unexpected losses and details the extent to which financial derivatives may be used to manage treasury risks.

Governance: Decisions on treasury management investment and borrowing are made daily and are therefore delegated to the Chief Finance Officer and staff, who must act in line with the Treasury Management Strategy approved by Council. Every six months reports on treasury management activity are presented to the Audit Committee and Council. The Audit Committee is responsible for scrutinising treasury management decisions.

Investments for Service Purposes

The Council makes investments to deliver local public services. Investments can include making loans to and buying shares in:

- local service providers and local small businesses to promote economic growth; and
- the Council’s subsidiaries that provide services.

In light of the public service objective, the Council is willing to take more risk in these investments than with treasury investments. However, the Council still plans for such investments to at least break even or to generate a profit after all costs.

The Council has minimal transactions of this nature but recently provided a loan of £20,000 to the Barn Theatre in Cirencester to support the provision of a local cinema.

Governance: Decisions on service investments are made by the Council on advice from the Chief Finance Officer and must comply with the criteria and limits laid down in the Investment Strategy. Most loans and shares are capital expenditure and purchases will therefore also be approved as part of the capital programme.

Further details on service investments can be found in the Investment Strategy

Commercial Activities

With Government financial support for local public services declining, the Authority has invested in commercial property purely or mainly for financial gain. Total commercial property investments are valued at £6.5 million as at 31 March 2020 providing a net return after all costs of 7.0%.

With financial return being the main objective, the Authority accepts higher risk on commercial investment than with treasury investments. The principal risk exposures include: vacancy periods (voids) between tenants, costs of material repairs to property, risk of fire or flood damage. These risks are managed by: acquiring properties with long leases and with tenants with a strong covenant and insuring the property. Covid-19 will impact some tenants, with a higher risk of business failures. In the longer term, the changing nature of the high street for retail occupants may require the Council to review its commercial property holdings. These risks are managed by the Council’s Property Services Team. The Council also has a Corporate Risk Register which is reported quarterly to the Council’s Audit Committee and includes any significant risks arising from commercial investments.

In order that commercial investments remain proportionate to the size of the Authority, these are subject to an overall maximum investment limit of £40 million and contingency plans are in place should expected yields not materialise. The revised budget for 2020/21 includes a provision of £40,000 for reduced income from commercial rent.

Governance: Decisions on commercial investments are made by the Council in line with the criteria and limits approved by Council in the Investment Strategy. Property and most other commercial investments are also capital expenditure and purchases will therefore also be approved as part of the Capital Programme.

- Further details on commercial investments and limits on their use are in the Investment Strategy.

Liabilities

In addition to debt, the Authority is committed to making future payments to cover its pension fund deficit (valued at £40.7 million as at 31 March 2020). It has also set aside £1.8 million to cover the financial risks associated with successful appeals against business rates resulting in refunds to businesses.

The Authority is a shareholder of Ubico Ltd (one seventh) and is a joint partner in Publica Group (Support) Limited (one quarter owner). In both cases, should the company overspend its budget the Council would be liable for its share of the additional costs. In both companies, sound financial management and budgetary control mitigate the risk that additional sums will be required without adequate notice.

Governance: Decisions on incurring new liabilities are taken by Cabinet or Council according to the scale of financial liability. The risks of liabilities crystallising and requiring payment are monitored by the Finance Team and reported in the Statement of Accounts. Where liabilities arise during the year they are reported to Cabinet and Council as part of quarterly performance reports.

Further details on provisions can be found in the 2019/20 statement of accounts.

Revenue Budget Implications

Although capital expenditure is not charged directly to the revenue budget, interest payable on loans and MRP are charged to revenue, offset by any investment income receivable. The net annual charge is known as financing costs; this is compared to the net revenue stream i.e. the amount funded from Council Tax, business rates and general government grants.

Table 10: Prudential Indicator: Proportion of financing costs to net revenue stream

	2019/20 actual £000	2020/21 forecast £000	2021/22 budget £000	2022/23 budget £000	2023/24 budget £000
Financing costs (£m)	-640	-400	-84	345	1,074
Proportion of net revenue stream	-5%	-3%	-1%	4%	11%

The funding available from Government from 2022/23 onwards is very uncertain due to changes due to be implemented to local government funding. The proportion indicator should therefore be treated as highly indicative.

- Further details on the revenue implications of capital expenditure are included in the report to Cabinet on the 2021/22 revenue budget. [Link to be added when February Cabinet papers are available on website.](#)

Sustainability: Due to the very long-term nature of capital expenditure and financing, the revenue budget implications of expenditure incurred in the next few years will extend for up to 50 years into the future. The Chief Finance Officer is satisfied that the proposed capital programme is prudent, affordable and sustainable because the impact has been included in the Medium Term Financial Strategy. The forecast level of General Fund balance is positive at £2.0 million at the end of the Strategy period in March 2025.

Knowledge and Skills

The Council is advised by professionally qualified and experienced staff in senior positions with responsibility for making capital expenditure, borrowing and investment decisions. For example, the Chief Finance Officer is a qualified accountant with over 20 years' experience of working in local government finance. The Deputy Chief Finance Officer is also a qualified accountant with 17 years of experience. The Council pays for junior staff to study towards relevant professional qualifications including Chartered Institute of Public Finance and Accountancy (CIPFA), Association of Certified Chartered Accountants (ACCA) and Association of Accounting Technicians.

Where Council staff do not have the knowledge and skills required, use is made of external advisers and consultants that are specialists in their field. The Council currently employs Arlingclose Limited as treasury management advisers. The Council employs other specialist advisers to advise upon specific, extra-ordinary transactions as required. Examples of such transactions include property acquisitions, and loans to third parties. This approach is more cost effective than employing such staff directly, and ensures that the Council has access to knowledge and skills commensurate with its risk appetite.

The Council has experience of investing in commercial property in recent years. The Council's property service is provided through its strategic service provider Publica Group (Support) Ltd. The team of property officers have the following qualifications:

- BSc Hons Real Estate Management
- Associate Member Royal Institute Chartered Surveyors
- Member Royal Institute Chartered Surveyors
- Royal Institute Chartered Surveyors Registered Valuer
- Member Institute Welfare & Facilities Management
- Technical member for Institute for Occupational Safety and Health
- Member of Chartered Institute of Marketing

The Council's Legal Team has experience of carrying out due diligence checks, particularly for commercial property acquisitions, and the legal officers have the following qualifications:

- Fellow of the Charter Institute of Legal Executives (FCIlex)
- Associate Member of the Charter Institute of Legal Executives (FCIlex)
- Graduate of the Charter Institute of Legal Executives (FCIlex)
- Para-Legals
- Solicitors

The Property and Legal teams work together with the Finance Team to support the Council's Chief Finance Officer and the Public Finance Director in developing investment proposals for the Council. External specialist advice is obtained when required to support these teams.

The Cabinet and Council also includes elected Members with a wealth of experience from business, banking and financial organisations. Members will use their knowledge, skills and experience to scrutinise business cases for proposed Council investment.

Cotswold District Council

Investment Strategy Report 2021/22

Introduction

The Council invests its money for three broad purposes:

- because it has surplus cash as a result of its day-to-day activities, for example when income is received in advance of expenditure (known as **treasury management investments**),
- to support local public services by lending to or buying shares in other organisations (**service investments**), and
- to earn investment income (known as **commercial investments** where this is the main purpose).

This Investment Strategy meets the requirements of statutory guidance issued by the Government in January 2018 and focuses on the second and third of these categories.

Treasury Management Investments

The Council typically receives its income in cash (e.g. from taxes and grants) before it pays for its expenditure in cash (e.g. through payroll and invoices). As a Council Tax ‘billing authority’ it collects local taxes on behalf of other local authorities, the Police and the Government and also holds reserves for future expenditure. These activities, plus the timing of borrowing decisions, lead to a cash surplus which is invested in accordance with guidance from the Chartered Institute of Public Finance and Accountancy. The balance of treasury management investments is expected to fluctuate between £15 million and £33 million during the 2021/22 financial year.

Contribution: The income from treasury management investments is used to sustainably fund local service provision.

Further details: Full details of the Council’s policies and its plan for 2021/22 for treasury management investments are covered in the Treasury Management Strategy [\(include Link to the Strategy\)](#).

Service Investments: Loans

Contribution: The Council lends money to support local public service provision and stimulate local economic growth. Loans are available to organisations and residents within the District. Loans to residents will be in line with Council approved policies such as its Starter Home Initiative and Disabled Facilities Grant policies. Where a loan is proposed to an organisation in the District, a business case is prepared and considered by the Cabinet or the whole Council as required by the Council’s Financial Rules and Constitution. The business case includes details of the alignment to Council priorities and an assessment of the risk to the Council.

Security: The main risk when making service loans is that the borrower will be unable to repay the principal or the interest due. In order to limit this risk, and ensure that total exposure to service loans remains proportionate to the size of the Council, upper limits on the outstanding loans to each category of borrower have been set as follows:

Table 1: Loans for service purposes in £

Category of borrower	31.3.2020 actual			2021/22
	Balance owing	Loss allowance	Net figure in accounts	Approved Limit
Charities	422,865	0	422,865	430,766
Registered Providers	31,500	0	31,500	31,500
New Loans for Charities, Registered Providers, Economic Development, or Supporting Climate Change Priorities	0	0	0	15,200,000
Local residents (equity loans)	111,012	0	111,012	145,000
Employees (car loans)	40,367	0	40,367	45,000
TOTAL	605,744	0	605,744	15,852,266

The Council has a Recovery Investment Strategy ([Strategy](#)) which sets out the Council’s approach to “deliver the much needed capital investment for our Housing, Jobs and Green Infrastructure”. The Strategy also sets out the aim “to ensure that the Council makes an appropriate return on capital employed to support the cost of capital and an appropriate return to support the revenue budget.” The Strategy includes a provision for capital investment of £15.2 million in 2021/22, £20 million in 2022/23 and £19 million in 2023/24. This investment will be subject to business cases for proposals which support delivery of the Council Priorities as per the Corporate Plan ([Corporate Plan](#)). Investment could include the provision of loans to third parties. Table 1 includes a provision for third party loans of £15.2 million in 2021/22. Before any funds are advanced to third parties, the Cabinet and Council will consider business cases which will include the outcome of due diligence work. It is expected that loans advanced under the Recovery Investment Strategy will be secured loans to minimise Council risk.

Accounting standards require the Council to set aside loss allowance for loans, reflecting the likelihood of non-payment. The loans that the Council has made are limited to specific service areas and the likelihood of non-payment is minimal. There is no history of non-payment and no evidence to suggest that there will be any default against the loans granted. As result, no allowance for loss has been included against the loan balances. Should any indication be given that there is a risk of default then the risk will be assessed and a provision established at that time. Should a loan default, the Council will make every reasonable effort to collect the full sum lent and has appropriate credit control arrangements in place to recover overdue repayments.

In addition to the loans granted, the Council has included provision in its Treasury Management Strategy to loan up to £500,000 to both Ubico and Publica Group (Support) Limited, should either company require support. The Council is a shareholder in Ubico and a shared owner of Publica. In both cases, the loan facility is to enable the Council to be able to provide a loan for short-term cash flow purposes. No loans were in place at 31.3.20.

Risk assessment: The Council assesses the risk of loss before entering into and whilst holding service loans by undertaking credit checks and ensuring that appropriate legal documentation is in place to secure the Council’s money.

In order to assess risk, the Council will commission professional advice on proposed new investments under its Recovery Investment Strategy. This will include advice on the financial sustainability of third parties from its Treasury Advisors, Arlingclose and accounting, property and legal advice. The Council’s Capital Investment Programme Board, comprising of Members from both the Administration and the Opposition Group, will consider business cases and the professional advice and will provide support to the Cabinet and Council as part of the Council’s decision making process. Business cases will include: the nature of the market that the Council is investing in, the level of competition, how the market is expected to evolve over time, barriers to entry and exit, ongoing investment required, the experience and financial sustainability of any third party entities. Where financial sustainability due diligence includes the use of credit ratings, the business case will set out how frequently the credit ratings are to be monitored and the procedures for taking action if credit ratings change. Business cases will also include how performance and risk is to be monitored.

Service Investments: Shares

Contribution: The Council has a £1 shareholding in Ubico Ltd. Ubico Ltd is an environmental services company which provides household and commercial refuse collection, recycling, street cleansing, grounds maintenance and fleet maintenance services to the Council. Ubico Ltd is wholly-owned by seven local authorities and operates as a not for profit enterprise.

Security: One of the risks of investing in shares is that they fall in value meaning that the initial outlay may not be recovered. The Council’s investment is fixed at £1.

Table 2: Shares held for service purposes in £

Category of company	31.3.2020 actual			2021/22
	Amounts invested	Gains or losses	Value in accounts	Approved Limit
Local authority owned company	1	-	1	1
TOTAL	1	-	1	1

Risk assessment: the Council has not invested into Ubico to generate a financial return. The Council has invested in Ubico to support service delivery. Ubico is a cost sharing company - any surplus generated within Ubico is returned to the partner Councils [shareholders]. Similarly, any deficit has to be met by the Councils. Through regular budget monitoring and transparency around contract sums and performance, and regular communication with the Council, the risk of any financial loss is mitigated and minimised.

Liquidity: the Council has not invested into Ubico to generate a financial return. The Council has invested purely to facilitate service provision. The Council has no intention to dispose of its investment in the foreseeable future.

Non-specified Investments: Shares are the only investment type that the Council has identified that meets the definition of a non-specified investment in the government guidance. The limits above on share investments are therefore also the Council’s upper limits on non-specified investments. The Council has not adopted any procedures for determining further categories of non-specified investment since none are likely to meet the definition.

Commercial Investments: Property

Investment Property is defined in the CIPFA code of practice on Local Authority Accounting as property (land or buildings, or both) held solely to earn rentals or for capital appreciation, or both. The Council holds a number of assets that it classifies as Investment Properties

Contribution: The Council owns a number of Investment Properties within the Cotswold District and three significant assets outside of the district. The properties acquired outside of the District were acquired with the intention of generating income to support the revenue budget and were funded from the Council’s capital receipts and did not require the Council to undertake any borrowing.

In 2019/20, the Council acquired an investment property in Dyer Street, Cirencester. The acquisition was a strategic asset purchase linked to the potential development of the Waterloo Car Park in Cirencester and is part of the Council’s place-making role for Cirencester. Other investment property in the District is typically associated with Council operational buildings such as the Corinium Museum and Moreton Area Centre, where surplus office space is leased, or other assets held for place-shaping reasons.

Table 3: Property held for investment purposes in £

Property	1.4.19	Purchases 2019/20	31.3.2020 actual		31.3.2021 expected	
	Value in accounts	Purchase Price	Gains or (losses)	Value in accounts	Gains or (losses)	Value in accounts
Investment Property within Cotswold District	1,329,000		(63,000)	1,266,000	0	£1,266,000
Investment Property inside of Cotswold District: 27A Dyer Street, Cirencester ¹	n/a	2,183,020	(243,020)	1,940,000	0	1,940,000
Investment Property outside of Cotswold District: Superdrug, Worcester	780,000		(30,000)	750,000	0	750,000
Investment Property outside of Cotswold District:	1,550,000		(60,000)	1,490,000	0	1,490,000

¹ Purchased in 2019/20.

Wilkinsons, West Bromwich						
Investment Property outside of Cotswold District: Tesco, Seaford	1,170,000		(45,000)	1,125,000	0	1,125,000
Provision for strategic property acquisitions - linked to place shaping or economic development	0		n/a	n/a	0	980,000
TOTAL	4,829,000		(441,020)	6,571,000	7,551,000	7,551,000

During 2020/21, the Council approved a strategic property acquisition in Moreton-in-Marsh in partnership with Moreton-in-Marsh Town Council. The acquisition is still in progress. Table 3 reflects this acquisition, although completion before the end of the 2020/21 financial year remains uncertain at the time of preparing this Strategy.

Security: A fair value assessment of the Council’s investment property portfolio is undertaken each year as part of the final accounts process. Investment property is valued at market value. Property values fell during March 2020 reflecting the valuer’s assumptions of reductions in rental income expected in 2020/21 associated with Coronavirus considerations and potential void periods. The fair value of the Council’s investment property portfolio is included in the Statement of Accounts; based upon ‘market value’.

In accordance with government guidance, the Council considers a property investment to be secure if its accounting valuation is at or higher than its purchase cost including taxes and transaction costs. Table 3 shows fair value losses in 2019/20 which are a direct result of the valuation undertaken as at 31 March 2020, when the first Covid-19 national lockdown was in place. The proportion of the Council’s Investment Property portfolio which is outside of the District, is held primarily to generate a stable income stream to support the revenue budget. The losses indicated in Table 3 will not be recognised unless the Council decides to dispose of the assets. The Council maintains sufficient liquidity so that there is no requirement to sell any of the investment properties. Over time, it is expected that the market value of investment properties will vary.

Risk assessment: The Council assesses the risk of loss before entering into and whilst holding property investments and aims wherever possible to mitigate the risk by purchasing property with secure tenants on long leases.

Liquidity: Compared with other investment types, property is relatively difficult to sell and convert to cash at short notice, and can take a considerable period to sell in certain market conditions. To ensure that the invested funds can be accessed when they are needed, the Treasury Management Strategy includes the provision of liquid investments should the Council be in need of cash. It is not anticipated that the Council would need to sell any Investment Property at short notice.

Loan Commitments and Financial Guarantees

Although not strictly counted as investments, since no money has exchanged hands yet, loan commitments and financial guarantees carry similar risks to the Council and are included here for completeness.

The Council is a shareholder of Ubico Ltd, owning one seventh of the company, and is a joint partner in Publica Group (Support) Limited, owning one quarter of the company. In both cases, should the company overspend, the Council would be liable for its share of the additional costs. In both companies, sound financial management and budgetary control mitigate the risk that additional sums will be required without adequate notice.

Proportionality

The Council is dependent on profit generating investment activity to achieve a balanced revenue budget. Table 4 below shows the extent to which the expenditure planned to meet the service delivery objectives, priorities and place making role of the Council is dependent on achieving the expected net profit from investments over the lifecycle of the Medium Term Financial Strategy. Should it fail to achieve the expected net profit, the Council will be required to draw additional balances from reserves, or generate savings elsewhere within the budget to continue to provide its services. The Council is not currently including income from the Dyer Street property in its revenue budget, reflecting the strategic place shaping reason for acquiring this asset rather than acquisition of the asset for investment income generating purposes. Income from the Dyer Street property is therefore excluded from table 4.

Table 4: Proportionality of Investments

	2019/20 Actual	2020/21 Forecast	2021/22 Budget	2022/23 Budget	2023/24 Budget
Gross service expenditure*	22,413,000	24,820,000	24,168,000	22,530,000	22,019,000
Treasury Investment income	644,253	442,203	396,000	396,000	396,000
Loans income**	14,297	13,965	12,306	12,229	11,706
Shares dividends	0	0	0	0	0
Investment Property Income	553,949	423,127	459,832	459,832	459,832
Investment Income as a proportion of expenditure	5.18%	3.54%	3.59%	3.85%	3.94%

The proportion is the investment income divided by the gross service expenditure

*Excluding Housing Benefit payments

** Excludes any income from possible new advances to Registered Providers or other third parties under the Investment Recovery Strategy.

Borrowing in Advance of Need

Government guidance is that local authorities must not borrow more than or in advance of their needs purely in order to profit from the investment of the extra sums borrowed. The Council will need to borrow in 2021/22 to fund new capital. Any funds borrowed will be in relation to specific schemes and based upon the cash required for the chosen schemes. There are no plans to borrow in advance of need.

Capacity, Skills and Culture

Elected members and statutory officers:

The Council employs professionally qualified and experienced staff in senior positions with responsibility for advising Council on capital expenditure, borrowing and investment decisions. For example, the Chief Finance Officer is a qualified accountant with over 20 years' experience of working in local government finance. The Deputy Chief Finance Officer is also a qualified accountant with 17 years' experience. The Council pays for junior staff to study towards relevant professional qualifications including Chartered Institute of Public Finance and Accountancy (CIPFA), Association of Certified Chartered Accountants (ACCA) and Association of Accounting Technicians (AAT).

Where Council staff do not have the knowledge and skills required, external advisers and consultants are engaged that are specialists in their field. The Council currently employs Arlingclose Limited as treasury management advisers. The Council employs other specialist advisers to advise upon specific, extra-ordinary transactions as required. Examples of such transactions include property acquisitions, and loans to third parties. This approach is more cost effective than employing such staff directly, and ensures that the Council has access to knowledge and skills commensurate with its risk appetite.

The Council has experience of investing in commercial property in recent years. The Council's property service is provided through its strategic service provider Publica Group (Support) Ltd. The team of property officers have the following qualifications:

- BSc Hons Real Estate Management
- Associate Member Royal Institute Chartered Surveyors
- Member Royal Institute Chartered Surveyors
- Royal Institute Chartered Surveyors Registered Valuer
- Member Institute Welfare & Facilities management
- Technical member for Institute for Occupational Safety and Health
- Member of Chartered Institute of Marketing

The Council's legal team have experience of carrying out due diligence checks, particularly for commercial property acquisitions, and the legal officers have the following qualifications:

- Fellow of the Charter Institute of Legal Executives (FCIlex)
- Associate Member of the Charter Institute of Legal Executives (FCIlex)
- Graduate of the Charter Institute of Legal Executives (FCIlex)
- Para-Legals
- Solicitors

The Property and Legal teams work together with the Finance team to support the Council's Chief Finance Officer and the Publica Finance Director in developing investment proposals for the Council. External specialist advice is obtained when required to support these teams.

The Council has previously invested in a range of commercial properties which are delivering a sustainable revenue stream to the Council.

Commercial deals: The Council's Chief Finance Officer, Deputy Finance Officer and the Publica Finance Director are all aware of the core principles of the prudential framework and of the regulatory regime within which local authorities operate. These Officers will work with a team of specialist officers to prepare business cases for consideration by Members under the Council's Recovery Investment Strategy. It is the responsibility of the Finance Team to ensure that the

implications of the prudential framework and the regulatory regime are considered as business cases are developed.

The Cabinet and Council also includes elected Members with a wealth of experience from business, banking and financial organisations. Members will use their knowledge, skills and experience to scrutinise business cases for proposed Council investment as set out below.

Scrutiny Arrangements and Corporate Governance:

Under the Council’s Recovery Investment Strategy, a Capital Investment Board, composed of Members from both the Administration and the Opposition will work with Officers on business cases for future investment. The Board will scrutinise proposals, considering the contribution to delivery of the Council Priorities and the impact upon the overall risk to the Council. The views of the Board will be considered by the Cabinet. The Cabinet will take decisions or make recommendations to the full Council on new investments that are not part of Treasury Management Activity.

Financial Performance is reported quarterly to the Council’s Overview and Scrutiny Committee and to the Cabinet. This includes the financial performance of the Treasury Management function and any other revenue-generating investments.

The Audit Committee considers the draft Capital, Investment and Treasury Management Strategies and provides its views to the Cabinet for consideration. Cabinet recommends the suite of Strategies to the Council for approval. Treasury Management performance is reported at half-year and year-end to the Council’s Audit Committee and to the full Council.

The Council’s internal audit provider (South West Audit Partnership Ltd) regularly audits the Council’s treasury management activity and its processes and procedures for approving investment and performance management. SWAP reports to the Council’s Audit Committee.

Investment Indicators

The Council has set the following quantitative indicators to allow elected members and the public to assess the Council’s total risk exposure from its investment decisions.

Total risk exposure: The first indicator shows the Council’s total exposure to potential investment losses. This includes amounts the Council is contractually committed to lend but have yet to be drawn down and guarantees the Council has issued over third party loans.

Table 5: Total investment exposure in £

Total investment exposure	31.03.2020 Actual	31.03.2021 Forecast	31.03.2022 Forecast
Treasury management investments	24,986,584	15,159,000	15,898,000
Service investments: Loans	605,744	613,645	15,852,266 ²
Service investments: Shares	1	1	1
Commercial investments: Property	6,571,000	7,551,000	7,551,000
TOTAL INVESTMENTS	32,163,329	22,771,365	39,301,267

² This reflects the potential for new lending under the Recovery Investment Strategy, which would be subject to business cases to be approved by Council.

Commitments to lend ³	0	0	0
Guarantees issued on loans	0	0	0
TOTAL EXPOSURE	32,163,329	22,771,365	39,301,267

How investments are funded: Government guidance is that these indicators should include how investments are funded.

The Council’s plans for borrowing are limited to schemes which are primarily for service delivery. Investment for service delivery does not usually form part of this report. However, as the Council’s Recovery Investment Strategy was approved by Council in September 2020 and the business cases for investment are under development, the potential for any capital expenditure to be considered as “investment” have been included in this Strategy document for maximum transparency. The following could be described as “investments” being funded by borrowing. The remainder of the Council’s investments are funded by usable reserves and income received in advance of expenditure.

Table 6: Investments funded by borrowing in £

Investments funded by borrowing	31.03.2020 Actual	31.03.2021 Forecast	31.03.2022 Forecast
Treasury management investments	0	0	0
Service investments: Loans	0		15,200,000
Service investments: Shares	0	0	0
Commercial investments: Property	0	0	0
TOTAL FUNDED BY BORROWING	0	0	15,200,000

The £15.2 million included in table 6 for Loans relates to service investment to enable the delivery of affordable homes, economic growth or investment in green infrastructure in the District. Whilst this loan is service related rather than a loan for investment purposes (i.e. lending made specifically to generate a revenue return for the Council) it has been included in Table 6 for transparency purposes.

Rate of return received: This indicator shows the investment income received less the associated costs, including the cost of borrowing where appropriate, as a proportion of the sum initially invested. Note that due to the complex local government accounting framework, not all recorded gains and losses affect the revenue account in the year they are incurred.

(Commercial Property returns are calculated based upon returns compared to the current market valuation of the asset not the purchase price).

Table 7: Investment rate of return (net of all costs)

Investments net rate of return	2019/20 Actual	2020/21 Forecast	2021/22 Forecast

³ This excludes the potential loan facility offered to Ubico Limited and Publica Group (Support) Limited for cash flow purposes

Treasury management investments - average returns	2.2%	1.4%	1.3%
Service investments: Loans			
Charities ⁴	2.7%	2.7%	2.7%
Housing Association ⁵	0.0%	0.0%	0.5%
Local residents (equity loans)	0.0%	0.0%	0.0%
Employees (car loans)	2.0%	2.0%	2.0%
Service investments: Shares	0.0%	0.0%	0.0%
Commercial investments: Property	7.0%	6.7%	7.3%

⁴ This represents an average return based upon loans ranging from 0% to 3.5%

⁵ Reflects the margin increase in interest rate over and above the interest rate that the Council would be paying on borrowing.

COTSWOLD DISTRICT COUNCIL

TREASURY MANAGEMENT STRATEGY STATEMENT

2020/2021

1. Introduction

Treasury management is the management of the Council's cash flows, borrowing and investments, and the associated risks. The Council has substantial investments and is therefore exposed to financial risks including the loss of invested funds and the revenue effect of changing interest rates. The successful identification, monitoring and control of financial risk are therefore central to the Council's prudent financial management.

Treasury risk management at the Council is conducted within the framework of the Chartered Institute of Public Finance and Accountancy's 'Treasury Management in the Public Services: Code of Practice 2017 Edition' (the CIPFA Code) which requires the Council to approve a Treasury Management Strategy before the start of each financial year. This report fulfils the Council's legal obligation under the Local Government Act 2003 to have regard to the CIPFA Code.

Investments held for service purposes or for commercial profit are considered in the Investment Strategy 2021/22. [Link to be inserted](#)

2. Economic background

The impact on the UK from Covid-19, lockdown measures, the rollout of vaccines, as well as the new trading arrangements with the European Union (EU), will remain major influences on the Council's Treasury Management Strategy for 2021/22.

The Bank of England (BoE) maintained Bank Rate at 0.10% in December 2020 and Quantitative Easing programme at £895 billion having extended it by £150 billion in the previous month. The Monetary Policy Committee (MPC) voted unanimously for both, but no mention was made of the potential future use of negative interest rates. In the November Monetary Policy Report (MPR) forecasts, the Bank expects the UK economy to shrink -2% in Q4 2020 before growing by 7.25% in 2021, lower than the previous forecast of 9%. The BoE also forecasts the economy will now take until Q1 2022 to reach its pre-pandemic level rather than the end of 2021 as previously forecast. By the time of the December MPC announcement, a Covid-19 vaccine was approved for use, which the Bank noted would reduce some of the downside risks to the economic outlook outlined in the November MPR.

UK Consumer Price Inflation (CPI) for November 2020 registered 0.3% year on year, down from 0.7% in the previous month. Core inflation, which excludes the more volatile components, fell to 1.1% from 1.5%. The most recent labour market data for the three

months to October 2020 showed the unemployment rate rose to 4.9% while the employment rate fell to 75.2%. Both measures are expected to deteriorate further due to the ongoing impact of Covid-19 on the jobs market, particularly when the various government job retention schemes start to be unwound in 2021, with the BoE forecasting unemployment will peak at 7.75% in Q2 2021. In October, the headline 3-month average annual growth rate for wages was 2.7% for total pay and 2.8% for regular pay. In real terms, after adjusting for inflation, total pay growth was up by 1.9% while regular pay was up 2.1%.

GDP growth rebounded by 16.0% in Q3 2020 having fallen by -18.8% in the second quarter, with the annual rate rising to -8.6% from -20.8%. All sectors rose quarter-on-quarter, with dramatic gains in construction (41.2%), followed by services and production (both 14.7%). Monthly GDP estimates have shown the economic recovery slowing and remains well below its pre-pandemic peak. Looking ahead, the BoE's November MPR forecasts economic growth will rise in 2021 with GDP reaching 11% in Q4 2021, 3.1% in Q4 2022 and 1.6% in Q4 2023.

GDP growth in the euro zone rebounded by 12.7% in Q3 2020 after contracting by -3.7% and -11.8% in the first and second quarters, respectively. Headline inflation, however, remains extremely weak, registering -0.3% year-on-year in November, the third successive month of deflation. Core inflation registered 0.2% y/y, well below the European Central Bank's (ECB) target of 'below, but close to 2%'. The ECB is expected to continue holding its main interest rate of 0% and deposit facility rate of -0.5% for some time but expanded its monetary stimulus in December 2020, increasing the size of its asset purchase scheme to €1.85 trillion and extending it until March 2022.

The US economy contracted at an annualised rate of 31.7% in Q2 2020 and then rebounded by 33.1% in Q3. The Federal Reserve maintained the Fed Funds rate at between 0% and 0.25% and announced a change to its inflation targeting regime to a more flexible form of average targeting. The Fed also provided strong indications that interest rates are unlikely to change from current levels over the next three years.

Former vice-president Joe Biden won the 2020 US presidential election. Mr Biden is making tackling Covid-19 his immediate priority and will also be reversing several executive orders signed by his predecessor and taking the US back into the Paris Climate Accord and the World Health Organization.

Credit outlook

After spiking in late March as Covid-19 became a global pandemic and then rising again in October/November, credit default swap (CDS) prices for the larger UK banks have steadily fallen back to almost pre-pandemic levels. Although uncertainly around Covid-19 related loan defaults led to banks provisioning billions for potential losses in the first half of 2020, drastically reducing profits, reported impairments for Q3 were much reduced in some

institutions. However, general bank profitability in 2020 and 2021 may be significantly lower than in previous years.

The credit ratings for many UK institutions were downgraded on the back of downgrades to the sovereign rating. Credit conditions more generally though in banks and building societies have tended to be relatively benign, despite the impact of the pandemic. Looking forward, the potential for bank losses to be greater than expected when government and central bank support starts to be removed remains a risk, suggesting a cautious approach to bank deposits in 2021/22 remains advisable.

A more detailed economic and interest rate forecast provided by Arlingclose is attached at **Appendix A**.

3. Interest rate forecast

The Council’s treasury management adviser Arlingclose is forecasting that BoE Bank Rate will remain at 0.1% until at least the first quarter of 2024. The risks to this forecast are judged to be to the downside as the BoE and UK government continue to react to the Covid-19 pandemic and the new EU trading arrangements. The BoE extended its asset purchase programme to £895 billion in November while keeping Bank Rate on hold and maintained this position in December. However, further interest rate cuts to zero, or possibly negative, cannot yet be ruled out but this is not part of the Arlingclose central forecast.

Gilt yields are expected to remain very low in the medium-term while short-term yields are likely to remain below or at zero until such time as the BoE expressly rules out the chance of negative interest rates or growth/inflation prospects improve. The central case is for 10-year and 20-year to rise to around 0.60% and 0.90% respectively over the time horizon. The risks around the gilt yield forecasts are judged to be broadly balanced between upside and downside risks, but there will almost certainly be short-term volatility due to economic and political uncertainty and events.

4. Balances

On 31st December 2020, the Council held £28.596m of investments. This is set out in further detail at Appendix B. Forecast changes in these sums are shown in the balance sheet analysis in table 1 below.

Table 1: Balance sheet summary and forecast

	31.3.20 Actual	31.3.21 Estimate	31.3.22 Forecast	31.3.23 Forecast	31.3.23 Forecast

	£million	£million	£million	£million	£million
General Fund CFR	0.100	2.320	18.423	41.418	63.918
Less External Borrowing	0	0	16.000	39.000	63.000
Internal borrowing	(0.100)	(2.320)	(2.423)	(2.418)	(0.918)
Usable reserves	22.300	14.779	15.621	13.455	10.815
Working capital	2.700	2.700	2.700	2.700	2.700
Investments	24.900	15.159	15.898	13.737	12.597

The underlying need to borrow for capital purposes is measured by the Capital Financing Requirement (CFR), while usable reserves and working capital are the underlying resources available for investment. The Council's current strategy is to maintain investments below their underlying levels, sometimes known as internal borrowing.

CIPFA's Prudential Code for Capital Finance in Local Authorities recommends that the Council's total debt should be lower than its highest forecast CFR over the next three years. Table 1 shows that the Council currently has no debt however, the Council's capital expenditure plans will require funding from external borrowing resulting in a positive Capital Financing Requirement (CFR). The Council will comply with the Prudential Code as the debt will be lower than the CFR.

5. Borrowing Strategy

The Council currently does not hold any debt, but it is expected that some temporary borrowing could occur in the latter part of 2020/21 and further into 2021/22 to fund the daily cash-flow. The Council has an increasing CFR due to the capital programme. The Council's investments are not large enough to fully fund the capital programme and the Council will therefore be required to borrow up to £63 million over the forecast period.

The Treasury Management function ensures that the Council's cash is organised in accordance with the relevant professional codes, so that sufficient cash is available to meet service activity. This will involve both the organisation of the cash flow and, where capital plans require, the organisation of appropriate borrowing facilities.

The Council's chief objective when borrowing money is to strike an appropriately low risk balance between securing low interest costs and achieving certainty of those costs over the period for which funds are required. The flexibility to renegotiate loans should the Council's long-term plans change is a secondary objective.

Given the significant cuts to public expenditure and in particular to local government funding, the Council's borrowing strategy continues to address the key issue of affordability without compromising the longer-term stability of the debt portfolio. With short-term interest rates currently much lower than long-term rates, it is likely to be more cost effective in the short-term to either use internal resources, or to borrow short-term loans instead.

By doing so, the Council is able to reduce net borrowing costs (despite foregone investment income) and reduce overall treasury risk. The benefits of short-term borrowing will be monitored regularly against the potential for incurring additional costs by deferring borrowing into future years when long-term borrowing rates are forecast to rise modestly. Arlingclose will assist the Council with this 'cost of carry' and breakeven analysis. The breakeven analysis will support the decision on whether the Council borrows at long-term fixed rates in 2021/22, with a view to keeping future interest costs low, even if this causes additional cost in the short-term.

The preferred option for borrowing is to use the Public Works Loan Board (PWLB). The Council will also consider long-term loans from other sources including banks, pensions and local authorities and will investigate the possibility of issuing bonds and similar instruments, in order to lower interest costs. This reduces over-reliance on one source of funding in line with the CIPFA Code. PWLB loans are no longer available to local authorities planning to buy investment assets primarily for yield. The Council intends to avoid this activity in order to retain its access to PWLB loans.

The Council may arrange forward starting loans, where the interest rate is fixed in advance, but the cash is received in later years. This would enable certainty of cost without suffering a cost of carry in the intervening period.

Sources of borrowing

The approved sources of long-term and short-term borrowing are:

- HM Treasury's PWLB lending facility (formerly Public Works Loan Board)
- any institution approved for investments (see below)
- any other bank or building society authorised to operate in the UK
- any other UK public sector body
- UK public and private sector pension funds (except Gloucestershire County Council Pension Fund)
- capital market bond investors
- UK Municipal Bonds Agency plc and other special purpose companies created to enable local authority bond issues

Other sources of debt finance

Capital finance may be raised by the following methods that are not borrowing, but are classed as other debt liabilities:

- leasing
- hire purchase
- Private Finance Initiative

- sale and leaseback

Municipal Bonds Agency

The UK Municipal Bonds Agency plc was established in 2014 by the Local Government Association as an alternative to the PWLB. It issues bonds on the capital markets and lends the proceeds to local authorities. This is a more complicated source of finance than the PWLB for two reasons: borrowing authorities will be required to provide bond investors with a guarantee to refund their investment in the event that the agency is unable to for any reason; and there will be a lead time of several months between committing to borrow and knowing the interest rate payable. Any decision to borrow from the Agency will therefore be the subject of a separate report to full Council.

Short-term and variable rate loans

These loans leave the Council exposed to the risk of short-term interest rate rises and are therefore subject to the limit on the net exposure to variable interest rates in the treasury management indicators below.

6. Investment Strategy

The Council holds significant invested funds, representing income received in advance of expenditure plus balances and reserves held. In the past 12 months, the Council's investment balance has ranged between £19million and £60million, but levels in 2021/22 are expected to fall in the range of £15 million and £33 million in the forthcoming year as the Council funds significant capital expenditure from capital receipts and earmarked reserves. The forecast average investment balance for 2021/22 is estimated to be around £29.5million.

Objectives

The CIPFA Code requires the Council to invest its funds prudently, and to have regard to the security and liquidity of its investments before seeking the highest rate of return, or yield. The Council's objective when investing money is to strike an appropriate balance between risk and return, minimising the risk of incurring losses from defaults and the risk of receiving unsuitably low investment income. Where balances are expected to be invested for more than one year, the Council will aim to achieve a total return that is equal or higher than the prevailing rate of inflation, in order to maintain the spending power of the sum invested.

Negative interest rates

The Covid-19 pandemic has increased the risk that the Bank of England will set its Bank Rate at or below zero, which is likely to feed through to negative interest rates on all low risk, short-term investment options. Since investments cannot pay negative income, negative rates will be applied by reducing the value of investments. In this event, security will be

measured as receiving the contractually agreed amount at maturity, even though this may be less than the amount originally invested.

Strategy

Given the increasing risk and very low returns from short-term unsecured bank investments, the Council will look to diversify into more secure and/or higher yielding asset classes during 2021/22, if and when required, as it has done so for many years now. The majority of the Council's surplus cash is currently invested in, money market funds and pooled funds.

Business Models

Under the new IFRS 9 standard, the accounting for certain investments depends on the Council's "business model" for managing them. The Council aims to achieve value from its internally managed treasury investments by a business model of collecting the contractual cash flows and therefore, where other criteria are also met, these investments will continue to be accounted for at amortised cost.

Approved counterparties

The Council may invest its surplus funds with any of the counterparty types in table 2 below, subject to the cash limits (per counterparty) and the time limits shown.

Table 2: Approved investment counterparties and limits

Sector	Time limit	Counterparty limit	Sector limit
The UK Government	50 years	Unlimited	n/a
Local authorities & other government entities	25 years	£3m	Unlimited
Secured investments *	25 years	£3m	Unlimited
Banks (unsecured) *	13 months	£3m	Unlimited
Building societies (unsecured) *	13 months	£2m	£10m
Registered providers (unsecured) *	5 years	£3m	£5m
Money market funds *	n/a	£3m	Unlimited
Strategic pooled funds	n/a	£3m	£20m
Real estate investment trusts	n/a	£3m	£20m
Other investments *	5 years	£1m-£3m	£10m

** investments in these sectors will only be made with entities whose lowest published long-term credit rating is no lower than A-*

Credit rating

Treasury investments in the sectors marked with an asterisk will only be made with entities whose lowest published long-term credit rating is no lower than A-. Where available, the credit rating relevant to the specific investment or class of investment is used, otherwise the counterparty credit rating is used. However, investment decisions are never made solely based on credit ratings, and all other relevant factors including external advice will be taken into account. For entities without published credit ratings, investments may be made where external advice indicates the entity to be of similar credit quality.

Government

Loans, bonds and bills issued or guaranteed by national governments, regional and local authorities and multilateral development banks. These investments are not subject to bail-in, and there is generally a lower risk of insolvency, although they are not zero risk. Investments with the UK Government are deemed to be zero credit risk due to its ability to create additional currency and therefore may be made in unlimited amounts for up to 50 years.

Secured Investments

Investments secured on the borrower's assets, which limits the potential losses in the event of insolvency. The amount and quality of the security will be a key factor in the investment decision. Covered bonds and reverse repurchase agreements with banks and building societies are exempt from bail-in. Where there is no investment specific credit rating, but the collateral upon which the investment is secured has a credit rating, the higher of the collateral credit rating and the counterparty credit rating will be used. The combined secured and unsecured investments with any one counterparty will not exceed the cash limit for secured investments.

Banks and building societies (unsecured)

Accounts, deposits, certificates of deposit and senior unsecured bonds with banks and building societies, other than multilateral development banks. These investments are subject to the risk of credit loss via a bail-in should the regulator determine that the bank is failing or likely to fail. See below for arrangements relating to operational bank accounts.

Registered providers (unsecured)

Loans to, and bonds issued or guaranteed by, registered providers of social housing or registered social landlords, formerly known as housing associations. These bodies are regulated by the Regulator of Social Housing (in England), the Scottish Housing Regulator, the Welsh Government and the Department for Communities (in Northern Ireland). As providers of public services, they retain the likelihood of receiving government support if needed. If the Registered Provider has no credit rating then due diligence checks through Arlingclose will be carried out beforehand.

Money market funds

Pooled funds that offer same-day or short notice liquidity and very low or no price volatility by investing in short-term money markets. They have the advantage over bank accounts of providing wide diversification of investment risks, coupled with the services of a professional fund manager in return for a small fee. Although no sector limit applies to money market funds, the Council will take care to diversify its liquid investments over a variety of providers to ensure access to cash at all times.

Strategic Pooled funds

Bond, equity and property funds offer enhanced returns over the longer term, but are more volatile in the short term. These allow the Council to diversify into asset classes other than cash without the need to own and manage the underlying investments. Because these funds have no defined maturity date, but are available for withdrawal after a notice period, their performance and continued suitability in meeting the Council's investment objectives will be monitored regularly.

Real estate investment trusts

Shares in companies that invest mainly in real estate and pay the majority of their rental income to investors in a similar manner to pooled property funds. As with property funds, REITs offer enhanced returns over the longer term, but are more volatile especially as the share price reflects changing demand for the shares as well as changes in the value of the underlying properties. Investments in REIT shares cannot be withdrawn but can be sold on the stock market to another investor.

Other investments

This category covers treasury investments not listed above, for example unsecured corporate bonds and company loans. Non-bank companies cannot be bailed-in but can become insolvent placing the Council's investment at risk.

Operational bank accounts

The Council banks with Lloyds (Lloyds Banking Group). On adoption of this Strategy, it will meet the minimum credit criteria of A- (or equivalent) long term. It is the Council's intention that even if the credit rating of Lloyds Bank falls below the minimum criteria A- the bank will continue to be used for short term liquidity requirements (overnight and weekend investments) and business continuity arrangements.

Policy Investments

The Council will provide cash-flow cover for third-party organisations linked to the Council. The following limit is set for 2021/22:

- Publica Group - £500k up to one year duration
- Ubico - £500k up to one year duration

Risk assessment and credit ratings

Credit ratings are obtained and monitored by the Council's treasury advisers, who will notify changes in ratings as they occur. Where an entity has its credit rating downgraded so that it fails to meet the approved investment criteria then:

- no new investments will be made,
- any existing investments that can be recalled or sold at no cost will be, and
- full consideration will be given to the recall or sale of all other existing investments with the affected counterparty.

Where a credit rating agency announces that a credit rating is on review for possible downgrade (also known as "rating watch negative" or "credit watch negative") so that it may fall below the approved rating criteria, then only investments that can be withdrawn on the next working day will be made with that organisation until the outcome of the review is announced. This policy will not apply to negative outlooks, which indicate a long-term direction of travel rather than an imminent change of rating.

Other information on the security of investments

The Council understands that credit ratings are good, but not perfect, predictors of investment default. Full regard will therefore be given to other available information on the credit quality of the organisations, in which it invests, including credit default swap prices, financial statements, information on potential government support and reports in the quality financial press and analysis and advice from the Council's treasury management adviser. No investments will be made with an organisation if there are substantive doubts about its credit quality, even though it may otherwise meet the credit rating criteria.

When deteriorating financial market conditions affect the creditworthiness of all organisations, as happened in 2008 and 2020, this is not generally reflected in credit ratings, but can be seen in other market measures. In these circumstances, the Council will restrict its investments to those organisations of higher credit quality and reduce the maximum duration of its investments to maintain the required level of security. The extent of these restrictions will be in line with prevailing financial market conditions. If these restrictions mean that insufficient commercial organisations of high credit quality are available to invest the Council's cash balances, then the surplus will be deposited with the UK Government, via the Debt Management Office or invested in government treasury bills for example, or with other local authorities. This will cause investment returns to fall but will protect the principal sum invested.

Investment limits

The Council's reserves available to cover investment losses are forecast to be £15 million on 31st March 2021. In order that no more than 25% of available reserves will be put at risk in the case of a single default, the maximum that will be lent to any one organisation (other than the UK Government) will be £3 million. A group of banks under the same ownership

will be treated as a single organisation for limit purposes. Limits will also be placed on fund managers, investments in brokers' nominee accounts, foreign countries and industry sectors as below. Investments in pooled funds and multilateral development banks do not count against the limit for any single foreign country, since the risk is diversified over many countries.

Table 4: Investment limits

	Cash limit
Any single organisation, except the UK Central Government	£3m each
UK Central Government	unlimited
Any group of organisations under the same ownership	£3m per group
Any group of pooled funds under the same management	£3m per fund manager
Foreign countries	£3m per country
Registered providers	£3m in total
Real estate investment trusts	£3m per REIT
Unsecured investments with building societies	£2m in total per BS
Money Market Funds	£20m in total

Liquidity management

The Council uses purpose-built cash flow forecasting software, Logotech, to determine the maximum period for which funds may prudently be committed. The forecast is compiled on a prudent basis to minimise the risk of the Council being forced to borrow on unfavourable terms to meet its financial commitments. Limits on long-term investments are set by reference to the Council's medium term financial plan and cash flow forecast.

7. Treasury Management Indicators

The Council measures and manages its exposures to treasury management risks using the following indicators.

Security

The Council has adopted a voluntary measure of its exposure to credit risk by monitoring the value-weighted average credit rating of its investment portfolio. This is calculated by applying a score to each investment (AAA=1, AA+=2, etc.) and taking the arithmetic average, weighted by the size of each investment. Unrated investments are assigned a score based on their perceived risk.

	Target
Portfolio average credit rating	A

Interest rate exposures

This indicator is set to control the Council's exposure to interest rate risk. The upper limits on fixed and variable rate interest rate exposures, expressed as the proportion of net principal borrowed will be:

	2021/22	2022/23	2023/24
Upper limit on fixed interest rate exposure	100%	100%	100%
Upper limit on variable interest rate exposure	100%	100%	100%

Fixed rate investments and borrowings are those where the rate of interest is fixed for at least 12 months, measured from the start of the financial year or the transaction date if later. All other instruments are classed as variable rate.

Principal sums invested for periods longer than 364 days

The purpose of this indicator is to control the Council's exposure to the risk of incurring losses by seeking early repayment of its investments. The limits on the long-term principal sum invested to final maturities beyond the period end will be:

	2021/22	2022/23	2023/24
Limit on principal invested beyond year end	£25m	£25m	£25m

Limits to borrowing activity

The operational boundary

This is the limit beyond which external debt is not normally expected to exceed. In most cases, this would be a similar figure to the CFR, but may be lower or higher depending on the levels of actual debt.

Operational boundary	2020/21 Revised £000	2021/22 Estimate £000	2022/23 Estimate £000	2023/24 Estimate £000
Total	5,000	21,000	44,000	66,000

The authorised limit for external debt

A further key prudential indicator represents a control on the maximum level of borrowing. This represents a limit beyond which external debt is prohibited, and this limit needs to be set or revised by the full Council. It reflects the level of external debt which, while not desired, could be afforded in the short term, but is not sustainable in the longer term.

This is the statutory limit determined under section 3 (1) of the Local Government Act 2003. The Government retains an option to control either the total of all councils' plans, or those of a specific council, although this power has not yet been exercised.

The Council is asked to approve the following authorised limit:

Authorised Limit	2020/21 Revised £000	2021/22 Estimate £000	2022/23 Estimate £000	2023/24 Estimate £000
Total	10,000	26,000	49,000	71,000

Other Items

The Council is required by CIPFA to include a number of additional items in its Treasury Management Strategy.

Financial derivatives

Local authorities have previously made use of financial derivatives embedded into loans and investments both to reduce interest rate risk (e.g. interest rate collars and forward deals) and to reduce costs or increase income at the expense of greater risk (e.g. LOBO loans and callable deposits). The general power of competence in Section 1 of the Localism Act 2011 removes much of the uncertainty over local authorities' use of standalone financial derivatives (i.e. those that are not embedded into a loan or investment).

The Council will only use standalone financial derivatives (such as swaps, forwards, futures and options) where they can be clearly demonstrated to reduce the overall level of the financial risks that the Council is exposed to. Additional risks presented, such as credit exposure to derivative counterparties, will be taken into account when determining the overall level of risk. Embedded derivatives, including those present in pooled funds and forward starting transactions, will not be subject to this policy, although the risks they present will be managed in line with the overall treasury risk management strategy.

Financial derivative transactions may be arranged with any organisation that meets the approved investment criteria, assessed using the appropriate credit rating for derivative exposures. An allowance for credit risk calculated using the methodology in the Treasury Management Practices document will count against the counterparty credit limit and the relevant foreign country.

In line with the CIPFA Code, the Council will seek external advice and will consider that advice before entering into financial derivatives to ensure that it fully understands the implications.

Miffid 2

Mifid 2 is a legislative framework instituted by the European Union to regulate the financial markets and improve protections for investors. This Council has elected for Professional Client Status which means that to be able to invest in certain investments, it must hold a minimum of £10m in investments. If this falls below the minimum level then access to certain financial market instruments could be made unavailable to this Council.

Investment training

The needs of the Council's Treasury Management staff for training in investment management are assessed annually as part of the staff appraisal process, and additionally when the responsibilities of individual members of staff change. Staff will regularly attend training courses, seminars and conferences provided by Arlingclose, CIPFA and other such organisations.

Investment advisers

The Council appointed Arlingclose Limited as treasury management advisers back in December 2018 for three years plus the option for a further two years after a joint tender with West Oxfordshire District Council. The Council receives specific advice on investment, debt and capital finance issues.

Financial Implications

The estimated investment income in 2021/22 is £396,000 based on an average investment portfolio of £29.5m at an interest rate of 1.34%. The Council aims to maintain its portfolio of long term investments in strategic funds at £12.5 million. This is forecast to return £389,400. Investments in liquid assets such as bank deposits and money market funds are expected to return just 0.04% and generate a yield of £6,600. If actual levels of investments and actual interest rates differ from those forecast, performance against budget will be correspondingly different.

Appendix A - Arlingclose Economic & Interest Rate Forecast - December 2020

Underlying assumptions:

- The medium-term global economic outlook has improved with the distribution of vaccines, but the recent upsurge in Covid-19 cases has worsened economic prospects over the short term.
- Restrictive measures and further lockdowns are likely to continue in the UK and Europe until the majority of the population is vaccinated by the second half of 2021. The recovery period will be strong thereafter, but potentially longer than previously envisaged.
- Signs of a slowing UK economic recovery were already evident in UK monthly GDP and PMI data, even before the second lockdown and Tier 4 restrictions. Employment is falling despite an extension to support packages.
- The need to support economic recoveries and use up spare capacity will result in central banks maintaining low interest rates for the medium term.
- Brexit will weigh on UK activity. The combined effect of Brexit and the after-effects of the pandemic will dampen growth relative to peers, maintain spare capacity and limit domestically generated inflation. The Bank of England will therefore maintain loose monetary conditions for the foreseeable future.
- Longer-term yields will also remain depressed, anchored by low central bank policy rates, expectations for potentially even lower rates and insipid longer-term inflation expectations. There is a chance yields may follow a slightly different path in the medium term, depending on investor perceptions of growth and inflation, or the deployment of vaccines.

Forecast:

- Arlingclose expects Bank Rate to remain at the current 0.10% level.
- Our central case for Bank Rate is no change, but further cuts to zero, or perhaps even into negative territory, cannot be completely ruled out, especially with likely emergency action in response to a no-deal Brexit.
- Gilt yields will remain low in the medium term. Shorter term gilt yields are currently negative and will remain around zero or below until either the Bank expressly rules out negative Bank Rate or growth/inflation prospects improve.
- Downside risks remain, and indeed appear heightened, in the near term, as the government reacts to the escalation in infection rates and the Brexit transition period ends.

Annex D – Audit Committee – 28 January 2021
Treasury Management Strategy 2021-2022

	Mar-21	Jun-21	Sep-21	Dec-21	Mar-22	Jun-22	Sep-22	Dec-22	Mar-23	Jun-23	Sep-23	Dec-23	Mar-24
Official Bank Rate													
Upside risk	0.00	0.00	0.15	0.15	0.15	0.15	0.30	0.30	0.30	0.30	0.30	0.30	0.30
Arlingclose Central Case	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10
Downside risk	0.30	0.40	0.50	0.50	0.50	0.50	0.50	0.50	0.50	0.50	0.50	0.50	0.50
3-month money market r.													
Upside risk	0.05	0.05	0.10	0.10	0.15	0.20	0.30	0.30	0.30	0.30	0.30	0.30	0.30
Arlingclose Central Case	0.10	0.10	0.15	0.15	0.20	0.20	0.20	0.20	0.20	0.20	0.20	0.20	0.20
Downside risk	0.30	0.40	0.50	0.50	0.50	0.50	0.50	0.50	0.50	0.50	0.50	0.50	0.50
1yr money market rate													
Upside risk	0.05	0.05	0.10	0.10	0.15	0.20	0.40	0.40	0.40	0.40	0.40	0.40	0.40
Arlingclose Central Case	0.15	0.15	0.25	0.25	0.30	0.30	0.30	0.30	0.30	0.30	0.30	0.30	0.30
Downside risk	0.15	0.15	0.15	0.15	0.15	0.15	0.15	0.15	0.15	0.15	0.15	0.15	0.15
5yr gilt yield													
Upside risk	0.40	0.40	0.45	0.45	0.50	0.50	0.55	0.60	0.60	0.65	0.65	0.70	0.70
Arlingclose Central Case	0.00	0.00	0.05	0.10	0.15	0.20	0.20	0.20	0.25	0.25	0.25	0.25	0.25
Downside risk	0.40	0.45	0.50	0.55	0.60	0.60	0.60	0.60	0.60	0.60	0.60	0.60	0.60
10yr gilt yield													
Upside risk	0.30	0.35	0.40	0.45	0.50	0.50	0.55	0.60	0.60	0.65	0.65	0.70	0.70
Arlingclose Central Case	0.25	0.30	0.35	0.35	0.40	0.40	0.45	0.45	0.50	0.55	0.55	0.55	0.60
Downside risk	0.50	0.50	0.55	0.55	0.55	0.55	0.55	0.55	0.55	0.55	0.55	0.55	0.55
20yr gilt yield													
Upside risk	0.40	0.40	0.45	0.45	0.50	0.50	0.55	0.60	0.60	0.65	0.65	0.70	0.70
Arlingclose Central Case	0.70	0.70	0.75	0.75	0.75	0.80	0.80	0.85	0.85	0.85	0.85	0.90	0.90
Downside risk	0.30	0.30	0.35	0.35	0.35	0.40	0.40	0.40	0.40	0.40	0.40	0.40	0.40
50yr gilt yield													
Upside risk	0.40	0.40	0.45	0.45	0.50	0.50	0.55	0.60	0.60	0.65	0.65	0.70	0.70
Arlingclose Central Case	0.60	0.60	0.65	0.65	0.65	0.70	0.70	0.75	0.75	0.75	0.75	0.80	0.80
Downside risk	0.30	0.30	0.35	0.35	0.35	0.40	0.40	0.40	0.40	0.40	0.40	0.40	0.40

PWLB Certainty Rate (Maturity Loans) = Gilt yield + 0.80%
PWLB Infrastructure Rate (Maturity Loans) = Gilt yield + 0.60%

Appendix B – Existing Investment Position

Annex D – Audit Committee – 28 January 2021
Treasury Management Strategy 2021-2022

	31 st December Actual Portfolio £m	31 st December Average Rate %
Treasury investments:		
Money Market Funds/Call Accounts	16.096	0.04
Other pooled funds		
CCLA Property Investment Management	2.500	3.88
CCLA Diversified Income	1.000	3.26
Schroders Unit Trusts Ltd	1.000	4.70
M&G Securities Ltd	2.000	3.37
Ninety One (formerly Investec)	2.000	3.53
Columbia Threadneedle Fund	2.000	2.74
Federated Cash Plus Fund	1.000	0
Fundamentum Housing REIT	1.000	2.00
Total treasury investments	28.506	1.44%

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Agenda Item 14



COTSWOLD
DISTRICT COUNCIL

Council name	COTSWOLD DISTRICT COUNCIL
Name and date of Committee	AUDIT COMMITTEE - 28 JANUARY 2021
Report Number	AGENDA ITEM 14
Subject	CORPORATE RISK REGISTER UPDATES
Wards affected	ALL
Accountable member	Cllr Joe Harris, Leader Email: joe.harris@cotswold.gov.uk
Accountable officer	Christine Gore, Interim Chief Executive Email: christine.gore@cotswold.gov.uk
Summary/Purpose	To update the Committee on the changes to the Council's corporate risk register at the end of 2020/21 Q.3.
Annexes	Annex A Corporate Risk Register 2020/21 Q.3
Recommendation	To note the updates to the Council's corporate risk register
Corporate priorities	Not applicable
Key Decision	NO
Exempt	NO
Consultees/ Consultation	None

1. BACKGROUND

- 1.1. The Corporate Risk Register was updated by the risk owners at the end of Q3
- 1.2. The Corporate Risk Register is attached at Annex A.

2. FINANCIAL IMPLICATIONS

- 2.1. There are no direct financial implications.

3. LEGAL IMPLICATIONS

- 3.1. None.

4. RISK ASSESSMENT

- 4.1. None.

5. EQUALITIES IMPACT

- 5.1. Not required.

6. CLIMATE CHANGE IMPLICATIONS (IF REQUIRED)

- 6.1. Not required.

7. ALTERNATIVE OPTIONS

- 7.1. None.

8. BACKGROUND PAPERS

- 8.1. None.

Cotswold District Council - Corporate Risk Register 2020-21 Q3

Overarching strategic risks

Risk Code	Description	Risk Factors	Internal Controls	Current Impact	Current Likelihood	Current Rating	Last Review Date	Latest note	Assigned To
CRR-D01-014	If the Government imposes legislative changes that are not expected then it could have an impact on the Council's finances and other resources	Financial Community	Horizon scanning Professional publications Four year funding settlement	3	5	15	10-12-20	10-Dec-2020 The Council is responding to the Government's requirements of local authorities to implement initiatives related to Covid-19. The Government has provided some funding for additional costs and lost income. Council approved a revised budget in September 2020 to reflect this impact. The impact has been reduced in recognition of the revised budget. The Council has responded to the consultation on Defra's Waste and Resources strategy. The Strategy suggested that garden waste collection should be free which if imposed would have a significant financial impact on the Council. Defra has now published its consultations response which acknowledges the strong opposition from LAs and accepts that this proposal needs to be reconsidered. Any financial implications will be considered as part of the update to the Council's MTFS	Chief Finance Officer
CRR-D01-019	If there are insufficient resources to deliver the objectives of the new Corporate Strategy and Plan then the expectations of our communities may not be met resulting in lower satisfaction and reputational damage	Financial Community Reputational	Medium Term Financial Strategy	3	3	9	10-Dec-20	10-Dec-2020 No change in rating. The financial implications of the Council's new Corporate Strategy have been included in the refresh of the Medium Term Financial Strategy. The latest MTFS was approved by Council in February 2020 and included funding for resources to support the Council's new priorities. The MTFS has been updated to reflect the impact of Covid 19 on the Council's finances, decisions taken post February 2020 and to reflect delays to the implementation of the Fairer Funding Review and Business Rates Retention. The Council has also approved a Recovery Investment Strategy which allocates capital funding for investment in Council Priorities and to provide a revenue stream to the Council. This risk links to risk CRR-D02-028 regarding the Local Government Funding Settlement over the Medium Term. This is the biggest risk to the deliverability of the objectives in the new Corporate Strategy.	Chief Finance Officer
CRR-D01-018	If the Government does not provide adequate funding to the Council to enable the Council to fulfil new expectations of the Council's role in preparations for the UK exit from the EU, there could be negative implications on the Council's reputation or the Council's finances	Financial Community	Public Executive Director undertaking role of Brexit Lead Officer as per requirement from MHCLG Local Resilience Forum Government funding	3	2	6	18-Dec-20	The Brexit Risk Register is being maintained and any change to this assessment will be reflected accordingly. Funding has been provided by the government to CDC to fund its Brexit preparations.	Executive Director - Commissioning; Interim Chief Executive
CRR-D01-017	If the UK leaves the European Union with no deal then there could be a disruption to the delivery of Council services which would impact on residents/communities	Community Financial Performance	Support from the LGA Local Resilience Forum Government funding to support Councils Business Continuity Plans Service specific planning - Publica ERS, Ubico and GLL Publica Executive Director undertaking role of Brexit Lead Officer as per requirement from MHCLG	3	1	3	4-Jan-21	The Brexit Planning Group is continuing to meet at the present time and is currently undertaking a fundamental review of the risk register to take account of any changed circumstances.	Executive Director - Commissioning; Interim Chief Executive

CRR-D01-016	If the government does not provide timely and adequate guidance on the proposed changes to the planning system then the Council will be unable to identify the type of local plan update that is required. Delays to preparing an updated local plan may result in an increase of speculative planning applications on the fifth anniversary of the local plan's adoption (2023).	Financial Reputational	Local Plan Adopted in Aug 2018. Local Plan Programme Board reconvened with updated Terms of Reference and membership	3	1	3	14-Dec-20	14-Dec-20 Risk updated from being a local plan not yet adopted, to being the proposed changes to the planning system in the Government's White Paper. The Local Plan has been adopted for some time now. Key risk now is the government's planning reform white paper (WP) and how this will affect the recent decision to partially update the adopted local plan. The WP seeks to partially dipense with the extant discretionary planning system and move partially to zonal planning system. The expectation is that a new style local plan should be adopted by 2024. The government is simultaneously seeking to make specific changes to the national 'standard method for calculating housing need', the outcome is to raise Cotswold's housing need from c.480 to 1,209 dwellings per year for the next 10 years. However, this must be seen in the context of another WP proposals that proposes to create a national 'standard method for calculating the housing requirement', which will use the housing need figure together with local constraints such as the AONB to create a local plan housing target. This may reduce to eventual housing target for the district - but the WP does not offer any details at this stage and there maybe an interim period where speculative developers seek to apply the unconstrained 'housing need' figure to undermine the up-to-dateness of the adopted local plan and therefore the soundness of the council's five year housing land supply. In November 2020, Cabinet agreed to a short term pause in formal plan making activities and will review this position once nationally prescribed housing need figures have been updated.	Group Manager - Strategic Support
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Financial management & control

Risk Code	Description	Risk Factors	Internal Controls	Current Impact	Current Likelihood	Current Rating	Last Review Date	Latest Note	Assigned To
CRR-D02-028	If the Local Government settlement over the medium term is unfavourable then the Council's savings target may need to increase	Financial	Medium Term Financial Strategy Only legacy Payments of New Homes Bonus in MTFS Publica Transformation Programme Recovery Investment Strategy approved by Council Sept 20	3	3	9	10-Dec-20	10-Dec-20 No change to rating. The MTFS was approved in Feb 2020. New Homes Bonus awarded for 2020/21 will be for one year only (no legacy payments from 2021/22). The significant changes to LG Funding (75% Business Rate Retention, Business Rate Reset, Fairer Funding Review and new Spending Round) have been delayed until 2022/23 and is reflected in the update of the MTFS which will be considered by Council in Feb 21. MTFS includes savings targets to address changes to government funding. Council approved a Recovery Investment Strategy in Sept 20 which aims to increase income to the Council to mitigate against reduced government funding.	Chief Finance Officer
CRR-D02-018	If unavoidable budget pressures exceed provision within the MTFS then the Council may need to: find additional income or savings, use its reserves, or there may be pressures on services or tax levels and agreed budget targets will not be achieved	Financial	Service Delivery Planning Budgetary control system Publica Strategic Directors/Group Managers and Business Managers engaged in updated of budget and MTFS Key variances reported to Cabinet and Overview and Scrutiny Committee	3	3	9	10-Dec-20	No change to rating. The 2020/21 budget has been revised to reflect the impact of Covid 19. Key service providers (Publica, Ubico and SLM) have been engaged in the revised budget and have also fed in to the draft budget proposals for 2021/22 which will be subject to consultation before Council determines the final budget for 2021/22. The Council has determined its Priorities and the financial resources required to enable the Council to deliver against its priorities had been included in the MTFS and associated 2020/21 budget. Members and Officers are working on a plan to increase income to the Council to fund both new objectives from the new Corporate Strategy and to bridge the expected funding gap from 22/23 as a result of changes to local government funding.	Chief Finance Officer
CRR-D02-030	If Ubico is unable to deliver services to the required standard or to budget then it could damage the Council's reputation and result in additional costs for the Council	Financial Reputational	Service management Performance monitoring Service risk registers	4	5	20	10-Dec-20	Update 10-12-20 Ubico is experiencing demand for recycling services over and above expectations of the new service. This has resulted in additional vehicles being utilised and associated additional numbers of operatives to deliver services. Ubico has also required additional personal protective equipment to protect its staff from Covid 19. These additional costs have been incorporated within the revised budget for 2020/21 approved by Council on 23 September 2020. Provisions for some additional costs have been incorporated within the draft budget for 2021/22.	Business Manager - Commissioning strategy
CRR-D02-027	If Publica does not deliver the agreed objectives in accordance with its business plan then the planned savings for the Council would not be delivered and consequently there would be a risk that services could not be delivered in line with the budget	Financial Reputational	Programme Board Local Political Support National Political Support Early Engagement with employees and Unions Funding provided to develop detailed business case	3	2	6	17-Dec-20	Likelihood risk reduced from 3 (possible) to 2(remote). After a successful 2019/20 where the overall savings target of £0.93m was delivered together with additional one-off savings of £0.36m there were some concerns about the deliverability of the £0.5m additional target for savings in 20/21. At the half way stage of the year we appear to be on track to deliver these savings despite the impact of Covid 19. Indeed the major shift to home working has reduced the travel costs within the organisation which has assisted meeting the target for 20/21. We are now progressing actions to deliver against business case targets for 2021/22 with outline plans to include a further target of £0.5m in draft budgets.	Interim Chief Executive; Managing Director

CRR-D02-024	If the Council is unable to meet the savings required to balance the budget then it may need to make unplanned use of revenue reserves, raise council tax, find further savings and/or cut services	Financial Performance Community	Regular meetings with Members and Cabinet MTFS and budget process Publica Group Managers/Business Managers and Strategic Directors involved in budget process Publica Transformation Programme Recovery Investment Strategy	3	3	9	10-Dec-20	10-Dec-2020 No change in rating. Savings from the leisure contract of £35,000 will not materialise in 2020/21 and have been removed from the revised budget for 2020/21. The level of savings required as a result of changes to local government funding which will now come into effect in 2022/23 remains unclear. The Council has approved a Recovery Investment Strategy to deliver the savings, or generate additional income, required from changes to local government funding.	Chief Finance Officer
CRR-D02-029	If contractors do not meet their obligations under key contracts then it could lead to a fall in service standards, reduced customer service or a failure to meet legal requirements	Financial Reputational	Robust and effective contract management to ensure standards and requirements in contracts are met and any failings are identified and addressed quickly and effectively Regular meetings to review performance/standards	3	3	9	18-Dec-20	No change in rating. An internal audit report has identified improvement in procurement and contract management to be implemented.	Business Manager - Commissioning strategy
CRR-D02-005	If there is a legal challenge to any of the Council's decisions or actions then there may be financial or policy implications	Financial Legal Reputational	Managerial advice and supervision Legal advice and effective role of monitoring officer Robust internal procedures 200k in MTFS for planning appeals	3	2	6	18-Dec-20	No change in rating	Head of Legal
CRR-D02-002	If the Council fails to meet income targets then it may need to make unplanned use of revenue reserves, raise council tax, find further savings and/or cut services	Financial Performance Community	Systems of budgetary control Appropriate marketing of services and consideration of effective charging levels Project management arrangements	3	3	9	10-Dec-20	No change in rating, 2020/21 budget has been revised to reflect impact of Covid 19 on income budgets. Draft budget 2021/22 has been prepared in consultation with Publica officers and reflects reduced development control income.	Chief Finance Officer
CRR-D02-017	If the level of pay inflation exceeds provision in the MTFS then the Council may need to make unplanned use of revenue reserves, raise council tax, find further savings and/or cut services	Financial	National negotiations on pay award	3	3	9	10-Dec-20	Revised budget 2020/21 includes an increase in the final pay award of 0.75%	Chief Finance Officer
CRR-D02-023	If there was a civil emergency in the District then there could be a financial burden on the Council in responding to it	Financial	Mutual aid arrangements would enable support and reduce the resource burden on one individual council The Belwin scheme enables costs incurred over a threshold (approx. £22K) to be reclaimed Insurance of council's assets and some loss income General Fund Working Balance Flood engineering schemes in place to minimise the impact of severe weather and reduce the risk of property flooding	2	3	6	11-Dec-20	11-Dec-20 No change in rating. There are good internal controls in place to help mitigate this financial risk. The Covid-19 response has increased the risk to capacity if a concurrent event were to occur; but as section 31 grants have been forthcoming to support the Covid response from an emergency planning perspective and with Belwin in place for other events the financial risk remains the same as pre-Covid.	Group Manager - Strategic Support
CRR-D02-031	District Councils are required to provide rest centres for the Public during a Civil Emergency. If staff are unwilling to come forward and volunteer with the running of a rest centre, there is a risk that the Council will be unable to fulfil its duty in providing a safe rest centre.	Legal Reputational	Small team of volunteers established (although some have left Publica in recent months). Training and support provided by the County Civil Protection Team. New staff have emergency planning incorporated in Job Roles Mutual aid can be called upon It is becoming more common place to use hotels as opposed to rest centres	3	2	6	11-Dec-20	11-Dec-20 Call out policy has been drafted which will give staff the assurance that they will be compensated with a flat rate of pay for an emergency response. Rest centre manager and deputy in place Recruitment drive to replace volunteers who have since left the Council/Publica.	Group Manager - Strategic Support

CRR-D02-032	Without clear and robust procurement procedures, Publica and Partner Councils will not benefit from the most economically advantageous procurement opportunities and may fail to comply with the law governing Public Procurement Rules.	Financial Legal Reputational	Procurement rules approved Council. Publica Procurement Team able to provide procurement advice and assistance on major procurements.	4	3	12	11-Dec-20	Draft Commissioning and Procurement User Guide for Officers involved in procurement has been produced and is currently out for comment Training on commissioning and procurement to be provide by end of financial year.	Executive Director: Commissioning
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Customer focus

Risk Code	Description	Risk Factors	Internal Controls	Current Impact	Current Likelihood	Current Rating	Last Review Date	Latest Note	Assigned To
CRR-D03-007	If the Council does not consult properly, or Publica does not consult properly on the Council's behalf, then the Council's decisions could be challenged	Community Reputational Legal Financial	Communication team Engagement strategy Neighbourhood coordination meetings Annual Town & Parish council meetings Annual Budget consultation	3	2	6	10-12-20	No change in rating. Budget consultation proposals were approved by Cabinet in September 2020 for consultation.	Interim Chief Executive

Organisational learning, staffing & development

Risk Code	Description	Risk Factors	Internal Controls	Current Impact	Current Likelihood	Current Rating	Last Review Date	Latest Note	Assigned To
CRR-D04-003	If Publica or the Council is unable to recruit suitable staff and retain them, particularly in some key service areas then the level of service delivery may be reduced	Performance Financial Reputational Community	Financial incentives (market force supplement scheme) Work with partners to address skill shortages	3	3	9	10-Dec-20	10-12-2020 No change in rating. Quarterly performance reports are shared with Joint Management Team so any necessary mitigation to maintain service delivery levels can be discussed. Some difficulty recruiting senior staff in certain professions, e.g. Planning. Monthly HR reports to Exec also highlight recruitment. Apprentice, intern and graduate schemes are in place. New pay and grading system in place and HR are now starting to work with managers to use this to provide more flexibility for recruitment and retention in services where recruitment remains challenging.	Interim Chief Executive; Managing Director
CRR-D04-009	If staff morale and motivation is low in Publica then the level of service delivered may be reduced in some services	Performance Community	Communication Comprehensive consultation and engagement process Change management training Joint Liaison Forum 2020 Engagement Strategy	2	3	6	10-Dec-20	Despite the impact of Covid 19 on working arrangements and the very significant impact on workloads the resilience of staff has been remarkable. The welfare surveys being carried out on a regular basis point to broadly good levels of morale although some areas are struggling with the working arrangements. The launch of the broad based leadership programme should assist in the new year together with the Investors in People programme.	Interim Chief Executive; Managing Director
CRR-D04-011	If key Officers in the Council (such as the Interim Chief Executive, Chief Finance Officer or Monitoring Officer) are not available, the Council may not be able to respond effectively to urgent matters which could result in reputational or financial damage	Legal Financial Reputational	Deputy CFO and Monitoring Officers in place Support from Shared Legal Services team- employed by the Publica Partner Councils Support from professionals within Publica (e.g. Strategic Directors, Group Managers, Accountants, HR) Support available from other Statutory Officers from across the Publica Partner Councils Effective working relationships between Officers and Cabinet Members Risk management processes	3	2	6	10-Dec-20	No change to rating.	Interim Chief Executive; Managing Director

Business processes

Risk Code	Description	Risk Factors	Internal Controls	Current Impact	Current Likelihood	Current Rating	Last Review Date	Latest Note	Assigned To
CRR-D05-001	If the Council's data is of poor quality or it does not make appropriate use of its data then the decisions it makes may be flawed	Reputational Financial Legal Performance Community	Internal processes and self assessments Internal audit assurance and support Dedicated staff resource on performance management and data quality Performance Management Framework	3	3	9	18-Dec-20	No change in rating. Data quality and the use of information is being addressed as part of the organisational re-design. The Business Manager responsible for business analytics is working with the Lead officer for information on data quality. Two new data analysis posts are currently being recruited	Chief Finance Officer; Interim Chief Executive
CRR-D05-016	If the Council does not comply with relevant Information Management legislation including the new GDPR and Transparency Agenda then the government may intervene which could have a reputational impact on the Council	Financial Reputational Legal	Access to Information Policy FOI process reviewed LGA guidance and supporting documents & templates	3	3	9	18-Dec-20	18-12-2020 No change in rating. Progress on the GDPR Action Plan is being reported to the Council and Publica on a regular basis. Mandatory refresher data protection training rolled out in Sept 2020 Increase internal communications on portal to raise awareness on informational security Introduced revised Covid Information Sharing Protocols internal and externally with NHS and OCC Conducting a data audit Preparing for data protection after the EU Exit Transition period	Data Protection Officer; Interim Chief Executive
CRR-D05-019	If contractors do not comply with health and safety requirements then there could be both financial and reputational implications for the Council	Financial Reputational	Contract management in place to ensure appropriate measures such as risk assessments, appropriate policies, and training is in place. Health and Safety business partners provide advice and support Concerns can be escalated to contractors' senior management	4	2	8	18-Dec-20	No change in rating	Group Manager - Commissioning
CRR-D05-013	If there is insufficient capacity to respond to an emergency then the Council may not be able to deal effectively during emergencies resulting in reputational damage	Reputational Legal Financial Community Performance	Contract terms with SLM (Everyone Active) e.g. use of leisure centre as a rest centre Mutual aid arrangements Good will of staff Ward Members, Town & Parish Councillors on hand/training provided Enhanced community resilience arrangements Emergency management framework in place with duty officer arrangements	3	3	9	11-Dec-20	11-Dec-20 The new emergency management framework has been in place since late 2019, which includes two deputy DEPLOs for Cotswold District, as well as an overall emergency planning lead for the Publica partnership. The flood response in early 2020 provided assurance that this arrangement provides capacity, as has the Covid-19 community support provided. Given that we are heading in to the inclement weather period, the likelihood rating has been increased to a 3.	Interim Chief Executive; Managing Director
CRR-D05-010	If there is severe weather then the Council may be unable to deliver key services which could impact on residents	Performance Community Reputational	BCPs Weather reports/national news Remote working solution available to staff	3	2	6	11-Dec-20	11-Dec-20 No change in rating. All business continuity plans have been updated.	Interim Chief Executive; Managing Director

CRR-D05-011	If the Council's IT System / infrastructure failed due to cyber attacks and/or virus then system performance could be reduced leading to poor service delivery/financial impact	Performance Financial Legal Reputational	Preventative measures introduced such as blocking of USB and other devices Undertaken and passed a central government ICT audit, meeting the very high standards set for network security Introduction of new / revised joint policies Periodic staff awareness training BCP in place and reviewed & tested	3	2	6	18-Dec-20	18-Dec-2020 No change in rating. All Councils have PSN accreditation in Oct 2020 Progress on the Cyber Security updates and Action Plan is being reported to the Council and Publica on a regular basis. Introduction of an Information Asset Register Undertake an improved phishing awareness campaign to improve user's awareness of the risks Increased reviews on the ICT disaster recovery plans	Group Manager - Business Support Services
CRR-D05-012	If there is a loss of data (both on site and as a result of remote/mobile working) / security failure in our IT systems then it could lead to a reduced level of service and have a negative impact on the Council's reputation and finances	Performance Financial Legal Reputational	Preventative measures introduced such as blocking of USB and other devices Undertaken and passed a central government ICT audit, meeting the very high standards set for network security Introduction of new / revised joint policies Periodic staff awareness training BCP in place and reviewed & tested	3	2	6	18-Dec-20	18-Dec-2020 No change in rating. All Councils have PSN accreditation in Oct 2020 Progress on the Cyber Security updates and Action Plan is being reported to the Council and Publica on a regular basis. Introduction of an Information Asset Register Undertake an improved phishing awareness campaign to improve user's awareness of the risks Increased reviews on the ICT disaster recovery plans Introduction of ICT Remote Working Policy / guidance	Group Manager - Business Support Services
CRR-D05-014	If the Council's buildings are destroyed then it would be unable to operate/deliver services which would impact on residents /communities	Reputational Financial Legal Performance Community	BCPs including ICT contingency plans Remote access Mutual aid through Shared working strategy Insurance Fail over protocol	2	2	4	11-Dec-20	11-Dec-20 Impact rating reduced to 2. All business continuity plans have been updated. The ability to deliver services without a reliance on Council buildings has been demonstrated during the Covid-19 response, with approximately 80% of staff working from home and others conducting their work out in the community.	Group Manager - Strategic Support

Longer term risks

Risk Code	Description	Risk Factors	Internal Controls	Current Impact	Current Likelihood	Current Rating	Last Review Date	Latest Note	Assigned To
CRR-D06-002	If Health and Safety procedures and risk assessments are not in place /being followed then staff could be injured undertaking Council duties which would impact on their health and wellbeing, affect their ability to work and create liability issues for the Council	Legal Financial Reputational	Health and Safety procedures Access to weather forecasts Lone workers policy Business Continuity Plans	4	2	8	11-Dec-20	11-Dec-20. No reportable incidents to the Health & Safety Executive in the quarter. Local H&S Committee has been established and first meeting was held on the 21.11.20 where the new H&S Plan and Audit Schedule were presented and signed off. A Q2 H&S update was provided to the Board in December.	Interim Chief Executive; Managing Director

Agenda Item 15



COTSWOLD
DISTRICT COUNCIL

Council name	COTSWOLD DISTRICT COUNCIL
Name and date of Committee	AUDIT COMMITTEE – 28 JANUARY 2021
Report Number	AGENDA ITEM 15
Subject	CHANGES TO GOVERNANCE ARRANGEMENTS AT SWAP INTERNAL AUDIT SERVICES LTD
Wards affected	All
Accountable member	Cllr. Mike Evely Deputy Leader and Cabinet Member for Finance
Accountable officer	Jenny Poole, Chief Finance Officer Jenny.Poole@cotswold.gov.uk 01285 623313
Summary/Purpose	For Members to receive details of changes to governance arrangements taking place in SWAP Internal Audit Services.
Annexes	Annex A – Amendment to SWAP Internal Audit Reserved Matters
Recommendation/s	<i>That the Committee:</i> <i>a) Notes the changes to the SWAP Governance arrangements; and</i> <i>b) Recommends to Cabinet that delegated authority is granted to the Chief Executive to sign the updated Members Agreement.</i>
Corporate priorities	Ensure that all services delivered by the Council are delivered to the highest standard.
Key Decision	No
Exempt	No
Consultees/ Consultation	The Council's Chief Finance Officer is a director of SWAP and was involved in the development of the proposals to the SWAP Member Board. The Chair of the Audit Committee represents the Council and attended the SWAP Owners Board meeting on 16 December 2020 when the proposed changes were considered.

1. BACKGROUND

- 1.1.** This Council is a Member of SWAP Internal Audit Services, which operates as a Teckal company and provides the Council's internal audit service. SWAP was incorporated in 2012, and since then has attracted a large number of new Members, both additional councils and police Members.
- 1.2.** SWAP was incorporated in line with good governance practice with documentation enshrining the key oversight role of the Member authorities. This role primarily included two strands of control; firstly, the ability for each Member to appoint a director to sit on the board, and secondly the referral of 'reserved matters' back to the Members for decision. The Council's Chief Finance Officer is a SWAP director and the Chair of the Audit Committee represents the Council on the Members Board.
- 1.3.** As a result of the number of Members increasing, the number of attendees on the board became difficult to manage and in July 2017 SWAP amended its articles to allow new classes of Members who would collectively appoint a single director. This change has now impacted upon police Members to date. Despite this amendment, SWAP now has 19 directors registered at Companies House and has had 32 resignations since incorporation.
- 1.4.** The nature and scope of SWAP has changed significantly since its incorporation, and to ensure that it is operating within best practice and in a way which is conducive and supportive of its continued service delivery, SWAP has approved a change in the governance structure of the company.
- 1.5.** The new structure has been designed to offer concise and strong decision making, allowing adaptive and resilient business management while retaining the Member control required to meet the Teckal/Regulation 12 test and allow the Members to directly appoint SWAP as their audit provider without undertaking a competitive process.

2. MAIN POINTS

- 2.1.** SWAP has approved the following changes to its governance arrangements.
 - 2.1.1.** The maximum number of directors for the SWAP Board of Directors will be 9.
 - 2.1.2.** The mechanism for appointing directors will be a reserved matter.
 - 2.1.3.** The maximum number for independent directors will be 3.
 - 2.1.4.** The mechanism for appointing independent directors will be a reserved matter.
 - 2.1.5.** Police Members will going forward receive individual Member votes.

Board of Directors

- 2.2.** The number of directors is reduced to 9, to make it easier to call and manage director meetings and to allow for greater oversight of matters for those directors who are appointed. The directors will comprise of a maximum of four from the Partners, two from SWAP and three independent Non-Executive Directors.
- 2.3.** In order to show the necessary control elements required for Teckal exemption on a smaller board, the appointment of non-executive directors will be undertaken collectively by the Members.
- 2.4.** The appointment of directors will be a new decision to be taken by the Members made as a reserved matter, requiring agreement of 50% of Members.

- 2.5. The introduction of independent directors can increase the diversity of skills within the board and ensure that the company is benefitting from a wide variety of views. This will also help SWAP to ensure that the skills gap that currently exists on the Board of Directors is filled.
- 2.6. Independent directors will be appointed following an open recruitment process. A person specification will be developed, based on skills required for an effective Board of Directors, advertised and interviews undertaken to choose the most appropriate independent directors.
- 2.7. The recruitment process will be undertaken by directors, but the interview panel and approval of the appointment will be undertaken by the Members, as for non-executive directors as set out above.

Reserved Matters

- 2.8. Since the drafting of the reserved matters in 2012, the scope, value and frequency of corporate transactions undertaken by SWAP have increased significantly. As a result, the values set within the reserved matters no longer reflect the risk profile of the company and the SWAP Owners Board approved an increase to the levels.
- 2.9. Matters relating to the appointment and management of staff, and minor accounting elements have also been removed from the reserved matters, making them decisions for the board of directors.
- 2.10. Some 'Special Reserved Matters' requiring unanimous agreement of the Members have been changed to 'Reserved Matters'. These changes are set out in full in **Annex A** to this report.
- 2.11. Browne Jacobson have advised that, because none of these reserved matters affect the overall control of the company, these amendments may be made without affecting the Teckal compliance of the Company.

Process for Amendment

- 2.12. Incorporation of the amendments set out in this report will require changes to both the Articles of Association and the Members Agreement.

Articles of Association

- 2.13. The procedure to amend a company's Articles of Association is laid out in the Companies Act 2006 and is subject to any bespoke rules that the company has created itself. SWAP's existing Articles have created additional procedural requirements and made adjustments to voting rights.
- 2.14. Once the proposed amendments to the Articles have been drafted, the directors must convene a Board meeting to formally agree on the amendments and to propose that the revised Articles are put to the members for approval and adoption.
- 2.15. To obtain member approval, the directors will need to decide whether to call a general meeting or to circulate a written resolution.
- 2.16. Section 21(1) of the Companies Act 2006 states that any amendments to the Articles must be approved by the members of the company by special resolution (e.g. a 75% majority). However, clause 10.2 of the Members Agreement (which applies Schedule 2, Part 1, Paragraph 2) makes any alteration to the Articles a 'Special Reserved Matter' requiring unanimous agreement of the members.

Therefore, the purpose of this clause is to amend the standard position as set out in section 21(1) of the Companies Act 2006 and so SWAP should seek to obtain unanimous agreement from its members to adopting the new Articles.

2.17. The new Articles will be formally adopted and take effect on the date that the all members have signified their agreement.

2.18. Within 15 days of unanimous agreement being obtained, a copy of both the new Articles and a memorandum confirming the unanimous agreement must be filed with Companies House.

Members Agreement

2.19. The Members Agreement is a contractual arrangement between all of the members of SWAP. The agreement has been entered into in the form of a Deed. Clause 20 states that the Members Agreement may be varied by writing that is duly signed by the members and SWAP. Unanimous agreement will be required, and the variation could be recorded in a deed of variation.

2.20. The “Members” of SWAP are defined as those existing organisations who were members at the time the Members Agreement was entered into, plus any new members who have since joined. Therefore, the members will be those organisations whose details are recorded in the register of members at the time the variation is to take place.

2.21. As the Members Agreement is contractual relationship entered into between all of SWAP’s members, in this instance, each member must individually signify their agreement to the variation as a ‘party’ to the Members Agreement.

Key milestones and timetable

Item	Responsible Body	
Consideration of proposed amendments and formulation recommendation to Owners	Board of Directors	30 November 2020
Consideration of recommendation by Owners	Owners Meeting	16 December 2020
Redrafting of corporate documents in accordance with Owners Decisions	Browne Jacobson	8 January 2021
Adoption of amended Articles of Association	Owners	Anticipated circulation date 29 January 2021
Signature of Amendment to Members Agreement	Owners	Return date (to be set in circulation) mid-February

Filing amended Articles and resolution at Companies House	Company Secretary/Browne Jacobson	End of February
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- 2.22.** The Audit Committee is responsible for oversight of the Council's internal audit service. The Committee is asked to note the change of governance arrangements, which has already been approved by the SWAP Members Board and recommend to Cabinet approval. The Committee is further requested to recommend that authority is delegated to the Chief Executive to sign the new Membership Agreement, updated to reflect the changes set out in this report.

3. FINANCIAL IMPLICATIONS

There are no financial implications from this report.

4. LEGAL IMPLICATIONS

The legal implications have been set out within the body of this report.

5. RISK ASSESSMENT

- 5.1.** SWAP has identified the following risks:

1. One or more partners do not wish to transfer to the new governance model. Rating: Medium

Members may resist losing their ability to appoint their own director. It will be important to present the benefits of the new arrangement to the Members fully to ensure that this is seen as a positive progression for the company borne out of its success rather than a removal of control from the Members. If the Members are not in agreement the board of directors may need to consider alternative options to modernise the governance of the company.

2. The company loses its Teckal/Regulation 12 exemption. Rating: Low

The Teckal exemption has been codified in Regulation 12 of the Public Contract Regulations 2016 and permits local authorities to directly award services contracts to companies in which they share joint control without having to go to open tender under European directives. Case law specifically supports the appointment of directors in this way as a compliant approach to secure good governance of a company owned by multiple local authorities. SWAP will need to ensure that 80% of its activities remain, as now, in providing services to its partners.

3. Continuation of Existing Arrangements. Rating: Medium

If new governance arrangements cannot be agreed then the company must continue to operate under the current mechanism. This mechanism is Teckal compliant which is the core focus for the company. While this does not represent the most efficient method of governance, retaining the current mechanism would not prevent the company from continuing its service delivery.

4. Maintaining good standards of corporate governance. Rating: Low

A number of local authority trading companies have received criticism of their governance arrangements in the public interest reports, in particular the Robin Hood Energy Company and the implication from the Brick by Brick investment as referenced in the wider Corydon Council report. Criticisms relate to lack of quality and variety of experience of directors as well as lack of clarity around business planning and financial management. Reduced directors numbers and the inclusion of independence experts in some areas will promote the strength and breadth of the board for SWAP to ensure it is working in the best possible way.

6. ALTERNATIVE OPTIONS

- 6.1.** The Audit Committee could decide not to support entering into the new Membership Agreement with SWAP. SWAP has recognised this in the first risk in section 5.

Amendments to Reserved Matters

Schedule 2 Part 1 Reserved Matters	
which require the consent of at least 50% of the Membership vote (in respect of a Membership Group, acting via its Nominated Representative) in general meeting or in writing).	
	Admit any person as a new member of the Company (save as otherwise permitted in the Deed or the Articles).
	sale / lease / license per trans £100k unless in business plan.
	purchase / lease / license per trans £100k unless in business plan.
	Appointment or approve the Remuneration of Auditors.
	Appoint / remove CEO or member of the Senior Leadership Team.
	Enter into contract with any members or directors or connections / associations / interests.
	Change the name of the Company.
	Form any subsidiary of the Company or acquire shares.
	Give guarantee or indemnity to secure liabilities of any person or assume obligations of that person.
	Otherwise than in accordance with Financial Regulations incur any item or series of items of capital expenditure of more than £100,000 unless provided for in the Business Plan.
	Consolidate / amalgamate with / acquire any company / business / person.
	Change accounting / reporting practices apart from following standards.
	License / assign or dispose of Intellectual Property Rights owned by Company.
	Commence, settle or defend any claim, proceedings / litigation against the Company (exception debt collection).
	Enter into any contract to do any of the things referred to in this schedule.
	Approve or sign the annual accounts of the Company.
	Alter the Company's accounting reference date.
	Appoint or remove any director (both Partner Directors and independent Directors) of the Company otherwise than in accordance with the Deed or Articles, this will include the mechanism for appointment.

Schedule 2 Part 1 Special Reserved matters

(Matters which require the consent of all the Members (in respect of a Membership Group, acting via its Nominated Representative) in writing or the consent of all the Members (in respect of a Membership Group, acting via its Nominated Representative) present in person or by proxy in a general meeting).

	Adopt the Business Plan.
	Amend the Business Plan / articles / rights attached to Membership interests.
	Make any capitalisation, repayment or other distribution of any amount standing to the credit of any reserve of the Company.
	Create any encumbrance over the undertaking / assets of company.
	Extend its activities outside the scope of the Business or cease to carry it on.
	Appoint or remove any director of the Company otherwise than in accordance with the Deed or Articles.
	Agree the form and content of the Financial Regulations or any alteration thereto.
	Enter into contract to do any of the above.
	Resolve to wind up the Company.



Consultation on the 2021/22 audit fee scale

Opted-in local government and police bodies

January 2021

Public Sector Audit Appointments Limited (PSAA) is an independent company limited by guarantee incorporated by the Local Government Association in August 2014.

In July 2016, the Secretary of State specified PSAA as an appointing person for principal local government authorities for audits from 2018/19, under the provisions of the Local Audit and Accountability Act 2014 and the Local Audit (Appointing Person) Regulations 2015.

From 2018/19 PSAA is responsible for appointing an auditor and setting scales of fees for relevant principal authorities that have chosen to opt into its national scheme.

Contents

Summary	2
Responding to the consultation	3
Fee scale 2021/22.....	4
Background.....	4
Factors to be considered in setting the 2021/22 fee scale	4
Summary of Proposal	6
Statement of responsibilities.....	7
Value added tax	7
Next steps	8

Summary

- 1 This consultation invites audited bodies and stakeholders to submit views on PSAA's proposals for setting the fee scale for the audit of opted-in bodies' 2021/22 financial statements and value for money arrangements.
- 2 Consultees will be aware that auditors and auditing have been subject to very high levels of scrutiny in recent times following a number of widely reported financial failures in the private sector. These events have led the Government to commission a series of reviews into:
 - audit regulation (the Kingman Review);
 - the audit market (the Competition & Markets Authority Review);
 - the quality and effectiveness of audit (the Brydon Review);
 - local audit and financial reporting (the Redmond Review).
- 3 This consultation takes place against the backcloth of these reviews and in the context of the significant tensions and pressures currently present within the audit market and profession. It is carried out in accordance with the relevant provisions of the Appointing Person Regulations 2015, including the requirement to consult on and set the fee scale before the commencement of the relevant year. This imposes a very challenging timetable given that a great deal of information which would ideally be available to inform the setting of the scale is simply unavailable at this stage.
- 4 This consultation document explains how PSAA proposes to calculate the fees which will make up the 2021/22 fee scale. Our proposal involves two key variables: the ongoing implications of fee variations approved in relation to 2018/19 audit work, and the implications of further anticipated developments in relation to auditing and financial reporting standards. We explain in this document how we propose to tackle each of these issues and how we plan to communicate the detailed implications of each to individual bodies.
- 5 In theory, a third factor could also apply. Our contracts with audit suppliers include provision for an increase for inflation in relation to their remuneration for 2021/22. However, because the prevailing rate of inflation is currently low, it is unlikely that inflation will impact on 2021/22 fees payable by audited bodies.

Responding to the consultation

We welcome comments on the proposals contained in this document. Please send feedback to:

<https://www.surveymonkey.co.uk/r/X3WKBDH>

The consultation will close on **Friday 19 February 2021**.

Fee scale 2021/22

Background

- 6 As the appointing person for principal local authorities and police bodies, PSAA is required to undertake consultations before setting audit fee scales. This year's consultation, focusing on the fee scale in respect of the audit of 2021/22 financial statements and value for money arrangements, takes place in the context of significant turbulence and uncertainty in the audit market. Key developments include the fact that the future of local audit is in the process of being reshaped following the [Redmond Review](#) and the [Government's recently published policy response](#) to its findings and recommendations.
- 7 A significant proportion of audit work is undertaken after the relevant financial year by necessity. Consulting on changes to the fee scale in advance of the commencement of the relevant year (as the Appointing Person Regulations explicitly require) therefore presents us with significant challenges when audit is subject to as much change as it is currently. Ideally, we would be able to set fees with the benefit of relatively complete information about all preceding years' audits. In practice, we are having to consult on 2021/22 fees with incomplete information in relation to:
 - audits of 2018/19 accounts (a minority of audit opinions remain outstanding);
 - audits of 2019/20 accounts (a significant proportion of opinions remain outstanding)
 - audits of 2020/21 accounts (very limited if any audit work done).
- 8 Our position is therefore in essence comparable to a local body being required to set its budget with incomplete information about spending and revenues in preceding years, and with only theoretical information about the immediate prior year.
- 9 Helpfully the Government's policy response to the Redmond Review includes a commitment to review the Appointing Person Regulations. We are working with MHCLG to review and reform regulations to provide the appointing person with greater flexibility to ensure the recurring costs to audit firms of additional work are built into scale fees in a more timely, flexible and seamless way, subject to consultation. This could include enabling the appointing person to allow a fee scale to be set or changed in-year (subject to consultation with the auditor and the audited body), and/or enabling the appointing person (subject to appropriate consultation) to set additional fees across groupings of audited bodies in-year where there is clear evidence of additional work that affects those groupings. MHCLG has committed to consult in the coming months, with a view to having new regulations in place before summer recess.

Factors to be considered in setting the 2021/22 fee scale

- 10 In the context of the challenge of having incomplete information, we have considered a number of factors which have the potential to impact on 2021/22 audit fees, accepting that some cannot be fully quantified at this stage. They include:
 - i) [Approved fee variations which relate to audit work of an ongoing nature](#)
- 11 Auditors may find it necessary to carry out additional audit work in order to enable a safe audit opinion. The regulations allow for additional fees, calculated via our fee variations

Consultation on 2021/22 audit fee scale

process, to be payable, subject to PSAA approval. In recent years the number of claims for additional fees has increased significantly, as auditors have needed to meet enhanced regulatory requirements following a number of controversial financial failures in the private sector.

- 12 Sometimes the additional audit work is of an ongoing nature, in which case it makes sense to update the relevant scale fee at the earliest opportunity to reflect the need for the audit work concerned in future years.
 - 13 In the 2021/22 fee scale we are therefore proposing to update as many individual fees as possible to consolidate the ongoing audit work identified in 2018/19 fee variations. We have reviewed all 2018/19 approved fee variations to establish the ongoing ones. These include, for example, ongoing elements of additional work on property valuations, pensions valuations and group accounts.
 - 14 As part of this consultation we will write to all individual opted-in bodies to explain the results of this work and the proposed change to the particular body's scale fee for 2021/22. This will ensure that individual bodies have an opportunity to ask questions and, if appropriate, to challenge our proposals. For the avoidance of doubt, we will write to:
 - bodies which have been subject to approved fee variations for 2018/19 that we have assessed as being of an ongoing nature (with the proposed impact on their 2021/22 scale fee);
 - bodies whose 2018/19 approved fee variations have not related to work of an ongoing nature (whose 2021/22 fees will be unaffected);
 - bodies which have not been subject to approved fee variations in 2018/19 (whose 2021/22 fees will be unaffected);
 - bodies for which claims for 2018/19 fee variations remain outstanding (whose scale fees may need to be updated subsequently).
 - 15 We plan to follow a similar process in respect of 2019/20 fee variations in the 2022/23 scale fees consultation in twelve months' time, or earlier if the Appointing Person Regulations are amended to allow us to update 2021/22 scale fees after the year has started (see paragraphs 3 and 9 above). When we update for 2019/20 fee variations, we will strip out any element which relates to 2018/19 that has already been consolidated – this will avoid any double counting.
 - 16 In this way we hope to ensure that all fees are systematically updated on a regular basis for any changing audit work requirements.
- ii) [Changes in auditing and financial reporting requirements](#)
- 17 We are aware of several scheduled changes to auditing and financial reporting requirements which may impact on the amount of audit work required to enable a safe audit opinion on 2021/22 accounts, and to deliver the requirements on the arrangements for securing value for money. The most significant anticipated developments include:
 - the [Code of Audit Practice](#) applicable from 2020/21, which contains new requirements in relation to reporting on value for money arrangements;

Consultation on 2021/22 audit fee scale

- ISA 220 (Revised): Quality control of an audit of financial statements (applicable from 2020/21 audits);
 - ISA 540 (Revised): Auditing accounting estimates and related disclosures (applicable from 2020/21 audits);
 - ISA 600 (Revised): Specific considerations – audit of group financial statements (applicable from 2020/21 audits); and
 - IFRS 16 Leases (applicable from 2021/22 audits).
- 18** At this stage we have insufficient information to evaluate the impact of these developments in terms of additional audit work. We therefore propose to deal with these and any other similar developments via PSAA's new approach to fee variations which was subject to a recent separate consultation process.
- 19** The consultation on new fee variations arrangements sought the views of audited bodies and other stakeholders on proposals for PSAA to take a national lead on additional fees for new audit requirements where these are applicable to all or most audited bodies, removing the need for local negotiations. We received a good response to the consultation, with 97% of responses supporting our proposed new approach.
- 20** Under our new approach we intend to assess the additional work and consequent fee requirements for each new standard or requirement, taking account of the differing needs of particular types or groups of body. PSAA will consult on and determine national fee variations or expected fee ranges for different groups of bodies in relation to each relevant change or provide guidance on the factors to be considered. If it is possible to establish the additional costs and consult opted-in bodies on the outcome in time for inclusion in the 2021/22 fee scale, that is before 31 March 2021, PSAA will amend the fee scale accordingly. Where it is not possible to complete the assessment and consultation needed, the additional fees may be the subject of a national fee variation and will be incorporated into the fee scale at a later date.

iii) Inflation

- 21** Our contracts with audit suppliers include provision for an increase in their remuneration for inflation in respect of 2021/22 audits. However, the prevailing rate of inflation is currently low. We will review the position in March, but at this stage do not anticipate the need to adjust the fee scale for inflation as PSAA expects to be able to cover any contractual obligation from existing funds.

Summary of Proposal

- 22** In summary therefore we propose that the fee scale for 2021/22 will be built up as follows:

2020/21 scale fees

plus - relevant adjustments for ongoing additional audit work arising from 2018/19 approved fee variations (paragraphs 11 to 16 above);

plus – any adjustments relating to changes in auditing and financial reporting requirements which are classified as national variations under PSAA's new arrangements for dealing with fee variations and which are determined before 31 March 2021 (paragraphs 17 to 20 above);

Consultation on 2021/22 audit fee scale

plus - any relevant adjustment for inflation arising from PSAA's contracts with audit suppliers (although at this stage it appears unlikely that the relevant provision will result in additional fees payable by audited bodies in respect of 2021/22) (paragraph 21 above).

Statement of responsibilities

- 23 The [statement of responsibilities of auditors and audited bodies](#) sets out the expectations on which scale fees are based. The statement effectively represents the terms of engagement between appointed auditors and audited bodies and summarises their respective responsibilities. Scale fees are based on the expectation that audited bodies can provide the auditor with complete and materially accurate financial statements and supporting working papers within agreed timeframes. Local fee variations may be required where a body is unable to fulfil these requirements.
- 24 The statement of responsibilities also applies to auditors. Additional audit costs that arise due to auditors not meeting expectations in relation to their responsibilities are ineligible for a fee variation.

Value added tax

- 25 Individual audit fees under the 2021/22 fee scale do not include value added tax (VAT), which will be charged at the prevailing rate, currently 20 per cent, on all work done.

Next steps

- 26 We welcome comments from audited bodies and stakeholders on the proposals outlined in this document. The closing date for comments is Friday 19 February 2021.
- 27 Please send any questions on this consultation to: workandfeesconsultation@psaa.co.uk.
- 28 We will take account of responses to this consultation in setting the 2021/22 fee scale, for publication by 31 March 2021.
- 29 If you have comments about the way this consultation has been conducted, these should be sent by email to generalenquiries@psaa.co.uk.

17. WORK PLAN 2020/21

COMMITTEE DATE	ITEMS
29 April 2021	Grant Thornton Reports
	Grant Thornton Assurance 2020/21
	External Audit Fee
	Revised Corporate Risk Policy
	Corporate Risk Register Updates
	Counter Fraud Unit Report and Annual RIPA/IPA Update
	Internal Audit Monitoring Report
	Draft Annual Governance Statement 2020/21
	Proposed 2021/22 Internal Audit Plan and Internal Audit Charter
	Work Plan 2021/22

Briefing Sessions	Effectiveness of Audit Committee
	Corporate Risk and Risk Policy

(END)

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