



GOVERNANCE COMMITTEE

TUESDAY, 23 JANUARY 2018

11.00 AM (OR AT THE CONCLUSION OF THE CABINET, WHICHEVER IS THE LATER)
COMMITTEE ROOM, COUNTY HALL, LEWES

MEMBERSHIP - Councillor Keith Glazier (Chair)
Councillors Godfrey Daniel, David Elkin, Rupert Simmons and David Tutt

A G E N D A

- 1 Minutes of the meeting held on 14 November 2017 (*Pages 3 - 4*)
- 2 Apologies for absence
- 3 Disclosures of interests
Disclosures by all members present of personal interests in matters on the agenda, the nature of any interest and whether the member regards the interest as prejudicial under the terms of the Code of Conduct.
- 4 Urgent items
Notification of items which the Chair considers to be urgent and proposes to take at the appropriate part of the agenda. Any members who wish to raise urgent items are asked, wherever possible, to notify the Chair before the start of the meeting. In so doing, they must state the special circumstances which they consider justify the matter being considered urgent.
- 5 Revisions to Procurement Standing Orders (*Pages 5 - 44*)
Report by Chief Operating Officer
- 6 Armed Forces Champion (*Pages 45 - 50*)
Report by Director of Adult Social Care and Health
- 7 Amendment to Constitution - Scheme of Delegation to Officers (*Pages 51 - 64*)
Report by Director of Communities, Economy and Transport
- 8 Amendment to Constitution - Financial procedure Rules (*Pages 65 - 68*)
Report by Chief Operating Officer
- 9 Amendment to Constitution - Motions (*Pages 69 - 70*)
Report by Assistant Chief Executive
- 10 Amendment to the Council's quarterly monitoring and the terms of reference of Governance Committee (*Pages 71 - 72*)
Report by Assistant Chief Executive
- 11 Additional Leave Purchase Scheme (*Pages 73 - 82*)
Report by Chief Operating Officer
- 12 Local Managers' Pay 2018/19 (*Pages 83 - 86*)
Report by Chief Operating Officer
- 13 Membership of the Pension Board (*Pages 87 - 88*)

Report by Chief Operating Officer

- 14 Appointment to Outside Body - Chailey Heritage Foundation Governing Body (*Pages 89 - 90*)
Report by Assistant Chief Executive
- 15 Any other items previously notified under agenda item 4

PHILIP BAKER
Assistant Chief Executive
County Hall, St Anne's Crescent
LEWES BN7 1UE

15 January 2018

Contact Andy Cottell, 01273 481955,

Email: andy.cottell@eastsussex.gov.uk

GOVERNANCE COMMITTEE

MINUTES of a meeting of the Governance Committee held in the Committee Room, County Hall, Lewes on 14 November 2017.

PRESENT: Councillors Keith Glazier (Chair), Godfrey Daniel, David Elkin, Rupert Simmons and David Tutt

ALSO PRESENT: Councillor Phil Boorman

25 MINUTES OF THE MEETING HELD ON 19 SEPTEMBER 2017

25.1 RESOLVED – that the minutes of the previous meeting of the Committee held on 19 September 2017 be confirmed as a correct record.

26 REPORTS

26.1 A copy of the reports referred to below are included in the minute book.

27 CUSTOMER EXPERIENCE ANNUAL REPORT 2016/17

27.1 The Committee considered a report by the Director of Communities, Economy and Transport regarding measures being taken to further improve customer experience, information regarding the complaints report including the Local Government and Social Care Ombudsman's annual letter and formal information requests received in 2016/17

27.2 The Committee RESOLVED to:

- 1) note the progress of the Customer Project Board in the development of a series of measures to improve customer experience;
- 2) note the number and nature of complaints made to the Council in 2016/17; and
- 3) note the contents of the Local Government & Social Care Ombudsman's annual letter to the Chief Executive

28 CONSULTATION ON THE DISQUALIFICATION CRITERIA FOR COUNCILLORS

28.1 The Committee considered a report by the Assistant Chief Executive regarding consultation on the disqualification criteria for councillors

28.2 The Committee RESOLVED – to approve the response to the Department for Communities and Local Government consultation on the disqualification criteria for councillors as set out in paragraph 1.3 of the report

29 APPOINTMENTS TO OUTSIDE BODIES

29.1 The Committee considered a report by the Assistant Chief Executive regarding appointments to outside bodies

29.2 The Committee RESOLVED to appoint Councillors to the outside bodies as listed below:

Organisation	No. of representatives	Members Appointed
Dungeness A & B Power Stations – Local Community Liaison Council	3	Glazier, Maynard and Simmons
Woodland Enterprises Ltd	1	Barnes
Chailey Common Local Nature Reserve Management Committee	2	Philip Daniel and Sheppard
Coombe Valley Countryside Park Community Interest Company	2	Maynard and Pragnell
Rye Harbour Nature Reserve Management Committee	2	Barnes and Glazier
Harbour of Rye Advisory Committee	1	Glazier

Date: **23 January 2018**

To: **Governance Committee**

By: **Chief Operating Officer**

Title of report: **Revisions to Procurement Standing Orders (PSOs)**

Purpose of report: **This report provides an overview of the proposed amendments to the PSOs, including the rationale for the changes**

RECOMMENDATIONS

The Governance Committee is recommended to recommend the County Council to approve the revised Procurement Standing Orders as set out in Annex 2 of the report.

1 Background

- 1.1 The PSOs set out how the Council governs spending by Officers on goods, works and services, on consultants and contractors, and on direct care services. They cover all spend with external suppliers regardless of the source of funding (for example, revenue, capital, ring-fenced government money and/or any grant or third party funding).
- 1.2 They have four main purposes:
 - 1.2.1 to ensure we meet the Council's statutory duty to Best Value and to create healthy competition and markets for the Goods, Services and Works we buy.
 - 1.2.2 to be **transparent** to our residents about how we spend their money.
 - 1.2.3 to make sure we spend public money **legally and fairly**, and to **protect** us from undue criticism or allegation of wrongdoing.
 - 1.2.4 to support **sustainability** and **social value** objectives, and our public sector **equality** duty, encouraging local small businesses.

2 Purpose of the Changes

- 2.1 The PSOs have been updated to take account of:
 - 2.1.1 the transformed procurement service and resulting changes to organisational structure which launched on the 1 April 2017
 - 2.1.2 improvements to procurement processes aimed at more efficient delivery; including the introduction of a Sourcing Governance Board.

2.1.3 improvements to strengthen contract management with the formation of the Contract and Supply team

It has entailed an end to end review of policy to ensure all regulations are current and relevant.

2.2 The Orders have also addressed all relevant aspects of audit reports including:

- improved guidance for Consultancy expenditure, Grants, Waivers and Financial Checks
- the role of the newly formed Sourcing Solutions Team in managing spend between £15k and £100k

2.3 A more detailed explanation of the key changes is included in Annex 1 alongside a full version of the proposed new PSOs in Annex 2

2.4 Since the revised Orders require changes to processes they will be reviewed after six months to ensure these are effective. Should any amendments be required following the review a further report will be provided in relation to these.

3 Consultation

3.1 In amending the PSOs we have taken into account good practice at other Local Authorities, and across the wider public sector. This has included reviewing standing orders and supporting policies from other county and unitary authorities across the South East.

3.2 The revised Orders were prepared in consultation with Finance, Legal, Audit, Business Operations, HR and Procurement staff.

4 Conclusion & Reasons for Recommendations

4.1 The Procurement Standing Orders have been updated to ensure they align with the enhanced procurement service offering following a transformation of structure and process. Legislation has been reviewed and revised to ensure the Council continues to commit funds in accordance with the latest version of the Procurement Contract Regulations, and processes have been improved to provide greater assurance whilst continuing to ensure value for money is achieved as efficiently as possible.

KEVIN FOSTER
Chief Operating Officer

Contact Officer: Ross Duguid, Assistant Director Procurement
Tel No. 07854 158844

Annex 1: Key changes to Procurement Standing Orders

Section	Change
Introduction	<ul style="list-style-type: none"> • Procurement organisational changes (throughout document) to reflect new roles and teams • Strengthened the Key Principle relating to VFM • Breaches of the PSOs are now reported quarterly to the Statutory Officers Group • Fees for external auditors are no longer specified as an exclusion from the scope of the PSOs • Additional Roles & Responsibility: <ul style="list-style-type: none"> • Consulting HR where temp or Consultant requirement is outside the corporate contract • Insert reference to Orbis Ethical Procurement Statement • Expanded the guidance on Transparency including; Developing Local Suppliers and Bribery, Canvassing, Corruption and Collusion and compliance with Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2012
Finding & Contracting with Suppliers	<ul style="list-style-type: none"> • Additional guidance on how to manage grant funded projects • New guidance on State Aid • Clarification on who Awards and Approves within Table 2.2.1 • Introduction of Sourcing Solutions Team for spend between £15k and £100k to table 2.2.1 • Reminder to consult HR where requirement is for temporary workers or consultants and corporate contract is not being used
Section	Change
Buying Principles	<ul style="list-style-type: none"> • Expanded the basic steps when considering a procurement • Expansion on guidance for existing contracts to ensure appropriate Service Contract Manager is consulted • Expanded the guidance on Select Lists, Collaboration, Concession Contracts and Temporary Staff, Consultants & Professional Services
Sourcing Your Contract	<ul style="list-style-type: none"> • Introduction of Sourcing Solutions Team for spend between £15k and £100k • Introduction of Sourcing Governance Board (SGB) for a 6 month trial period and clarification of approval process for all procurement activity over £100k. Head of Procurement retains discretion to delegate to SGB as appropriate • Additional guidance on awarding contracts above the PCR threshold, the SGB process (including the Lite Touch Regime) and Procurement Procedures • New guidance on the use of Select Questionnaires • Expanded 4.4.3 Sustainability & Social Value to refer to Social Value Measurement Charter

Annex 1: Key changes to Procurement Standing Orders

Section	Change
Waivers & Emergencies	<ul style="list-style-type: none"> • Clarification on the difference between an Emergency and the mitigation of risk within a contract • Additional guidance on Waivers
Liability & Security	<ul style="list-style-type: none"> • Additional guidance on Financial Checks following consultation between Finance, OPL and Procurement • Reintroduction of the Insurance liability levels
Managing Your Contracts	<ul style="list-style-type: none"> • Section rewritten to update and clarify guidance on Contract Award Notices, Contract Segmentation and Management and Contract Modifications and Extensions • Clarified approval levels which now has only two thresholds (up to and then beyond £100k) • Approval for Modifications and Extensions involves Assistant Chief Executive
Paying Your Suppliers	Reformatted guidance to reflect the priority of e-invoicing
Disposing of surplus goods	Checked to ensure guidance was current and identified specific policies for Property and ICT

Section	Change
Legal status of PSOs	Moved to the front of the document
Glossary of Terms	Minor updates to reflect changes to the document

Annex 2: Procurement Standing Orders

Rules to be followed when buying on behalf of
East Sussex County Council

January 2018
Version 0.27

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1 Introduction

The Procurement Standing Orders (referred to as the 'Orders' from this point on) set out how the Council authorises and manages spending. This includes all types of goods, works and services, as well as non-permanent workforce such as temporary and agency staff and consultants. We have a responsibility to do this in a transparent way that offers best value to residents.

Anyone who buys on behalf of the Council, including staff, contractors and consultants, is responsible for following these Orders.

This document relates to public sector tendering and purchasing procedures and the legislative framework that surrounds them. Functions delegated to particular officers may be carried out by other officers authorised by them.

These Orders must be considered along with the Council's Financial Regulations and Schemes of Delegation.

Note: In these Orders, 'You' means anyone who needs to buy from an external supplier.

1.1 Legal status of these Procurement Standing Orders

The Council is required by section 135 of the Local Government Act 1972 to maintain these Orders as part of our Constitution.

The Assistant Director Procurement is the custodian of these Orders and is responsible for keeping them under review. If the EU Directives or any other law is changed in a way that affects these Orders then the AD Procurement will issue a bulletin and the change must be observed until the Orders can be revised.

Reference in these Procurement Standing Orders to specified officers, including the Assistant Chief Executive and AD Procurement, shall be deemed to include officers authorised by them.

1.2 Key Principles

These Orders are based on these key principles:

- To ensure we meet the Council's statutory duty to Best Value and to create healthy competition and markets for the Goods, Services and Works we buy;
- To be **transparent** to our residents about how we spend their money;
- To make sure we spend public money **legally and fairly**, and to **protect** us from undue criticism or allegation of wrongdoing;
- To support **sustainability** and **social value** objectives, and our public sector **equality** duty;
- To support the development of the **local economy**;

1.3 Compliance

All Officers, and any external contractors empowered to form contracts on behalf of the Council, must comply with these Orders at all times. If you breach them, you are breaching the Council's Constitution and this may lead to disciplinary action under the Code of Conduct

You must not artificially separate contracts or spending to avoid these Orders applying at any level, except insofar as this is necessary to enable small or medium-sized enterprises to compete, whilst delivering best value for money and remaining compliant with the law.

Where there is a difference between current legislation governing procurement and these Orders, the legislation prevails and you must comply with it.

Where these Orders appear to conflict with other Council-determined rules the Assistant Chief Executive determines which takes precedence.

The Assistant Director Procurement (AD Procurement) will report any breaches of these Orders to the Statutory Officers Group on a quarterly basis.

1.4 Scope

Apart from the exceptions listed below, these Orders cover all spend with external suppliers regardless of how they are funded (for example, revenue, capital, grant funded projects, ring-fenced government money and/or any third party funding).

These Orders do not apply to the following items, which are managed by separate policies:

Exclusion	Relevant Policy/Law
Contracts for the acquisition or lease of land and/or real estate	Managed via Property Services
Contracts for permanent or fixed-term employment	HR/Recruitment Policies
Works or orders placed with utility companies (e.g. re-routing pipe-work)	This is carried out as part of larger construction contracts
Direct payments to customers following care assessment (for example, payments under Self-Directed Support or Individual Budgets)	Section 12 of The Care Act 2014
Non-trade mandatory payments to third parties, such as insurance claims, pension payments, payments to public bodies	These are not subject to competition due to their nature
A declared emergency authorised by the Emergency Planning Officer ¹	The Civil Contingencies Act 2004
Awarding of Grants	Managed according to locally agreed Grant process or Corporate Funding Protocol.
Any contract relating to the engagement of Counsel or other legal specialists	Legal Services are either exempt from EU Procurement Regulations or are subject to the light touch regime, depending on the nature of the advice or representation sought
Placement of a child with Special Educational Needs in a non-maintained school providing the value of the contract is below the light touch regime threshold.	

¹ Not to be confused with Emergency Purchases as detailed at Section 5.2

1.5 Roles and Responsibilities

AD Procurement is responsible for the complete process from procurement through to ordering and paying suppliers (known as 'Procure-to-Pay') across all Services and local systems. Any developments in the design of the process require the approval of the AD Procurement.

The Procurement Service is responsible for:

- Providing expert market knowledge to help you find the best supplier to meet specified needs;
- Managing all tenders and contract awards over £100,000 in accordance with relevant legislation and regulation;
- Engaging colleagues from Finance, Legal Services and HR in all contract strategies and awards;
- Developing strategic action plans for each category of spend;
- Providing commercial support to Contract Managers;
- Ensuring that good practice contract and supplier management is written into agreements;
- Developing our supply chain to deliver performance improvements;
- Ensuring transparency over spend, contracts and contract opportunities;
- Embedding social value and sustainability across the supply chain;
- Supporting the development of the local economy by encouraging businesses in the county to compete for contract opportunities;
- Ensuring efficient and effective purchasing practices are in place for all staff;
- Working with Business Operations to manage a master database of suppliers currently on SAP.

Anyone who buys from suppliers is responsible for:

- Complying with these Orders;
- Ensuring there is adequate budget available;
- Raising and ensuring a purchase order is approved before the requirements are delivered to the Council, regardless of which system is used;
- Ensuring technical specifications meet the defined need and requirements;
- Ensure that where the requirement is for temporary workers or consultants outside of the corporate framework agreement, HR is consulted in the first instance and the appropriate approval is obtained;

- Ensuring specifications take into account equality and diversity as well as social value implications, and carrying out Equality Impact Assessments where appropriate;
- Putting in place effective monitoring of the performance and management of contracts;
- Engaging with Procurement at the earliest opportunity where the requirement is likely to exceed £100,000 in value;
- Engaging with Buying Solutions / Sourcing Solutions Team where the requirement is likely to exceed £15,000 in value;
- Using existing corporate contracts or select lists of suppliers where in place;
- Following the corporate process at the earliest opportunity when you need a new supplier;
- Carrying out Equality Impact Assessments where appropriate;
- Ensuring all procurement activity within the contract lifecycle is conducted in accordance with the Orbis Ethical Procurement Statement;
- Ensuring that all suppliers to the Council adhere to the Supplier Code of Conduct.

1.6 Transparency

This section sets out how we meet our obligations to be transparent in our procurement, and maintain proper accountability to the public and obligations from the Local Government Transparency Code 2015 and Public Contract Regulations (PCRs).

1.6.1 Publication of Contract Opportunities, Spend and Contracts

In accordance with current government requirements we publish details of all spend with suppliers over £500 on our website, as well as spend on purchasing cards. A list of current contracts and grants is also published.

All advertised opportunities for contracts over £25,000 are published via the national Contracts Finder website, as well as our own website. Contracts over the current EU threshold are advertised via the Official Journal of the European Union (OJEU) whilst it remains relevant.

All contracts awarded which are valued at greater than £25,000 must be published via the national Contracts Finder website, regardless of whether they were originally advertised there or not.

The Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2012 requires that the Council keeps a record of executive decisions made by officers. Consequently where a decision is made to award a contract record must be made which includes:

- a record of the decision (including the date it was made);
- the reasons for the decision;
- details of any alternative options considered and rejected;
- a record of any conflict of interest declared by any Executive Member consulted; and
- in relation to any such declaration, a note of any dispensation granted.

The record should then be sent to Member Services within 3 working days of the date of the decision being taken. The record will be published on the Council's website and will be available for public inspection at County Hall

1.6.2 Freedom of Information

Under the Freedom of Information Act (FOIA) 2000, we have an obligation to publish specific information and to provide information to members of the public upon request. However, the FOIA enables certain confidential information and commercially sensitive material to be withheld. You must therefore ensure tender information is kept confidential at all stages, especially during tender evaluation and after the contract is awarded. Suppliers must also be given the opportunity to highlight in their tender any information that they would not wish disclosed under FOIA. Requests for information under the FOIA will be dealt with under the usual Council procedures for such requests.

1.6.3 Developing Local suppliers

The Council is committed to encouraging businesses in the county to compete for contract opportunities in order to support the development of the local economy. It provides information and support via dedicated websites and through supplier events. We actively encourage the use of locally-based suppliers where they can offer best value for money. Local is defined as within the county boundaries of East Sussex. If no supplier exists within these boundaries this can be extended to include Orbis partner county boundaries.

Officers are required to use their purchasing power to work with local businesses wherever possible where this provides equal or better Value for Money for the Council than alternatives. However it must also be noted that the EU public procurement legislation requires that any procurement activity should not discriminate, favour or show bias.

Officers should carefully review the required specifications of any contract to ensure that small and medium sized enterprises are not being disadvantaged in their ability to tender for goods, works or services with the Council.

For contracts over the relevant EU threshold Officers must also consider whether the contract should be divided into Lots in order that small and medium sized enterprises can bid for local work. The decision not to divide into Lots should be clearly documented on the Strategic Sourcing Plan.

Where a contract is to be divided into Lots the process followed should still be in line with the total value of all requirements. For example a contract for services which is divided into 4 Lots of approx. £50,000 each would still be subject to the PCRs as the total value of the contract exceeds EU thresholds.

An Officer must not enter into separate contracts nor select a method of calculating the total value in order to minimise the application of these Orders.

1.6.4 Conflict of Interest

Our market searches, procurement and purchasing must be carried out free from any conflict of interest to support our transparency objectives. An 'interest' means any consideration or anything of economic value, including future consideration.

Conflicts of interest can arise when someone who is involved in these processes has a close connection with another party who is also involved which may mean they could influence, or be influenced by, the outcome of a buying decision.

Conflicts of interest can arise in the procurement process in a number of ways, including:

- Where someone who is actually buying goods or services for the Council, or giving budgetary approval for the purchase, has an interest in the supplier's business;
- Where someone with an involvement in a tender or other sourcing process has an interest in the potential supplier's business;
- Where Suppliers bidding for a contract with the Council have an interest which could enable them to influence unfairly the outcome of a sourcing process;
- Where consultants are supporting the Council in conducting or developing market searches or project preparation including business case for solutions which could enable them to influence unfairly the outcome of any resultant sourcing process.

If you are a Council employee you must follow the Code of Conduct and Conflict of Interest Policy, ensure all potential conflicts of interest are declared appropriately, and ensure you do not participate in any buying activity where these Conflicts of Interest could arise.

Temporary & agency staff, and other consultants or contractors must abide by the terms of their contract with the Council and follow the Council's Code of Conduct and Conflict of Interest Policy on Conflicts of Interest and on Equalities and Diversity.

Staff may supply goods, works and services as external suppliers to the Council as long as the policy has been followed, and any interests declared and managed at the time a contract is agreed. Staff members who become suppliers must not have access to systems to raise Purchase Orders. There must be demonstrable transparency and fairness in any transactions of this nature.

Suppliers bidding for contracts with the Council are required to declare any conflict of interest.

The Council may undertake projects involving income generation and the available powers to trade and charge, where potential conflicts of interest may have an impact. These will be referred to the AD Procurement to agree with the Monitoring Officer an approach that best manages the Council's interests.

Conflicts of interest arising from shared service or collaborative working will be also referred in the same way, unless already under the scope of an agreed governance body for that management of the shared service arrangement, who will then be responsible for agreeing an approach that manages the best interests of the parties.

1.6.5 Bribery, Corruption, Canvassing and Collusion

Bribery and Corruption

Gifts and Hospitality. Officers must comply with the Code of Conduct and Conflict of Interest policy and must not invite or accept any gift or reward in respect of the award or performance of any contract. It will be for the Officer to prove that anything received was not received corruptly. In summary:

- Officers must not receive gifts, loans, fees, rewards or other financial or in kind advantage from contractors or potential contractors, including those who have previously worked for the Council, service users, clients or suppliers;
- All gifts offered must be declared and unexpected gifts should be politely returned;

- All offers of hospitality (free or discounted accommodation, tickets, event passes, food, drink or entertainment) should be considered carefully and only accepted with approval of the relevant Assistant Director
- All offers of hospitality, whether accepted or not, should be declared.

High standards of conduct are obligatory. Corrupt behaviour will lead to dismissal and is a crime under the statutes referred to below.

The Council may terminate a contract and recover all its loss if the Contractor, its employees or anyone acting on the Contractor's behalf does any of the following things:

- offers, gives or agrees to give to anyone any inducement or reward in respect of this or any other Council contract (even if the Contractor does not know what has been done); or
- commits an offence under the Bribery Act 2010 or Section 117(2) of the Local Government Act 1972; or
- commits any fraud in connection with any Council contract, whether alone or in conjunction with Council members, contractors or employees.

Canvassing and Collusion

All Invitations to Tender shall include a requirement for tenderers to complete fully and sign a form of tender and certificates relating to canvassing and non-collusion.

Every contract shall contain a clause entitling the Council to cancel the contract and to recover from the contractor the amount of any loss resulting from such cancellation if the contractor or his representative (whether with or without the knowledge of the contractor) shall have practised collusion in tendering for the contract or any other contract with the Council.

2 Finding and contracting with suppliers

Whenever it is necessary to enter into a contract, you must take into account the 'aggregate' or total spend forecast. That is, the total amount you expect to spend with a supplier for the duration of the contract. To clarify: Annual value x contract period in years (including options to extend) = Aggregate value. This value determines the approach to be used to find a supplier and put a suitable contract in place. These rules apply to all contracts including works and service concessions.

2.1 Grants

In making a grant the Council is not contracting for a service that it might otherwise have delivered itself. Rather it is offering financial support in an area of work, designed and proposed by another organisation, which it wishes to sponsor. The work to be carried out by the other organisation would be deemed to add value to the council's overall aims or objectives.

Grant-in-aid is the provision of funding to cover in whole or, more likely, in part, the running costs of an organisation whose work complements that of the Council. The recipient will have discretion over the spending of that funding within the general framework of controls agreed with the Council.

The making of grants or the disbursement of grant-in-aid is not subject to these Orders.

Officers must not engage any third party during the application or development of an application for grant funding, with which the Council wishes to deliver services or works, or purchase goods without consulting Procurement. No undertaking must be given which provides guarantees to any third party regarding further work, services or goods to be provided as a result of the Council being awarded grant funding.

Where the Council is using Grant monies itself or passing it on to a third party, the application of that money is subject to these Orders and may also be subject to the requirements of the relevant grant funding body.

Officers shall determine on a case by case basis whether funding is to be considered as a Grant or a Relevant Contract. In considering the award of a grant, Officers shall also have regard to State Aid and Best Value law.

If you are not clear, then contact the Procurement team.

2.1.1 State Aid

Definition: State aid can be defined as any assistance offered by a public sector body in any form whatsoever that distorts or threatens to distort competition by favouring certain organisations and / or Suppliers or the production of certain goods. Such aid may take the form of a grant (capital injection), business tax relief, a reduction in rent or preferential finance (this is not an exhaustive list).

Where the Council wishes to administer aid in this manner careful consideration must be given prior to such a grant so as to ensure that it is compatible with EU law. Aid that is not compatible with EU law may be recovered from the beneficiary with interest.

For a grant to be considered as State Aid the following cumulative criteria must be met:

- The beneficiary receives a grant of a benefit or advantage; and
- The aid is given by a Member State or through state resources; and
- The beneficiary receives the aid on a selective basis; and
- The aid granted distorts or threatens to distort competition; and
- The aid is capable of affecting trade between Member States

Granted aid must fulfil all of these criteria in order to be deemed as a State Aid for the purposes of EU law.

Where a grant is defined as State Aid it must be notified in sufficient time to the European Commission. Aid will not be permitted to be bestowed upon the beneficiary until the Commission has reached a decision as to whether it can be deemed as compatible with EU law or not. Where Aid is incompatible the Council will not be permitted to grant it.

Exemptions for State Aid

Besides seeking approval from the European Commission, State Aid can be said to be compatible with EU law and can therefore be granted legally if:

- For the most part the total de minimis Aid given to a single recipient is less than €200,000 over a 3-year fiscal period;
- Aid in favour of Small, Medium Enterprises, research, innovation, regional development, training, employment of disabled and disadvantaged workers, risk capital and environmental protection;
- Aid measures promoting female entrepreneurship, such as aid for young innovative businesses, aid for newly created small businesses in assisted regions, and measures tackling problems like difficulties in access to finance faced by female entrepreneurs.

Such Aid must still be notified to the European Commission and as a result Council Officers are advised to seek the advice and guidance of the Solicitor to the Council and / or Monitoring Officer where State Aid may be said to exist on a particular project or procurement.

2.2 Overview and summary table

The table at 2.2.1 below sets out the approach that must be followed for each threshold aggregate value. As set out above, and in the Councils' Scheme of Delegations to Officers, functions delegated to particular officers may be carried out by other officers authorised by them.

2.2.1 Governance – Process for finding new suppliers at each threshold level

Aggregate value	Purchase Card permitted?	How many quotes are required ?	How should you approach the market?	Who leads procurement?	Should the contract be formally advertised?	What type of contract is required?	Who must approve the contract award? +	Who signs the contract on our behalf? ++	Contract Award Notice needed?	How much time should be allowed to carry out process?
£0 to £14,999	Yes if within rules & guidance and card limits	One	Email / Call Supplier. Use a local supplier if they offer best value.	Service Officer	No	Standard Terms (see Council's website)	Budget Holder	Not Required – (Approval of Purchase Order)	No	2 weeks minimum
£15,000 to £99,999	Only in formal emergency cases (see section 5.2)	Minimum of three	Contact Sourcing Solutions/ Buying Solutions who will lead sourcing activity	Service Officer	No but where advert is placed, this must be via Contracts Finder	Council's Standard Terms, or a specific contract approved by the Assistant Chief Executive	Assistant Director for the Service or delegated manager	Assistant Director or delegated manager	Yes – over £25,000 on Contracts Finder	6 weeks minimum
£100,000 and up to EU Limit	No	(via tender process)	Issue Tender via Procurement	Procurement	Yes, via Contracts Finder and / or OJEU	Specific contract approved by Assistant Chief Executive	The relevant Chief Officer in consultation with Head of Procurement	Authorised Signatories in Legal Services as authorised by the Assistant Chief Executive	Yes. Contracts Finder where relevant OJEU	up to 6 months
Over EU limit	No	(via tender process)	Issue Invitation to Tender or utilise procedures as allowed under legislation	Procurement	Yes, via Contracts Finder and / or OJEU determined by procurement and regulations	Specific contract approved by the Assistant Chief Executive	The relevant Chief Officer in consultation with relevant Lead Member	Authorised Signatories in Legal Services as authorised by the Assistant Chief Executive (anything over £500k would be sealed as a deed via Legal Services)	Yes. OJEU and Contracts Finder	up to 12 months depending on complexity of requirement

Notes:

EU thresholds for Goods and Services is currently set at £164,176 and for Works £4,104,394 as at the 1st January 2016.

The current Lite Touch threshold is £589,148. It is reviewed every two years and officers should check the current thresholds in place here: www.ojec.com/thresholds. Procurement can also advise on the latest values.

The Concession Contracts Regulations 2016 (CCR) apply to the award of works Concession Contracts or services Concession Contracts above £4,104,394

3 Buying Principles

These Buying Principles apply to contracts of all values to ensure that they are made in a fair and open way that delivers best Value for Money.

When a new requirement for goods, services or works is established, it is important to ensure the correct procedure is followed in order to obtain them.

The basic steps for this are as follows:

- Establish what the requirement is (key business needs);
- Ensure a new procurement is the right option – do we need to buy?;
- Establish that there is a budget for this procurement;
- Looking at the applicable section of the table at 2.2.1, plan what needs to be done;
- Ensure all other internal governance arrangements are followed;
- Check that there is no existing contract or framework that is suitable to use for the requirement;
- Engage with Procurement Sourcing Solutions Team where spend is over £15,000;
- Engage with Procurement where spend is over £100,000;
- Engage with Procurement where (regardless of value) risk or complexity is high. Complex procurement can be defined as where your requirement requires design or an innovative solution; cannot be met without adaptation of an available solution; requires market engagement or prior negotiation; or the legal and financial makeup and/or risks cannot be established with sufficient precision;
- Ensure that where the requirement is for temporary workers or consultants outside of the corporate contract, HR is consulted in the first instance and the appropriate approval is obtained.

3.1 Contract Compliance

Where existing corporate contracts and agreements exist, these should be used and the appropriate Service Contract Manager consulted as they provide best Value for Money for the Council. If for any reason you do not feel that the corporate contract or agreement is suitable for your requirement you must gain approval from the relevant Strategic Contract Manager before proceeding. If the total value of the individual requirement exceeds £100,000, advice should be sought from Procurement before using an existing corporate contract or framework.

3.2 Purchase Orders

You must not raise the order retrospectively (that is, once the goods or services have been delivered by the supplier). This is to ensure that the purchase is properly approved in advance

and that the commitment against the budget is clearly visible to the budget-holder. Failure to raise an order in advance is a breach of these Orders.

Once you have found the right supplier in compliance with the correct procedure required by these Orders, you must not make verbal commitments but must raise a Purchase Order (via a SAP or equivalent service-specific system). This must be approved according to the Council's Financial Regulations before it is sent to the supplier.

3.3 Setting up a new Supplier

To set up a new supplier in order to raise a purchase order, please refer to the guidance on Setting up a new Supplier.

3.4 Select Lists

Select Lists are lists of approved suppliers who have been pre-assessed or qualified in order to provide defined goods, works or services to areas of the Council in line with requirements of the Orders. Select Lists may only be used where the individual value of the contracts awarded under the select list do not exceed the relevant EU threshold for those goods, works or services subject to and that at the point of establishing the Select List the opportunity to apply to be a part of the Select List is openly advertised.

AD Procurement must approve proposals to establish a Select List of approved suppliers, but may delegate this to the Sourcing Governance Board (SGB) as appropriate. This must happen at least 2 weeks before a list is compiled or reviewed. Suppliers on any existing list must be asked if they wish to join the new list, provided they can evidence meeting new assessment criteria or requirements.

A list must not normally operate for longer than 4 years and any appropriate continuing requirements for membership of the list, such as insurance obligations, should be included. The operation of the approved list in awarding contracts, and options to re-opening to new suppliers, any exemptions and/ or suspension of suppliers must be defined in writing as part of the approval of the list's establishment sought by the relevant service area from AD Procurement.

3.5 Collaboration

The Council may enter into collaborative agreements for the procurement of goods and services with other public bodies or Central Purchasing Bodies where this offers best value for money for residents. Officers must ensure that:

- The Council is a named party to the agreement;
- The call off arrangements set out by the lead authority are followed;
- Appropriate sign offs as set out in these Orders are followed.

The appropriate sign-offs and procedures as set out in these Orders and Public Contract Regulations (PCRs) need to be followed when undertaking collaborative projects and spend, as well ensuring any risk is managed appropriately.

Where the Council acts as the lead contracting authority on behalf of a collaborative partnership two or more public bodies, Legal and Procurement must be consulted to determine the appropriate procedure and contractual arrangements.

A lead contracting authority may take on additional responsibilities in a collaborative framework or contract such as:

- Ensuring the total aggregate value of all contracts does not exceed the advertised contract value;
- All parties abide by the contract / call off terms;
- That continued due diligence and performance management is undertaken of the supplier/s;
- That appropriate cost sharing agreements are put in place where necessary.

3.6 Framework Agreements and Dynamic Purchasing Systems

Procurement can provide advice on all aspects of the operation and use of collaborative and framework agreements or Dynamic Purchasing Systems (DPS). There are a number of established central purchasing bodies who establish framework agreements and DPS which the Council can utilise.

3.6.1 Framework Agreements

A framework agreement is a general term for an agreement with suppliers that sets out terms and conditions, under which specific purchases, or call-offs, can be made throughout the life of the agreement. The procurement activity to establish a framework agreement is subject to the PCRs. There are different mechanisms for placing call-off orders under a framework agreement and at all times the Council must ensure transparency and fairness.

The Council may establish a framework agreement and make this available to other contracting authorities, or make use of framework agreements awarded by other public sector bodies.

3.6.1.1 Setting Up a Framework Agreement

When putting a framework agreement in place, these Orders apply to the process. During the initial framework set up, the rules of the framework are developed and these apply to any subsequent arrangements that are let from the original framework.

3.6.1.2 Using and Operating a Framework Agreement

When using a Framework Agreement not established by the Council, the Assistant Chief Executive must be instructed to satisfy themselves that to the best of their knowledge the original agreement:

- was tendered for in accordance with the PCRs or Concessions Contract Regulations 2016 for the potential use by the Council;
- is in the interests of the Council;
- contains conditions of contract acceptable to the Council, and
- Contract Award Notices are published in accordance with the PCRs or Concession legislation (see section 7.1).

Access Agreements to join Framework Agreements for frameworks set up by other public bodies, once confirmed to have met these criteria, should be signed by the Head of Procurement.

Framework agreements can be used to source contracts for any value that falls within the scope of the framework and advice should be sought from Procurement. Frameworks have their own distinct rules which are defined as part of establishing the framework agreement. Specific rules governing an individual framework take precedence over these Orders when these differ, e.g. to allow for the use of different number of suppliers and standards etc. Other obligations of these Orders still apply and must be followed when utilising a framework agreement.

A Contract Award Notice for **all** contracts awarded from framework agreements, with a value greater than £25,000 must be published on the Contracts Finder website. See section 7.1 for more details.

3.6.2 Dynamic Purchasing System

A Dynamic Purchasing System (DPS) is an entirely electronic system where suppliers are able to express an interest and be evaluated against a defined set of suitability criteria in order to gain access to the DPS. The DPS must be open to any suppliers to apply to join it at any time during the operation of the DPS.

All opportunities for contracts being awarded from the DPS must be issued to all relevant suppliers on the DPS on the appropriate section. The operation on the DPS and all call-off contracts must comply with the timescales and evaluation procedures in accordance with the PCRs.

If you wish to use a DPS that has been established by another public body or central buying group, and which is open and available for use by the Council, it shall be subject to the same principles and checks as set out above under 'Framework Agreements'.

You must ensure that the call-off and award procedures are compliant with the requirements of these Orders and PCRs when awarding contracts from a DPS.

A Contract Award Notice for **all** contracts awarded from a DPS must be published in the Official Journal of the European Union whilst these regulations apply. See section 7.1 for details.

3.7 Concession Contracts

The Concession Contracts Regulations 2016 (CCR) apply to the award of works Concession Contracts or services Concession Contracts above £4,104,394. Concession Contracts must meet the following requirements:

- The award of the contract involves the transfer to the concessionaire of an operating risk in exploiting the works or services encompassing demand or supply risk or both;
- The part of the risk transferred to the concessionaire involves real exposure to the vagaries of the market, such that any potential estimated loss incurred by the concessionaire is not merely nominal or negligible. The concessionaire shall be deemed to assume operating risk where, under normal operating conditions, it is not guaranteed to recoup the investments made or the costs incurred in operating the works or the services which are the subject-matter of the Concession Contract.

Concession Contract Regulations may apply to Contracts which are of no financial cost to the Council but which have a pecuniary interest for the Economic Operator.

The same general principles that apply to other procurement rules apply to the award of Concession Contracts. In particular, the Council must treat providers equally and without discrimination and must act in a transparent and proportionate manner.

Seek advice from Procurement and/or Legal Services if you are consider that you might want to award a Concession Contract

Special rules apply to the procurement of design contests for the acquisition of plans or designs by the Council following adjudication by a jury, as part of a procedure leading to the award of a public services contract of a value in excess of the relevant EU threshold.

Such contracts must be awarded in accordance with the relevant rules set down in the EU Regulations.

3.8 Using Purchase Cards

You may only use a Purchase Card where there is no existing suitable supplier available and the spend value is below the level set out in the Purchasing Card Policy, unless otherwise agreed in writing by Procurement, or in emergency circumstances (see section 5.2).

3.9 Commercial Confidentiality and Intellectual Property

If you are discussing developments with suppliers you should take care to ensure that you do not inadvertently share key commercial or confidential information such as budgets, existing pricing from other suppliers, or suggestions for improvements unless you have a Non Disclosure Agreement in place.

This protects the Council's interests and our intellectual property. Procurement are responsible for putting these agreements in place where appropriate with advice from the Monitoring Officer, and can provide commercial advice and support in dealing with suppliers. Where arrangements include the Intellectual property of the Council, appropriate or relevant contract clause/s must be included.

Intellectual property is a generic term that includes inventions and writings. If these are created by the Council as a general rule they belong to the Council not the supplier. Certain activities undertaken by the Council may give rise to items that may be patentable, for example software development. These items are collectively known as Intellectual Property.

3.10 Service-Specific Arrangements

Several Council Services use local systems to send orders to suppliers, for example: Adults Social Care, Transport, Highways, Property and Libraries. All such systems must support financial approval of orders in accordance with the Financial Regulations and ensure compliance with the requirements of these Orders in delivering any applicable service-specific obligations.

Business Operations will maintain all supplier master data on these systems to ensure it is of high quality and consistent with the master database of suppliers kept in accordance with section 1.5 of these orders.

3.11 Temporary Staff, Consultants and Professional Services

Procurement works closely with HR to manage the Council's workforce needs. This applies to any appointment that is outside the Council's direct employment arrangements and includes the appointment of temporary workers, temporary staffing agencies, independent consultants, consultancy companies and professional or technical services independents or companies.

A consultant is a person (not an employee), agency or firm engaged for a limited period of time on a project or requirement specific basis to carry out a specific task or tasks which meet a desired set of outputs or outcomes. A consultant provides subject matter expertise, support and/or experience to the Council either because it does not possess the skills or resources in-house or which requires an independent evaluation/assessment to be made. This definition excludes: (a) agency staff, interim or role specific duties which should be sourced through the Council's Corporate Contract. (b) routine services e.g. maintenance, cleaning and security. (c) professional services e.g. Architects, structural engineers, forensic archaeologists, specialist social care support, training etc.

- Consultants must be appointed under a contract for services;
- The contract should clearly detail the project objectives, deliverables, milestones, and performance measures and an accompanying payment schedule based on satisfactory completion of the project/milestones should be included;
- The contract must have a clear start and end date;
- The contract must contain provision for in the event of the consultant's work being unacceptable – it must be rectified at no additional cost to the Council;

Temporary workers (also sometimes referred to as 'temps' or 'locums') are usually defined as persons primarily engaged as a short term solution to provide cover for unplanned or emergency staffing shortages. Such shortages may include sickness absences, unexpected increases in workload, or covering a vacancy while you go through a formal recruitment process. Temporary workers are often associated with high costs and must be sourced using the Council's main temporary staffing contract.

In the first instance, any requirements for temporary workers or consultants should be approved by HR if the corporate framework is not being used. This is to ensure the requirement is in accordance with current HR staffing policies and legislation.

Refer to the HR Agency Worker and Consultant Policy for further guidance.

4 Sourcing your Contract

4.1 Existing supplier/contracts

In the first instance, where contracts are in place for goods, works or services, these should be used. Guidance is maintained by Procurement on the Intranet

Regardless of value, framework agreements and Dynamic Purchasing Systems that meet the requirements of these Orders under section 3.6 can be used where they provide best Value for Money.

4.2 Contracts up to £14,999

For contracts for works, goods or services with an estimated value up to £14,999, the appropriate budget holder must obtain at least one written quotation. It is however, advisable to seek further quotations in order to evidence achieving best value for money.

Alternatively you may place an order with a contractor under a corporate contract, framework agreement or DPS, where such arrangements have been put in place by the Council.

Where a select list exists the quotation must be obtained from an approved supplier on the select list. If they offer best value, you should use a locally-based supplier.

4.3 Quotations for Contracts £15,000 to £99,999

In the case of contracts with an estimated value of greater than £15,000 but not exceeding £99,999, the request for quotation process should be followed. This is led by Sourcing Solutions within Procurement, via the e-tendering system. You may invite competition from a framework agreement or DPS established where such arrangements have been put in place or approved for use by the Council section 3.6 applies. Written, or emailed quotations are acceptable but in the first instance the e-tendering system will be used. Where a select list exists for a specific requirement, the quotations should be obtained from approved suppliers on the select list. Where reasonably practicable, at least one locally-based supplier should be included in those invited to quote. Local is defined as within the county boundaries of East Sussex. If no supplier exists within these boundaries this can be extended to include Orbis partner county boundaries.

Quotation procedures must be undertaken using a single stage (open) procedure, incorporating the standard suitability assessment criteria required under the PCRs relating to lower value contracts. In seeking quotations, due regard must be given to any guidance or standard quotations templates issued by the AD Procurement.

Procurements Sourcing Solutions team can supply a Request for Quotation form, which you will need to complete and return to the Sourcing Solutions team who will then carry out quotation procedures on your behalf.

If 3 quotations cannot be obtained, even when the market has been tested, then this should be reported with full details to the Sourcing Solutions Team, who will maintain a full record for audit trail.

All purchases must be delivered under a form of contract approved by the Assistant Chief Executive in consultation with the AD Procurement. Where a standard contract cannot be used, Procurement will inform Legal Services as early as possible in order for the appropriate legal resources to be made available. Documents such as specifications must also be sent to Legal Services to assist with the contract drafting

4.3.1 Advertising for Quotations

If a contract over £25,000 is advertised in **any way**, this **must** be done via Contracts Finder and involve a one stage procedure. This should include appropriate selection criteria to assess the experience and capability of the supplier and the nature of the contract required. Insurance requirements in section 6.1 must be included. All such opportunities should also be advertised to local suppliers via the Supply to Surrey or Supply to East Sussex website as appropriate. Before advertisement, you must confirm budget availability with the appropriate Finance Manager.

4.3.2 Contract Award Notices for Quotations

For contracts awarded over a value of £25,000, a Contract Award Notice also has to be published on Contracts Finder. See section 7.1 for details.

4.4 Tenders for £100,000 or over

4.4.1 Procurement Strategic Sourcing Gateway Process

If the aggregate value is £100,000 or over Procurement must lead the sourcing exercise. This exercise and the subsequent contract award follows the Procurement Strategic Sourcing Gateway Process. This ensures we:

- follow proper legal procedure/s;
- manage the progress of our projects;
- maintain a record of the sourcing decisions made on behalf of the Council.

The process has five gateways that must be completed for each project as it progresses from stage to stage:

Gateway Zero: Used internally in Procurement to identify pipeline projects agreed a strategic level with senior Service managers as part of the business planning process.

Gateway One: Initiate, where the requirement is confirmed and work begins on the Strategic Sourcing Plan (SSP) (Project Brief section).

Gateway Two: Route To Market, where the SGB reviews the Route To Market within the SSP and approves those that are acceptable.

Gateway Three: Award, where the resulting contract is awarded.

Gateway Four: Handover & close, where the contract is mobilised and ongoing responsibilities are identified and implemented, including contract and supplier management. Lessons learnt are also captured.

Note that the acceptance, opening and evaluation of formal tenders must be carefully controlled to ensure fairness to all bidders. This process is managed within Procurement and is controlled via the electronic tendering system.

Because we must comply with EU and UK law on procurement, we must observe certain minimum timescales for delivery that are designed to ensure that fair competition is maintained at each stage. When planning for procurement projects, you need to allow several months for this, depending on the exact process that is to be used. Procurement can advise you about the detailed timescales relevant to your particular project.

4.4.2 Award of Contracts – Above PCR Threshold

All contracts shall be awarded in accordance with the criteria set out in the Procurement Documents.

For contracts with a value at or above the PCR Thresholds, the Officers shall adhere to the contract award procedures set out in the PCRs and observe a standstill period before entering into the contract. The standstill period will normally end at midnight at the end of the

tenth day after the date the Council sends notice to the tenderers electronically, that it has made an award decision.

Where a tendering exercise is regulated by the provisions of the PCRs Bidders must be simultaneously notified (in writing) and as soon as possible after any decision has been made in connection with their exclusion from the process or the outcome of the award decision is known.

The award decision must contain: Details of the successful contractor, the award criteria as set out in the ITT, the characteristics and relative advantages of the winning bidders tender, the scores (as weighted) of both the winning bidder and that of the unsuccessful bidder.

Debriefing of candidates – Regulated procurements

The process is set out in Regulation 55 of the PCRs 2015 and must be strictly adhered to.

Challenges to Award of Contract – Above PCR Threshold

If a challenge, or threat of a challenge, to the Councils’ decision to award is received the officer must contact Legal immediately.

Challenges to the Councils’ decision, under the Remedies Directive 2010, initially require the immediate suspension of the contract award and if the challenge is successful, may result in financial compensation being awarded to the claimant (and potentially all unsuccessful bidders) and in some cases the termination of the contract and/or procurement procedure.

4.4.3 Sourcing Governance Board (SGB)

AD Procurement is responsible for establishing appropriate governance and reporting mechanisms to ensure that for all procurement activity with an aggregate value of £100,000 or more, expenditure is controlled, best value is ensured and compliance effectively monitored. As appropriate, AD Procurement will consult with the SGB. SGB reviews the procurement strategy and contract awards as set out in a Strategic Sourcing Plan (SSP) document and in accordance with the Procurement Gateway process and recommends them to the relevant Chief Officer prior to additional approvals as set out in table 2.2.1.

Procurement keeps a record of all procurement submissions, for sourcing and contract award decisions which will be cross-referenced to contract documents in the Contract Management System.

SGB also monitors compliance with these Orders and advises Human Resources and relevant manager of any areas of deliberate disregard. Procurement keeps a record of all submissions to SGB, which is cross-referenced to contract documents in the Contract Management System.

To be approved, you must obtain both written budget approval from the appropriate Finance Manager and have consulted the Head of Procurement who may submit the SSP to SGB for consideration, and depending on whether it is to follow the Lite or Full approvals process attendance will be as follows:

	Lite Process	Full Process
Gateway 2	SGB Chair, Finance Manager (for service), Assistant Chief Executive or their representative	SGB Chair, Senior Finance Manager (corporate), Assistant Chief Executive or their representative
Gateway 3	Benefits Realised. SGB Chair, Budget Holder (service)	SGB Chair, Senior Finance Manager (corporate), Assistant Chief Executive or

	Benefits Not Realised. SGB Chair, Budget Holder (service), Finance Manager (for service) - Procurement discretion (with 5%/10% tolerance)	their representative
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For SSPs categorised as Lite (low complexity and low risk regardless of value), the award approval process at Gateway 3 will differ depending on the benefits detailed at Section 11 of the SSP.

If these have been realised and signed off by the relevant Budget Holder then further Financial approval is not required. If these have not been realised then the relevant Finance Manager must also be involved in the approval process. Procurement have the discretion to consider benefits realised if they are within 10% of the original forecast in the SSP.

The SGB is chaired by Procurement and is attended by the Section 151 Officer and Assistant Chief Executive or their delegated substitutes. Any delegated substitute is responsible and has the authority as if the officer themselves had attended. The SGB meets weekly; all submissions must be provided at least 3 working days prior to the meeting.

Whilst awaiting SGB consideration you may take no further action regarding your purchase.

4.4.4 Sustainability and Social Value

The Public Services (Social Value) Act 2012 places an obligation on us to consider the economic, social and environmental well-being of our area when we award services contracts over the EU threshold. We apply this to all procurement over £100,000 as well using the Social Value Measurement Charter. This tool applies to all contracts over £100,000 and is available to bidders during the tender stage to select what social value is within their capacity and capability to deliver.

Our procurement approach covers these areas:

- Economic Sustainability – we aim to purchase goods, works and services which enhance the local economy. We recognise the importance of Small & Medium Enterprises to the local community and ensure every effort is made to make our contract opportunities and tender processes accessible to them;
- Social Sustainability - we aim to purchase goods, works and services which promote community well-being, and that supply chain partners operate fair and ethical working practices including compliance with the Modern Slavery Act 2015;
- Environmental Sustainability – we aim to purchase goods, works and services which minimise our carbon footprint, encourage a positive impact on the local environment, and have the best value costs and benefits taking into account their whole life cycle from origination to disposal;
- Equalities & Diversity - we only purchase goods, works and services from suppliers who meet our standards of equality of employment and service delivery, and we ensure that the tender process is free from discrimination or perceived discrimination in accordance with the Council’s Equality Scheme;
- Compact – where we are purchasing from the voluntary and community sector you must comply with the Compact Code of Practice on Funding and Procurement.

Procurement must consider Social Value when planning tenders for all contracts over £100,000. An assessment of relevant Social Value must be carried out and the results recorded in the Strategic Sourcing Plan. Procurement ensures that our practice is aligned with the Council's policies in this area, for example in driving apprenticeship and training opportunities and increasing local spend.

4.4.4.1 Environmental and Sustainable Sourcing

All suppliers to the Council are required to comply with all relevant UK and EU environmental legislation and regulation, and any such superseding legislation. The Council may also introduce from time to time particular local and UK policies which support environmental and sustainable procurement and Officers should include these in relevant procurement documentation and procedures.

4.4.5 Evaluation

Tenders over £100,000 are evaluated by Procurement and appropriate service lead based on the identification of the 'Most Economically Advantageous Tender (MEAT)'. This takes price into account, alongside quality and social value considerations, but does not require the tender to be awarded to the lowest priced bidder

4.5 Tenders over EU Procurement Thresholds

4.5.1 EU Thresholds (or equivalent regulation)

Contracts with a value over the EU thresholds are subject to the requirements of the PCRs (or the Concessions Contracts Regulation 2016). EU Thresholds are updated every two years. Procurement can advise on the latest values.

4.5.2 Procurement Procedures

Within the EU regulations there is a choice of six separate tendering procedures, these are:

- Open procedure – also known as a one stage process, this procedure involves the Council proceeding directly to Invitation to Tender through open advertisement.
- Restricted procedure – also known as the two stage process, which includes selection stage where suppliers are shortlisted against specific relevant criteria followed by an invitation to tender being sent to the final shortlist.
- Competitive Procedure with Negotiation – is a method which is used where the requirement requires design or innovation solutions which cannot be readily identified through market engagement, or dialogue is required to determine with sufficient precision the final legal and financial make up, but that minimum requirements and objectives can be identified prior to procurement. The process normally involves shortlisting of bidders who respond most robustly to the minimum requirements and objectives and then final negotiations are held on certain elements.
- Competitive Dialogue procedure – this method is used usually where the requirement is very complex and where specifications or outcomes of a solution have not yet been clearly defined. This will usually involve an initial shortlisting followed by an Invitation to Participate in Dialogue whereby initial proposals are made proceeding to various stages of dialogue to determine the final solution.

- Innovation Partnership – This procedure is very specific in nature as it targets problem-solving projects focused on R&D, and where the tools for achieving goals or outcomes may not yet exist. In essence the procedure involves a competitive exercise to identify a partner who can develop the solution and include the ability to award a contract to supply that solution without further need for competition.
- Negotiated Procedure without Prior Publication – in specific cases laid down by PCRs 2015 Section 32 Contracting Authorities may award public contracts by a negotiated procedure without a prior publication.
- The Light Touch Regime (LTR) covers Health, Education and Social Care contracts. As with all procurements, the process undertaken to award the contract must be fair, open and provide for equal treatment. Approval for LTR tenders must follow all approval processes as set out in table 2.2.1.

The procedure selected must be in line with the PCRs, detailed in the SSP and approved by the SGB.

4.5.3 Use of Selection Questionnaires (SQs) (Previously known as Pre-Qualification Questionnaires (PQQs))

The Council shall apply minimum standards of experience, reputation and economic standing to suppliers to test their suitability to bid for a Council contract. For contracts above EU thresholds suitability is usually tested by means of a SQ.

All the methods and criteria used for assessing the suitability of suppliers shall be transparent, objective and non-discriminatory.

Officers must use the Councils' standard Selection Questionnaire and adhere to its statutory guidance for all procurements of contracts above the relevant EU Threshold.

For procurements which are below the OJEU thresholds a pre-qualifying stage cannot be used as stated in Regulation 111 of the PCRs.

4.5.4 Contracts reserved for social enterprises and the employee-owned sector

The Council may reserve participation in procurement processes for limited types of services contracts to certain qualifying organisations from the employee ownership and voluntary sectors. The maximum duration of contracts awarded under this power is three years.

Officers must obtain approval from the Assistant Chief Executive before commencing a procurement in reliance on this Order.

The procedure selected must be in line with the PCRs, detailed in the SSP and approved by AD Procurement or the SGB.

4.5.4 Tender Records

For all contracts over EU threshold values, a full record of all key decisions and process in relation to the procurement procedure will be kept in the Procurement Report and contain such details as required by Regulation 84 of the PCRs.

5 Waivers and Emergencies

5.1 Waivers

These Orders are mandatory and must be adhered to at all times, so **waivers** are only granted in exceptional circumstances and cannot be given if they would contravene the PCRs or any other applicable legislation. **No** waiver is granted retrospectively; this is viewed as non-compliance with these Orders and is reported to AD Procurement.

A waiver is defined as any procurement or contractual action which is not compliant with these Orders. This includes:

- Any extension to a contract which does not contain any further options to extend;
- A direct award of a contract without following the relevant competitive process as set out in these Orders;
- Modification of a contract (such as increased volume or value, additional services or goods) which did not allow for the modification within the original scope advertised or which may breach allowable modifications as set out in Regulation 72 of the PCRs.

In any remaining exceptional circumstances you must obtain approval for a waiver in writing prior to progressing with your purchase. A waiver may only be granted where best value will be achieved and where this has been demonstrated in the waiver request. The approval required for a waiver is as follows:

Value of Waiver	Approval
Up to £99,999	Chief Officer or Assistant Director in consultation with the Head of Procurement and the Assistant Chief Executive
£100,000 or more	Chief Officer in consultation with the AD Procurement, after consultation with the relevant Lead Member, Chief Operating Officer and the Assistant Chief Executive

Procurement maintains a log of all waivers approved by AD Procurement.

Voluntary Ex Ante Transparency Notices (V.E.A.T)

A 'voluntary ex ante transparency notice' or 'VEAT notice' is used in limited circumstances arising under the Public Contracts Regulations.

In exceptional instances where the waiver process is being considered, the Council may also consider publication of a V.E.A.T Notice to the Official Journal of European Union.

A voluntary transparency notice may be published by the Council where a contract has been awarded without prior publication of a contract notice in accordance with the Public Contracts Regulations 2015. (i.e. a direct award). The AD Procurement and Monitoring Officer must be consulted and approve publication, and a log of all published VEAT notices maintained by Procurement

5.2 Emergency Purchases

An emergency purchase is only allowed for purchasing outside the hours 9am to 5pm on working days or at weekends and during public holidays where there is an imminent risk to life or property. They also apply in situations outside these hours where there is a need to arrange for emergency care where an adult or child is at risk of physical harm, or to secure Council property or assets e.g. when there has been a break in or failure, such as flood. You can use a Purchase Card, within your allocated limits, to pay. If the supplier does not accept Purchase Cards then you may give a verbal order and raise a formal purchase order the following working day. You must also inform Procurement of any emergency purchases on the following working day.

Issues arising with contracts leading to a requirement for urgent mitigation action are not necessarily considered emergency purchases. This will be dealt with as part of business continuity within the contract management process.

6 Liability and Security

6.1 Insurance Liability

To protect the Council, insurance is required where we use goods, works or services provided by a supplier (including consultancy).

The minimal levels of cover for Public Liability Insurance and Employers' Liability Insurance required, and Professional Indemnity Insurance for advice and design services are set out below.

- Public Liability £10m
- Employers Liability £10m
- Professional Indemnity (undertake a risk assessment and take advice from the Insurance Team)

In some instances where the contract value, risk or scope may be particularly high, additional or higher levels of cover may be required. Equally, where some contracts may be suitable for micro business, lower levels of insurance may be considered. To obtain advice on what level of insurance is appropriate, contact the relevant officer within the Insurance Team. The agreed level of insurance should be recorded in the contract management system.

6.2 Financial Security

For contracts over £100,000, The Head of Procurement, with support from the Chief Finance Officer, must confirm that suppliers are financially robust prior to contract award and during the life of the contract as appropriate. Details of the requirements or potential guarantees a supplier may need to provide must be set out in the procurement documents.

If either the total aggregate value of the contract exceeds £2m within twelve months, or there is doubt as to the financial credibility of a supplier but the Council has decided to accept the level of risk, then additional forms of security to a level determined between the Assistant Chief Executive and the Chief Finance Officer are required, for example:

- a Parent Company, Ultimate Company or Holding Company guarantee where their finances prove acceptable;
- a Director's Guarantee or Personal Guarantee where finances prove acceptable;
- a Performance Bond, retained funds or cash deposit;
- any other security (such as escrow arrangements) as determined by the Section 151 Officer and/or the Monitoring Officer.

All documents inviting tenders and contracts issued must contain a statement that the supplier needs to provide security of performance and the level of security needed, financial checks to be applied at tender, plus how financial suitability will be assessed and checks that will be required during the life of the contract.

Additional documentation, where required, should be stored on the electronic tendering system.

The Chief Operating Officer has responsibility for approving the level of risk following Financial Checks undertaken on the recommended winning bidder, as part of the contract award process.

6.3 Document Retention periods

The retention of tenders and contractual documentation is prescribed in the Limitation Act 1980 and the PCRs. In summary:

- All received Tenders & SQs must be retained for a minimum of eighteen months following the issue of the Contract Award Notice;
- All signed contracts under £499,999 (including all tender documentation) must be retained for a minimum of six years following contract expiry;
- All sealed contracts signed over £500,000 (including all tender documentation) must be retained for a minimum of twelve years following contract expiry.

Procurement must maintain an online record confirming location of contract/tender and scheduled date of destruction.

7 Managing Contracts

All purchases must be delivered under a form of contract approved by the Assistant Chief Executive and the Head of Procurement. (Contracts can take various forms from Frameworks, Spot purchases, call off agreement and purchase orders). The Council manages the process of awarding contracts via its e-tendering and contract management systems, to ensure that contracts are properly filed and documented.

Where contract funding is received by the Council from a third party (for example, an incoming grant), the contract terms must include a provision for dealing with liabilities under the contract should that funding cease to be available.

7.1 Contract Award Notices

A Contract Award Notice must be published on both Contracts Finder and the Official Journal of the European Union, within the timescales set out in the PCRs for all contracts:

- Over PCR Threshold values;
- For all contracts called-off from a DPS within 30 days of the contract award. Contracting authorities also have the option to group together contract award notices and publish them on a quarterly basis within 30 days of the end of each quarter.

For contracts below EU threshold and where commercial sensitivity or personal information is associated with the publication of this information, please contact Procurement for advice.

For all other contracts under the PCR thresholds, a Contract Award notice must be published on the Contracts Finder website for all contracts over a value of £25,000 including all call-off contracts from Framework Agreements as soon as is practicable after the conclusion of the contract.

All staff undertaking procurement competitions from Framework Agreements are responsible for the providing the required appropriate information to enable publication of the Contract Award Notice.

7.2 Contracts Register

All contracts, including any variations or amendments, must be registered and maintained in the Electronic Contract Management System (ECMS) managed by Procurement. Data regarding contracts can be maintained in other systems i.e. PAMS, Wisdom etc. ECMS must be used to store both scanned copies and summary data relating to all contracts over £15,000.

All original signed contracts must have a completed summary contract certificate and be stored in a secure fireproof location.

All contracts over £100,000 must have a designated Contract Manager throughout the life of the contract as initially defined within the Procurement Engagement Plan (PEP), recorded on the contract certificate and on the ECMS. The role of the Contract Manager is defined in the Contract Management Framework segmentation model.

7.3 Contract Segmentation and Management

The procurement Service can help classify contracts using a segmentation model. The model will help identify the complexity of the contract and the risks and opportunities involved as well

as the offer guidance on the indicative resources required to manage a contract of that nature. Segmentation is dynamic and may change during the lifetime of the Contract

The Contract and Supply Management team within Procurement will provide support, training and guidance in line with the Contract Management Framework. Contract Managers will be responsible for the delivery of all Contract Management activities.

All identified business critical contracts must have a written business continuity plan, to be held on the contract management system.

7.4 Contract Modifications and Extensions

A contract may only be modified (which includes or is otherwise known as amendments and variations) if the contract permits such a modification and is allowable under Regulation 72 of the PCRs. Further guidance is available from Procurement in consultation with Legal Services.

Officers must discuss requests to extend or modify contracts with Procurement and where appropriate Legal Services. Such modifications must be planned in a timely way and not used as a way to avoid these Orders or PCRs. Modifications must also take into account any requirement in the specification and consider if this needs updating to meet current needs.

You require the agreement of Assistant Chief Executive and Head of Procurement before any modifications are made to a Contract, to confirm that they are lawful and whether publication of a “Notice of modification of a contract during its term” is required. All modifications must then be recorded in writing, signed appropriately (refer to table 2.2.1) and retained with the original contract on the ECMS.

Contract extensions that are allowable under these Orders and PCRs must also be approved in line with the table. **This is still required in addition to approvals granted at the time the contract was awarded.** These arrangements include amendments and extensions and the aggregate value of these modifications determines the approval level. Contracts amendments or extensions need to be made with consultation and approval of the appropriate Service representative and signed (or sealed) according to the table in 2.2.1. and executed as per the original contract.

Where contract funding is received by the Council from a third party (for example, an incoming grant), the contract terms must include a provision for the termination of the contract should that funding cease to be available.

7.4.1 Approval of Contract Modifications and Extensions

Value of Modification / Extension	Approval
Up to £99,999	Head of Service
£100,000 and over	Chief Officer in consultation with the AD Procurement and Assistant Chief Executive

For extensions above £499,999 further advice and guidance is available from the Contract and Supply Management team.

AD Procurement reserves the right to refer the approval decision for contract modifications to the Statutory Officers Group for consideration as necessary, in accordance with the thresholds at table 2.2.1.

8 Paying our suppliers

8.1 Electronic Invoicing

The Council aims to move all invoicing to electronic format to make it easier for our suppliers to trade with us and to track the progress of orders and payments.

Where you are using a supplier registered for electronic invoicing you must follow the rules and guidance issued by Procurement. The Council's main supplier portal supports early payment to suppliers in return for a small discount. Such discounts are recovered centrally by Finance.

8.2 Invoice Payments

Suppliers must issue all invoices via the route provided by Business Operations. No invoice may be received or processed directly by your Service unless it is agreed as a payment exception by the Head of Procurement, who may agree general exceptions where Service-specific systems are in use. Business Operations are responsible for maintaining a register of all agreed payment exceptions.

All invoices received in Business Operations must include a Purchase Order number. Invoices without a Purchase Order number will be returned to the supplier.

Suppliers cannot be paid until you have confirmed that the requirement has been satisfactorily delivered. A Purchase Order must be followed by a Goods Receipt Notice before an invoice can be paid. It is the purchaser's responsibility to ensure all purchases are receipted to the appropriate value and in a timely fashion.

8.3 Payment Terms

The standard payment terms are 30 days from the invoice date, with payments made via BACS (electronic bank transfer). The Council discourages paper invoices and suppliers are expected to provide electronic invoices.

You must obtain the agreement of the Head of Procurement and the Section 151 Officer for any deviation from the standard payment terms. This must be in writing as a Payment Exception. Where payments are agreed in advance, appropriate review of a supplier's financial stability and standing and due regard for risk in the event of supplier failure must be undertaken and agreed by the Assistant Director Procurement and the Section 151 Officer.

The Late Payment of Commercial Debts Regulations 2013 requires us to pay interest and fixed charges if we pay suppliers late. The Council is a signatory of the Government/ICM Prompt Payment Code, and aims to pay all invoices within the agreed terms. The PCRs require that all Council contracts will contain clauses confirming that all sub-contractors will have invoices paid no later than the end of a period of 30 days from the date on which the relevant invoice is regarded as valid and undisputed. The same payment terms will also apply to all sub-contractors involved in providing the contract (the supply chain).

8.4 Purchasing Cards

Purchasing Cards can only be used for spend in line with the 'Purchase Card Rules and Guidance' maintained on the intranet, except in the case of a declared emergency as defined in section 5.2.

9 Remedies Directive

Should a successful challenge be made after a contract has been awarded the Court could order the contract to be ineffective. This means that the contract would be cancelled and an alternative method of delivering the service would have to be found, as well as the risk of a financial penalty. This could result in significant costs to the Council. If the appropriate standstill periods are correctly applied, the Council will be able to minimise the risk of any challenge. The AD Procurement is responsible for ensuring the correct contract award processes are followed, including observing a standstill period and publishing a Contract Award Notice for all contracts as required.

10 Disposing of surplus goods

A competitive process must be used for the disposal of surplus goods, though separate procedures apply to the sale of land and / or property and ICT. In principle, for assets being sold with a value of:

£0 - £14,999	A minimum of 1 bid is required
£15,000 - £99,999	A minimum of three bids must be invited;
£100,000 and over	A minimum of three sealed bids must be invited

You must seek advice from Procurement when making valuations and the book value of the asset will be primarily used to calculate value. In most cases, it is anticipated that the highest bid received will be accepted.

Care must be taken to ensure that environmental sustainability as well as security and other associated issues and obligations (including those from the Data Protection Act and WEEE Regs) must be considered and/or complied with when arranging for the disposals of goods. For more detail please refer to the Disposal Guidance available on the intranet which includes specific instructions for Buildings & Land and ICT Assets.

11. Glossary of terms

Term	Description
Aggregate value	The total spend with a supplier over the period of a contract, or the proposed period for new contracts. Individual or annual costs are irrelevant where goods, services or works are of the same type or have similar characteristics. The total cost of the contract (including any extensions available) must be used when deciding the application of these orders.
Collaborative agreement	An agreement entered into by a group of authorities acting together in partnership in relation to a particular procurement or series of procurements governing the manner in which the procurement will be dealt with, and a governance regime around how decisions will be made, liability and payments will be dealt with.
Compact	The Compact is an agreement between statutory and voluntary organisations in East Sussex which aims to improve joint working, communication and collaboration. It provides a framework for how the two sectors should work together.
Concession Contracts	A concession contract for works or services as defined by the Concession Contracts Regulations 2016. Contracts are defined where all or part of the payment for the contract is derived from the right to exploit the works or services for a proportionate income stream, as well as transferring the operating risk to the supplier. e.g. toll bridges, canteen services, leisure centres
Contract Award Notice	All contract opportunities advertised on Contracts Finder, as well as for all contracts called-off from a Framework Agreement, a Contract Award Notice detailing the successful supplier and contract details must be published on the Contracts Finder website. Contracts over EU thresholds or all call-off from Dynamic Purchasing Systems must have a CAN published in the Official Journal of the European Union within 30 days of conclusion of the contract (these can be grouped and published quarterly for DPS call-off contracts)
Contracts Finder	Government website where all contract opportunities over £25,000, where advertised, must be published. Contract Award Notices for relevant contracts must also be published on the site in a timely manner: www.contractsfinder.gov.uk . Contracts awarded via the Council's electronic tendering system are automatically notified to Contracts Finder.
Consortium	A grouping of two or more organisations who agree to work together in order to deliver goods, works or services to the Council.
Consultant	Definition in section 3.11

Contract	An agreement having a lawful objective entered into voluntarily by two or more parties, each of whom intends to create one or more legal obligations between them. The elements of a contract are "offer" and "acceptance" by "competent persons" having legal capacity, who exchange "consideration" to create "mutuality of obligation."
Contract Management	The process which ensures that both parties to a contract fully meet their obligations as efficiently and effectively as possible in order to meet the business and operational objectives of the contract and in particular to provide value for money.
Dynamic Purchasing System	An entirely electronic system established that admits all suppliers able to meet the defined selection criteria. New applicants meeting the requirements must be evaluated and admitted to set timescales at any point during the duration of the DPS. Call-off contracts from a DPS invite all suppliers on the DPS or relevant category of it to submit a tender and must have a Contract Award Notice published in the OJEU.
Framework Agreement	An agreement or other arrangement between one (or more) contracting authorities and one or more suppliers which establishes the terms) under which the supplier will enter into one or more contracts with a contracting authority in the period during which the framework agreement applies. Generally framework agreements do not have any guaranteed minimum volumes of spend. Call-off contracts awarded via a framework can be via a direct award to a supplier on the framework or by holding a secondary (mini-competition) process that details the specifics of the actual requirement. The framework will determine how the call-off should be administered and managed.
Gateway (in project)	A milestone in a project where formal approval is given to move to the next stage.
Grant	A grant is where the Council is not contracting for a service that it might otherwise have delivered itself. Rather it is offering financial support in an area of work, designed and proposed by another organisation, which it wishes to sponsor. The work to be carried out by the other organisation would be deemed to add value to the council's overall aims or objectives.
Public Contract Regulations (PCRs)	UK Government's codified regulations of the EU Procurement Directive. Reference to the PCRs means any version of the PCRs past, present and future.
Purchase Card	A credit card which can be used by authorised people to buy low-value goods or services for the Council. The bill for the card is settled centrally in Orbis Business Operations, once the card-holder has assigned all transactions to the appropriate cost codes

Purchase Order	A formal order to a supplier for goods or services. This can refer to an order generated by a service-specific system such as PAMS or Swift, as well as from SAP.
Request for Quotation (RFQ)	A formal request to a supplier to provide a price for specified goods, works or services. The RFQ will also indicate how the quote will be evaluated in comparison with others to decide best value. RFQs are undertaken for requirements under £100,000 in value.
Select List	Definition in section 3.4
Social Value	Those aspects of a contract which support a) community well-being, fair and ethical working practices by the supply chain, b) the local economy and local businesses, and c) improvements to the environment.
Supplier Management	The process of driving improvements from contracts by developing robust performance plans with the supplier.
Supply chain	The chain of suppliers and customers of all the component goods, works and services that go into delivering a given finished supplies or service.
Tender	The procurement process of inviting and evaluating sealed bids from people and organisations to provide goods, works or services.
OJEU	Official Journal of the European Union where all notices relating to contracts over European threshold values are placed.

Report to: Governance Committee

Date of meeting: 23 January 2018

By: Director of Adult Social Care and Health

Title: ESCC Armed Forces Member champion

Purpose: To seek agreement to appoint an Armed Forces Champion for ESCC

RECOMMENDATIONS:

The Governance Committee is recommended to appoint the Lead Member for Communities and Safety as the ESCC Member Armed Forces Champion

1 Background Information

1.1 The East Sussex Community Covenant was signed by the East Sussex Strategic Partnership and Ministry of Defence (MoD) in May 2013. The covenant's twin underlying principles are that members of the armed forces community should face no disadvantage compared to other citizens in the provision of public and commercial services; and that special consideration is appropriate in some cases, especially for those who have given the most such as the injured or the bereaved.

1.2 There is an obligation to meet the requirements of the Armed Forces Covenant reinforced by the NHS Constitution, Care Act 2014 and other national contracts for both social care and the NHS.

1.3 There are no regular armed forces barracks or training bases within East Sussex but there is a Reserve centre in Eastbourne (4 Platoon, B (Royal Sussex) Company, 3rd Battalion the Princess of Wales's Royal Regiment). Ministry of Defence information shared by the British Legion estimates that there are 38,000 veterans in East Sussex.

1.4 There is no Civilian Military Partnership Board (CMPB) to take forward the Covenant in East Sussex. In August 2016 the Safer Communities Partnership subsumed the community safety aspects for veterans and their families and now performs the functions of a Civilian Military Partnership Board. The Sussex Armed Forces Network (SAFN) is led by the Director of the Armed Forces Community on behalf of the seven Clinical Commissioning Groups (CCGs) hosted by Hastings and Rother CCG. The Director of the Armed Forces Community is a member of the Safer Communities Board. Key contacts from the Ministry of Defence and Royal British Legion participate in the annual Safer Communities engagement events.

1.5 The needs of cadets, reservists and veterans in the community for council services (at county and district / borough level) are considered through assessments and any issues arising specifically from a person's military status are considered and addressed through the assessments of care & support needs in Adult Social Care.

2. Financial Analysis

2.1. There are no financial implications arising from this report.

3. Member Armed Forces champion

3.1 It is estimated that over 90% of Councils have an Armed Forces Champion¹ and East Sussex is the only area within the Forces Connect South East partnership without Member representation (see below for

¹ Our Community – Our Covenant. Improving the delivery of local Covenant pledges – Shared Intelligence (commissioned by the LGA and Forces in Mind Trust) – September 2016

further information related to the Forces Connect South East project). In order to make the best of the potential funding and partnership opportunities through this new project and to maintain credibility within the partnership, it is an appropriate time to appoint a Champion. See Appendix A for an example of a Member Armed Forces Champion role description from Kent.

3.2 It is proposed that Governance Committee appoint the Lead Member for Communities and Safety as the ESCC Member Armed Forces Champion. The Champion will represent ESCC at the Member working group for delivery of the Forces Connect South East project. The group will meet every six months for the duration of the project.

3.3 Appointment of the Lead Member for Communities and Safety as the ESCC Member Armed Forces Champion would align with the membership of the rest of the Member working group:

- Surrey – Cllr Peter Martin (Chairman of Surrey CC)
- Kent – Cllr Richard Long (Cabinet Lead for Traded Services – not on Cabinet)
- Hampshire – Cllr Andrew Joy (Executive Member for Communities, Partnerships and External Affairs)
- West Sussex – Cllr Debbie Kennard (Cabinet Member for Safer, Stronger Communities)
- Medway – Cllr Howard Doe (Deputy Leader and Portfolio Holder for Housing and Community Services)

3.4 Briefings for the Member Armed Forces Champion will be provided via the Executive Officer to the Chief Executive and Leader and Assistant Director Planning Performance and Engagement, Adult Social Care & Health, who also has lead ESCC officer responsibility for Safer Communities.

4. Additional actions to enhance the ESCC commitment to local armed forces community

4.1 In addition to the Member Armed Forces Champion, the Corporate Management Team (CMT) have agreed proposals to enhance the Council's commitment to the local armed forces community through the following three areas of activity:

4.2 Armed Forces Covenant

The Employer Recognition Scheme (ERS) encourages employers to support their local armed forces community. East Sussex County Council achieved Bronze status in 2015. CMT have agreed that ESCC should apply for Silver status from April 2018. This would align ESCC with local Health organisations.

4.3 Armed Forces Covenant Fund project – Forces Connect South East

We, alongside Surrey, Kent, Brighton & Hove, Hampshire, West Sussex and Medway councils, and associated Clinical Commissioning Groups (CCGs) have successfully bid for funding from the Armed Forces Covenant Fund to support activity to Strengthen Local Government Delivery of the Covenant. The project/partnership is known as Forces Connect South East. The Lead Officer from the Sussex Armed Forces Network co-ordinates much of this work, along with Surrey County council who are the lead council.

A total of £321,300 has been allocated to Forces Connect South East, to deliver a two year project which will:

- Build upon the core infrastructure already established
- Spread the exemplary practice already in place – learn from what we each do best.
- Embed and mainstream the delivery of the Covenant across the South East

4.4 Project oversight and local delivery will be overseen through a Member working Group to meet twice a year and an Officer Group. The project work will be mainly delivered through a project post appointed in Surrey CC and the Sussex Armed Forces Network. A range of outcomes have been agreed for the project (see appendix B) including practical support for front line ESCC and local service provider staff such as a signposting app and e-learning materials.

4.5 In order to support delivery of the project, ESCC will need representation on the Officer and Member working Groups. The Assistant Director, Planning, Performance and Engagement (ASC&H) and Executive Officer to the Chief Executive and Leader are able to support the Officer Group. The Assistant Director, Planning, Performance and Engagement (ASC&H) represented ESCC at the Member working Group, in the absence of an ESCC Member Armed Forces Champion.

4.6 Armed Forces service champions

Additional Armed Forces Service Champions are also being sought from the ESCC workforce. Anyone interested in becoming a Champion will be able to access the Champions training in Eastbourne on 31 January 2018.

Once trained Champions can:

- better understand how to engage with the Armed Forces Community
- understand how they can gain support from other services/charities
- reinforce the integration between communities

5. Conclusion and Reasons for Recommendations

5.1 The recommendations in this report are designed to further develop and enhance ESCC working with the Armed Forces Network and local armed forces community. The activities set out above will enable ESCC to deliver its commitments under the Armed Forces Covenant and to help shape, deliver and benefit from the outcomes of the Forces Connect South East project.

5.2 The Governance Committee is recommended to appoint the Lead Member for Communities and Safety as the ESCC Member Armed Forces Champion

KEITH HINKLEY

Director of Adult Social Care and Health

Contact Officer: Samantha Williams

Tel. No. 01273482115

Email: samantha.williams@eastsussex.gov.uk

Armed Forces Champions for Borough and District Councils in Kent

The Profile:-

A Member of the Executive/Cabinet, or Chairman of an appropriate Scrutiny Committee, or a Member with an interest in the Armed Forces community.

Some Armed Forces experience would be an advantage.

Appointed by Council (on the recommendation of the Executive/Cabinet) to emphasise the importance the Council places on the role.

The Role:-

Underlying all actions is the objective **to raise the profile and needs of the Armed Forces community (serving personnel, both regular and reserve, their families, veterans and Cadets), within the Council and the Borough/District.** It will be essential that the Champion is kept informed of all relevant developments through Kent / Medway Leaders' representatives on the Kent & Medway Civilian Military Partnership Board and its associated Task Groups, and through the KCC Community Partnerships Team.

Close liaison with the senior member of Borough/District staff, who is appointed by the Borough/District Chief Executive as Armed Forces Covenant Officer, with particular reference to the Council's obligations undertaken through the Armed Forces Covenant and the Community Covenant.

Close liaison with the Mayor/Chairman on all ceremonial matters in which the Mayor/Chairman should be involved. (e.g. ranging from Armed Forces Day flag raising, attendance at local Armed Forces events, to Freedom Marches).

The Champion is encouraged to keep the local Member/s of Parliament apprised of the activity within the Borough/District in relation to the Armed Forces community.

Where local circumstances suggest this is appropriate (e.g. a significant local Armed Forces presence) to establish (if not already established) and if appropriate to chair (but certainly be a member of), an Armed Forces Panel of Members and Officers meeting regularly with an agenda to ensure all areas of Council business take into account the needs of the Armed Forces community.

To liaise as appropriate with local members of the Armed Forces, in particular the appropriate Task Force Commander (appointed by 11 Infantry Brigade) to assist in understanding where help may be most needed and to enable in return a better understanding within the Armed Forces of the limitations and different responsibilities of Local Government and its decision-making processes.

To be the primary focal point for liaison with businesses/local organisations within the Borough/District to promote the Armed Forces Corporate Covenant and encourage engagement with the Armed Forces, in particular Reservists and Cadets. Close liaison with the Council's Business/ Economic Development Section (or equivalent) on these matters would be required.

To support local Cadet units by acting as the key link with the local authority, and to look to provide local ceremonial, remembrance and volunteering opportunities.

To sponsor an Annual Report to the Executive/Cabinet, or equivalent Committee of the Borough/District, perhaps first reviewed by the relevant Scrutiny Committee, detailing the Council's actions over the past year in respect of the obligations to the Covenants.

Project Outcomes



What will we have achieved at the end of the project

1. Councils have a good understanding of the needs of the Armed Forces Community and the expectations associated with effective delivery of the Covenant.
2. Clear integrated pathways ensure the Armed Forces Community benefit from improved access and signposting to relevant information, advice, guidance and support to ensure no disadvantage.
3. A partnership approach between the Armed Forces and Local Authorities is embedded within our ways of working
4. Delivery of the Armed Forces Covenant within public sector organisations across the South-East region is embedded and sustained.
5. Disadvantage in accessing crucial public services such as housing, schools and adult social care is reduced as there is wider awareness of the issues the Armed Forces Community face

Benefits



The Armed Forces Community

- Will have access to clear information and signposting
- Will be able to access support in transitioning to Civilian Life
- Will have support, if needed in their day-to-day dealings with public services 'outside the wire'.
- Will have clarity as to what can realistically be provided.

Benefits



Front-Line Local Authority Staff

- Will be well-trained in the aims of the Covenant.
- Will understand areas of potential disadvantage such as housing, school admissions and access to health services.
- Will be given new referral pathways to enable the Armed Forces Community to access appropriate and timely support.
- Will have clarity and consistency as to what is required by the Armed Forces Community.

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Report to:	Governance Committee
Date of meeting:	23 January 2018
By:	Director of Communities, Economy and Transport
Title:	Amendment to Constitution – Scheme of Delegation to Officers
Purpose:	To seek approval to amend the Scheme of Delegation in relation to the functions delegated to the Director of Communities, Economy and Transport

RECOMMENDATION: The Governance Committee is recommended to recommend the County Council to agree to amend the Scheme of Delegation to Officers as set out in Appendix 1 to this report.

1 Background Information

1.1 The County Council's Scheme of Delegation provides the Director of Communities, Economy and Transport with authority to perform a number of functions and make certain decisions across the range of services that make up the directorate. Officers in the directorate, with support from Legal services, have undertaken a comprehensive review of the current Scheme of Delegation in order to identify changes that are deemed necessary. These changes are generally being proposed in order to either: reflect changes in legislation; provide improved clarity for how to take certain decisions and actions or reflect new, ceased and amended duties and areas of work in the directorate.

2 Proposed amendments to the Scheme of Delegation

2.1 A number of the proposed amendments to the Scheme of Delegation have concerned the functions performed by the County Planning Authority and the County Council's role as a statutory consultee to the planning system, particularly in the remit of the Highway Authority and Lead Local Flood Authority. Such proposed amendments are deemed necessary in order to reflect changes in legislation (e.g. introduction of Neighbourhood Planning through the Localism Act and the abolition of Structure Plans), or changes in circumstance (e.g. abolition of the Agency Agreement between the South Downs National Park Authority and the County Council).

2.2 Some of the other proposed amendments to the Scheme of Delegation are designed to improve efficiency in certain decision making processes. As an example, all planning authorities are required to prepare an annual monitoring report that, amongst other things, collates information on how planning policies have been applied in the consideration of planning applications. Such a report is very much a statement of fact and does not set any Council policy. At present, Lead Member approval is sought to publish this report and over the years it is not a decision that has generated any public interest. Should delegated authority be provided to publish this report, it will reduce the time taken to publish the report and also allow for in-year updates to be provided. Such an approach to how such decisions are taken is consistent with the approach of other planning authorities in the area.

2.4 Appendix 1 to this report identifies all the proposed amendments to the Scheme of Delegation. These are presented by way of track changes, with suggested new text underlined and suggested deletions having a strike through. The majority of these amendments are accompanied by a 'comments box', which sets out the rationale for the proposed changes. Some of the amendments are solely to identify the most up-to-date legislation, in which case no further explanation for the proposed changes is included.

3. Conclusion and Reason for Recommendation

3.1 It is considered that the amendments proposed to the parts of the Scheme of Delegation, which are relevant to Communities, Economy & Transport, are consistent across the directorate and wider County Council and do not undermine the democratic accountability of the Council. Some of the amendments will aid in the ability for decisions to be taken in an efficient and timely

manner, which is considered particularly important where deadlines need to be met for certain actions to be undertaken.

RUPERT CLUBB

Director of Communities, Economy and Transport

Contact Officer: Edward Sheath

Tel. No. 01273 481632

Email: edward.sheath@eastsussex.gov.uk

LOCAL MEMBERS

ALL

BACKGROUND DOCUMENTS

None

Appendix 1 – Proposed amendments to the CET Scheme of Delegation

C. Director of Communities, Economy and Transport

1. To authorise, pursuant to the powers contained in the Highways Act 1980 (as amended):

(a) the erection and siting of buildings or structures (including but not limited to seats, signs, notice boards and bollards) or the carrying out of works **(including, but not limited to maintenance):**

(i) within, over or under the highway **and public rights of way;**

(ii) in front of the prescribed building line;

(iii) of a private nature over or under the public highway, subject to securing appropriate bonding arrangements and commuted maintenance payments.

(b) interference with or obstruction to highways;

(c) the grant of permissions and licences;

(d) the grant of permissions and licences including but not limited to skips; trees/shrubs; scaffolding; builders materials and hoardings.

2. After consultation with the Assistant Chief Executive to serve any notices and to exercise the powers of the County Council to authorise direct action or institute legal proceedings relating to:

(a) interference with or obstruction to or nuisance on any highway or land adjoining a highway; and

(b) a failure to comply with any prohibition or requirement of the Highways Act 1980, New Roads and Works Act 1991 (Part 3), the Traffic Management Act 2004, National parks and access to the Countryside Act 1949, Wildlife and Countryside Act 1981, Dangerous Dogs Act 1989 or Builders' Skips (Markings) Regulations 1984.

3. (a) After consultation with the Assistant Chief Executive, appropriate District Council and local member (save in the case of temporary traffic restrictions), to make, give consent or object to the making of, apply or confirm any order under the provisions of the Highways Act 1980 (as amended), the Wildlife and Countryside Act 1981, the Road Traffic Regulation Act 1984 (as amended), the Town and Country Planning Act 1990, the Parking Act 1989 and the Rights of Way Act 1990, the Traffic Management Act, New Roads Works and Streets Act 1991, Countryside and Rights of Way Act 2000, **Cycle Track Act 1984**.

Comment [ES1]: Paragraph 1(a)
Additional text added for clarification purposes.

Comment [ES2]: Paragraph 3(a)
Currently, the Scheme of Delegation has no provision for allowing Orders under the Cycle Track Act to be sealed under delegated authority. This means that all such decisions currently have to be considered and determined by the Lead Member for Transport & Environment. With the decision to be taken not being contentious, it results in an inefficient use of officers and Members time and delay in the process. Such a change will ensure consistency with Orders made under other Acts.

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- (b) To make provision for the regulation of traffic, pursuant to the County Council's statutory powers, where formal orders are not required.
 - (c) To authorise the Assistant Chief Executive to make temporary traffic orders without recourse to the consultation procedure.
- 4. To approve, from time to time, a schedule of prospectively maintainable highways under the New Roads and Street Works Act 1991.
- 5. To authorise the entering into of agreements with developers under Sections 38 and 228 of the Highways Act 1980 and to exercise the powers of the County Council with respect to the formal adoption of private streets generally.
- 6. To authorise the entering into of any agreements under the Highways Act 1980 including (but not limited to) agreements under Sections 6 and 278 of that Act
- 7. To authorise entry onto any land, including for the purpose of survey and to place or leave on or in that land any apparatus for use in connection with that survey.
- 8. To exercise the discretionary powers of the County Council under the Land Compensation Act 1973 (as amended) and the Noise Insulation Regulations.
- 9. After consultation with the Assistant Chief Executive to serve notices of exemption from the Advance Payments Code (Private Street Works) in appropriate cases where this would not prejudice the County Council.
- 10. To object, when appropriate on highway grounds, to applications to local licensing authorities for licences for goods vehicle operating centres.
- 11. To undertake the powers and duties of the County Council as Enforcement Authority under the Reservoirs Act 1975, including the service of formal notices and the authorisation of legal proceedings.
- 12.
 - (a) In consultation with the Assistant Chief Executive, to grant permits under Section 115(E) of the Highways Act 1980 for the carrying out of trading and similar activities on footways and pedestrianised areas, in cases of unopposed applications.
 - (b) To deal with consultations by district councils exercising their own powers under Section 115(E) of the Highways Act 1980 and to give consent to the exercise of such powers.
 - (c) To authorise payment terms and associated conditions where permits are issued under Section 115(E) of the Highways Act 1980 for trading and similar activities on footways and

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pedestrianised areas, in cases where the Highways Authority is the owner of the land.

13. After consultation with the Chief Operating Officer, to ~~amend~~~~increase~~ the fee for the service provided by the County Council in answering highway enquiries on the CON29 Enquiries of Local Authority Form, based upon current costs.
14. To determine the need for on-street parking bays for blue badge holders close to their residences, in terms of traffic problems.
15. To sign controlled waste transfer notes under the Environmental Protection Act 1990 and the Environmental Protection (Duty of Care) Regulations 1991 in respect of waste transferring between the County Council and another party.

~~xx. After consultation with the Assistant Chief Executive, to determine claimed public rights of way pursuant to Section 53(5) of the wildlife and Countryside Act 1981.~~

Public Transport

16. (i) To arrange such consultations as appear to him to be appropriate following the notification by an operator of an intention to change a local bus service.
- (ii) To take steps to provide for the provision at short notice of temporary gap filling journeys where an operator withdraws from a route.
- (iii) To award contracts, within established guidelines and policy, to the lowest tenderer.
- (iv) On behalf of the County Council, to enter into a 'de minimis' arrangement with an operator, subject to being satisfied that the particular arrangement is both appropriate and the most cost effective means of securing the provision of a journey.
- (v) To approve requests for fares increases on supported services which are broadly in line with the general level of inflation.

Development Control

17. To determine all applications for planning permission which fall to be determined by the County Council where the proposal is considered to be in accordance with the development plan and current planning policies except where two or more objections on planning grounds have been received within the ~~statutory~~ consultation period ~~from neighbouring occupiers or from statutory consultees.~~

Comment [ES3]: Paragraph 13 From time to time, the questions asked through the CON29 Enquiries are amended. Time recording exercises are then undertaken to attribute a cost in answering each question. This can result in the fees for responding to the CON29 Enquiries being increased or decreased, hence the change being made.

Comment [ES4]: Additional paragraph This has been moved from the delegated powers that sat with the Assistant Chief Executive as it is a function that sits within the CET directorate. This has been agreed with Legal Services.

Comment [ES5]: Paragraph 17 Changes made to reflect current practice. The Council considers and treats representations made after the statutory consultation period, but prior to a decision being taken, in the same manner as representations made within 21 days – hence the deletion of the word “statutory”. In addition, planning applications that receive two or more objections are referred to the Planning Committee, irrespective of who has made the representation. These changes will also ensure consistency with the delegated arrangements for applications for Listed Building Consent.

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18. (a) To determine applications for planning permission amounting to minor variations to applications already granted.
- (b) To determine applications for non-material amendments to planning permissions made under the Town and Country Planning Act 1990
- ~~(c) To determine particulars submitted pursuant to conditions attached to planning permissions.~~
19. To determine any matter arising under the provisions of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017~~4~~ and associated legislation and any legislation which amends or replaces it.
20. (a) To determine, where there are less than 2 objections relating to siting and/or appearance, the determination of (a) whether or not prior approval is required and (b) whether or not prior approval is granted in relation to applications made under Part ~~1624~~ of Schedule 2 of the Town and Country Planning (General Permitted Development) Order ~~20154995~~.
- (b) To determine applications for developments ancillary to mining operations made under part ~~179~~ of Schedule 2 of the Town and Country Planning (General Permitted Development) Order ~~20154995~~
- (c) To determine applications under Part ~~1134~~ of Schedule 2 of the Town and Country Planning (General Permitted Development) Order ~~20154995~~ for the prior approval of the demolition of buildings

~~xx. To determine applications for a periodic Review of Old Mineral Permissions made under Paragraph 4 of Schedule 14 of the Environment Act 1995.~~

21. To determine applications for certificates of appropriate alternative development under Section ~~232 (3) of the Localism Act 201147 of the Land Compensation Act 1964~~, in respect of decisions which fall to be made by the County Planning Authority.

22. To determine applications for Certificates of Lawfulness of Existing or Proposed Use or Development under Sections 191 and 192 respectively of the Town and Country Planning Act 1990 (as amended).

~~xx.~~ To determine applications for Listed Building consent for alterations, extension or demolition of a Listed Building under the Planning (Listed Buildings and Conservation Areas) Act 1990, where the proposal is considered to be in accordance with the development plan and current planning policies, except where two or more objections have been received within the consultation period.”

~~23. To provide observations on behalf of the County Planning Authority to the~~

Comment [ES6]: Paragraph 18 This has been added for clarification purposes. Applications to discharge planning conditions are currently determined under delegated authority in accordance with paragraph 17. However, this provision has been added in order to make it explicitly clear that delegated authority is provided for determining applications to discharge planning conditions.

Comment [ES7]: Additional paragraph The Environment Act requires the periodic review of all extant minerals planning permissions. The principle of these schemes are not reviewed (i.e. whether planning consent should have been granted or not), but the conditions attached to the permission are. Currently, such applications are determined under the delegated powers set out in paragraph 17. However, this provision has been added in order to make it explicitly clear that delegated authority is provided for such determinations.

Comment [ES8]: This additional paragraph was inserted into the Scheme of Delegation following consideration and approval by the Governance Committee (19 September) and Full Council (17 October). Its inclusion is therefore not subject to this report.

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- ~~appropriate government department in respect of the County Council's applications which entail demolition in a Conservation Area and/or alterations to Listed Buildings.~~
24. To assess whether a proposal which is a departure from the Development Plan requires referral to the Secretary of State and, when deemed necessary, make the referral.
- ~~25. To assess consultations received from District Councils submitted under paragraph 7, Schedule 1 to the Town and Country Planning Act 1990 and to seek agreement from the District Planning Authority for their withdrawal if the submission does not appear to be required by paragraph 7.~~
- ~~26. To assess whether a consultation submitted under paragraph 7, Schedule 1 to the Town and Country Planning Act 1990 relates to a proposal substantially the same as one previously considered under paragraph 7, Schedule 1 to the Town and Country Planning Act 1990 by the Planning Committee and in respect of which there are no new strategic planning issues and to respond to the consultation.~~
27. To respond to consultations ~~under paragraph 7 Schedule 1 to the Town and Country Planning Act 1990~~ by District/Borough Planning Authorities on applications for development in areas which have been notified to them as mineral consultation areas or waste consultation areas.
- ~~28. To respond to consultations which relate to one or more of subparagraphs 3(c) – (g) inclusive of paragraph 7, Schedule 1 Town and Country Planning Act 1990.~~
29. To respond to the appropriate government department on applications made under the Environmental Impact Assessment and Habitats (Extraction of Minerals by Marine Dredging) Regulations 2001 unless the proposal raises issues of strategic importance.
30. To submit observations on behalf of the County Planning Authority and the Highway Authority in respect of proposals for development by District Councils.
31. To respond to the relevant District Planning Authority on behalf of the Highway Authority in respect of any statutory or other consultations in relation to proposals for development.
32. To submit observations on proposals for development by local authorities and government departments not involving formal consultation.
33. To give observations, if appropriate, on behalf of the County Council on applications to the Secretary of State for deemed planning permission under Section 90(1) of the Town and Country Planning Act 1990 for the erection of poles, pole mounted equipment and overhead electricity lines below 33kv.

Comment [ES9]: Delete paragraph 23 Such applications are no longer referred to the Government.

Comment [ES10]: Paragraph 24
Added for completeness purposes.

Comment [ES11]: Delete paragraphs 25 and 26 These provisions were relevant to when the County Council had a strategic planning function, in terms of producing and reviewing the implementation of the County Structure Plan. Such a function no longer exists and therefore these responsibilities are no longer exercised.

Comment [ES12]: Delete paragraph 28 See previous comment for the reason for deletion.

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34. To give observations, if appropriate, on behalf of the County Council on proposals for minor diversions or temporary routes on power lines up to 400kv where no objection is being raised.
35. After consultation with the Assistant Chief Executive, to decide whether to take and/or to discontinue formal enforcement action or initiate any other legal proceedings in any case where they consider it appropriate to do so; any action taken to be reported to a subsequent meeting of the Planning Committee.
36. In consultation with appropriate Directors to authorise the County Council to participate in planning obligations under Section 106 Town and Country Planning Act 1990.

37. To consider requests for variations to agreements made under S106 of the Town and Country Planning Act 1990, in consultation with relevant Directors, the local Members and the Chair of Planning Committee where this materially affects the obligations of, or to the County Council, and to enter into such variation agreements as appropriate.

38. To exercise the powers delegated to the Council by another Planning Authority~~the South Downs National Park Authority~~ to provide the planning service for matters detailed in Paragraphs 17 – 22, 24, 35 – 37 above for sites and proposals that are which fall within the South Downs National Park, in accordance with arrangements agreed with the other Planning Authority~~South Downs national park Authority.~~

Development Plans and Consultation

39. To respond to consultations by other Planning Authorities on Draft Structure and~~Local Plans and any other Development Plan.~~

xx To respond to consultations by Town and Parish Council's and other Qualifying Bodies on Neighbourhood Development Plans, Neighbourhood Development Orders and Community Right to Build Orders.

40. To respond on behalf of the Council as County Planning Authority to consultations from government departments and other statutory and non-statutory organisations.

41. To agree briefs for joint County and District Local Plan studies.

xx To agree to publish the Waste and Minerals Monitoring Reports and Local Aggregate Assessments.

xx To publish amendments to the Council's Local Development Scheme.

Other Matters

Date published: November 16

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Comment [ES13]: Paragraph 37
Currently there are a number of incidences where consultation is required with the relevant Local Member and Chair of the Planning Committee to agree to changes to s106 agreements (normally regarding Affordable Housing) that do not affect the County Council's interests and statutory functions. Such consultation can delay the process of agreeing to the changes, which is deemed unreasonable where the provision does not affect the County Council.

Comment [ES14]: Paragraph 38
The changes made here reflect the cessation of the Agency Agreement with the South Downs National Park Authority, but provide for any necessary delegated authority should a similar such agreement be put in place with another Planning Authority at any point in the future. Such an example could include determining school applications, which would not be considered County Council developments, on behalf of the relevant District and Borough Council's in East Sussex.

Comment [ES15]: Paragraph 39 and additional paragraph
Changes have been made to reflect the abolition of Structure Plans and the introduction of Neighbourhood Planning, as part of the statutory Development Plans, through the Localism Act.

Comment [ES16]: Additional paragraph
Both of these documents are required to be produced on an annual basis and report on data and information collated for a prescribed monitoring period. They do not propose Council policy and are not subject to any formal consultation. Hence, it is deemed appropriate that approval to publish the documents is made under delegated authority.

Comment [ES17]: Additional paragraph
The Local Development Scheme (LDS) sets out the timetable for producing/reviewing plans that will become part of the County Council's Waste and Minerals Development Plan. Periodically the LDS needs to be updated to reflect changes to the timetable. In order to expedite this process, it is recommended that delegated authority is provided to publish such updates and amendments.

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42. To make new Tree Preservation Orders and modify existing Orders.
43. To determine applications for consent to fell, top or lop trees included in a Tree Preservation Order (where this is the responsibility of the County Planning Authority).
44. To submit observations when consulted on applications for felling licences.
45. To authorise the planting of trees, subject to funds being available within the agreed budget.
46. To authorise the service of Notices under Section 207 of the Town and Country Planning Act 1990, requiring the replacement of trees.
47. To exercise the County Council's powers and duties under orders and regulations made under the Plant Health Act 1967 (includes Dutch Elm Disease).
48. After undertaking appropriate consultations, to decline the offer of an access agreement between the County Council and the landowner in respect of woods which clearly have insignificant recreational value.
49. To make arrangements for the transport of pupils and students to school or college where there is a statutory duty or it is the policy of the County Council to provide such transport.
50. To discharge any function relating to the control of pollution or the management of air quality.
51.
 - (a) To discharge the powers, duties and responsibilities of the County Council under the legislation in respect of trading standards and animal welfare, which shall include but not be limited to the legislation listed in 51 below ('the trading standards and animal welfare legislation').
 - (b) To appoint and designate officers in Trading Standards as ~~inspectors, sampling officers or~~ authorised officers ~~as the case may be~~ in respect of the trading standards and animal welfare legislation. The Team Manager - Trading Standards is designated the Chief Inspector of Weights and Measures.
 - (c) To grant, amend, refuse, suspend and transfer licenses or certificates, and to register persons or premises, pursuant to the trading standards and animal welfare legislation.
 - (d) To authorise the institution of proceedings brought under the trading standards and animal welfare legislation.

Comment [ES18]: Paragraph 51(b)
This sentence previously appeared at the end of this section of the Scheme of Delegation. It has been moved to this paragraph as it relates to these particular delegated functions.

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52. The legislation set out below includes also any enabling enactment, statutory instrument, order in council, byelaw or other order, and any enactment repealing, amending or extending the provisions thereof.
- Accommodation Agencies Act 1953
 - Administration of Justice Act 1970 – Section 40
 - Administration of Justice Act 1985
 - Agricultural Produce (Grading & Marking) Acts 1928
 - Agriculture Act 1970
 - Animal Health Act 1981
 - Animal Welfare Act 2006
 - Anti-Social Behaviour Act 2003
 - Cancer Act 1939
 - Celluloid & Cinematograph Film Act 1922
 - Children & Young Persons (Protection from Tobacco) Act 1991
 - Children & Young Persons Act 1933
 - Clean Air Act 1993
 - Companies Acts 1985/2006
 - Consumer Credit Act 1974
 - Consumer Protection Act 1987
 - Copyright, Designs & Patents Act 1988
 - Courts and Legal Services Act 1990
 - Criminal Damage Act 1971
 - Criminal Justice Act 1988
 - Customs & Excise Management Act 1979
 - Education Reform Act 1988
 - Energy Act 1976
 - Enterprise Act 2002
 - Environmental Protection Act 1990
 - Estate Agents Act 1979
 - European Communities Act 1972
 - Explosives Act 1875
 - Fair Trading Act 1973
 - Farm & Garden Chemicals Act 1967
 - Fireworks Act 1951
 - Fireworks Act 2003
 - Food and Environment Protection Act 1985
 - Food Safety Act 1990
 - Forgery & Counterfeiting Act 1981
 - Fraud Act 2006
 - Hallmarking Act 1973
 - Health & Safety at Work etc Act 1974
 - Housing Act 2004
 - Intoxicating Substances (Supply) Act 1985
 - Knives Act 1997
 - Legal Services Act 2007 (S198)
 - Licensing Act 2003
 - Local Government (Miscellaneous Provisions) Act 1976 (S16)
 - Malicious Communications Act 1988

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Medicines Act 1968
Merchant Shipping Act 1995
Motor Cycle Noise Act 1987
Motor Vehicles (Safety Equipment for Children) Act 1991
Olympic Symbol etc (Protection) Act 1995
Performing Animals (Regulation) Act 1925
Poisons Act 1972
Prices Act 1974
Property Misdemeanors Act 1991
Protection of Animals Act 1911
Public Health Act 1961
Road Traffic (Foreign Vehicles) Act 1972
Road Traffic Act 1988 and 1991
Road Traffic Regulation Act 1984
Solicitors Act 1974
Telecommunications Act 1984
Theft Acts 1968 and 1978
Tobacco Advertising and Promotions Act 2002
Trade Descriptions Act 1968
Trade Marks Act 1994
Unsolicited Goods & Services Acts 1971 & 1975
Video Recordings Act 1984
Weights & Measures Act 1985

53. To authorise officers of the East Sussex Fire and Rescue Service or another Local Authority to act as licensing officer and petroleum inspectors, under sections 18 and 19 of the Health and Safety At Work (etc) Act 1974 and the Petroleum Consolidation Act 1928, on behalf of the County Council.
54. In liaison with Action in Rural Sussex and the Chief Operating Officer to agree arrangements for the consideration of applications for assistance to Village Halls and to determine applications, subject to keeping the Lead Cabinet Member, opposition Group Spokespersons and the local member informed.
55. To determine applications for ~~drainage approval and~~ ordinary watercourse consent, under and enforcement proceedings to be taken against contraventions under the Flood and Water Management Act (2010) and the Land Drainage Act (1991) as amended.
- xx After consultation with the Assistant Chief Executive, to decide whether to take formal enforcement action or initiate legal action under the Land Drainage Act 1991 or the Flood and Water Management Act 2010 in any cases it is deemed appropriate to do so.
56. To respond to the relevant planning authorities on behalf of the County Council as Lead Local Flood Authority in respect of any statutory or other consultation in relation to the drainage and local flood risk aspects of

Comment [ES19]: Paragraph 53
Additional text added to reflect current arrangements.

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proposals in applications for planning permission (including Notifications for Prior Approvals) and Development Plans.

57. To designate features which affect flood risk and, to determine applications to alter or remove designated features under the Flood and Water Management Act 2010, ~~and take enforcement action against unconsented activity affecting designated features~~

xx To update the Preliminary Flood Risk Assessment for East Sussex, in accordance with the requirements of the Flood Risk Regulations 2009.

58. Under the Safety of Sports Grounds Act 1975 (as amended):

(a) after consultation with the East Sussex Fire Authority, to carry out inspections and issue Safety Certificates subject to any matters of particular relevance being reported to the Regulatory Committee.

(b) to issue, serve and enforce prohibition notices.

59. Under the Fire Safety and Safety of Places of Sport Act 1987:

(a) after consultation with the East Sussex Fire Authority, to undertake the County Council's powers and duties: (i) in respect of inspections, determinations and the issue, amendment and cancellation of certificates under Part III of the Fire Safety and Safety of Places of Sport Act 1987; and (ii) to enforce and institute proceedings under this legislation.

(b) to charge applicants for certificates up to the statutory maximum

60. In relation to libraries:

(a) to fix the opening and closing hours; and

(b) to set the fees and charges made by the Business Information Services.

61. To take the lead role in Arts related work, including determining ~~in consultation with the relevant Cabinet member,~~ applications for grant aid for support for the Arts where the sum applied for is £2,000 or less.

xx To amend the Commons Register following an application under section 15(8) of the Commons Act 2006.

xx Registration

a) To exercise the powers of the County Council under the Marriage Act 1994 and the Marriage (Approved Premises) Regulations 1994, save

Comment [ES20]: Paragraphs 55 to 57 and additional paragraphs These paragraphs relate to the duties performed by the Lead Local Flood Authority, a role that the County Council was given through the Flood and Water Management Act 2010. These additions and amendments reflect how this role has evolved over the previous few years and what is now a thorough understanding of what is required (e.g. the need for updates to be prepared to the Preliminary Flood Risk Assessment). The delegated authority concerning matters to do with enforcement and planning consultations has been made consistent with those delegated powers provided to the County Planning Authority.

Comment [ES21]: Paragraph 61 ESCC manage the East Sussex Arts Partnership grant scheme, which is a flat rate grant of £500. These are the only grants that ESCC award for the Arts. However, the fund is a cross local authority pot which ESCC no longer contribute to. With this being the case, consultation with the relevant ESCC Cabinet Member is not considered to be appropriate as ESCC is only acting as administrator.

Comment [ES22]: Additional paragraph This addition would be in the case of where an owner of land applies to ESCC to register land as Town or Village Green. ESCC, as registration authority, simply accept that application and have no powers to refuse it. In addition, no consultation, or investigation is included in the process. At present, all such decisions have to be referred to The Village Green Panel (made up of Members from the ESCC Regulatory Committee), even though there are no choices for what decision is taken.

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where a review has been sought which falls to be determined by the Approved Marriage Premises Review Panel.

(b) To convene a panel of three members, drawn from the membership of the Regulatory Committee, to review decisions made by the Proper Officer for Registration under the Marriage (Approved Premises) Regulations 1995.

Note: The Head of Trading Standards is the Chief Inspector of Weights and Measures.

Comment [ES23]: Moving existing paragraphs This section has been moved from the delegated powers to the Chief Executive to the delegated powers to the Director of CET. This is to reflect that Registration Services is now part of the CET directorate

Report to: Governance Committee

Date of meeting: 23 January 2018

By: Chief Operating Officer

Title: Amendment to Financial Regulations – Capital Programme

Purpose: To consider proposals to update the Council’s Financial Regulations.

RECOMMENDATIONS

The Governance Committee is recommended to recommend the County Council to agree to the Financial Regulations being amended as set out in Appendix 1 of the report

Supporting information

1. Financial Regulations

1.1 The Council’s Financial Regulations, which form part of the constitution, provide a framework of control, responsibility and accountability for the administration of the Council’s financial affairs. Ongoing review of the Financial Regulations is undertaken to ensure they remain relevant and fit for purpose.

1.2 The Capital Programme Management section of the Financial Regulations has been reviewed to ensure the efficient and effective management of the Capital Programme.

1.3 Appendix 1 provides the proposed updated regulations. The main changes are:

- To update the regulations for current practice including:
 - Formal inclusion within the Financial Regulations of the Capital and Strategic Asset Board, and its agreed governance arrangements;
 - An update of the variation approval Regulations;
 - Ensuring the Regulations remain relevant and fit for purpose following restructures within finance and new basic need considerations.

2. Conclusion and reasons for recommendations

2.1 The Committee is asked to recommend the County Council to agree the proposed updates to the Financial Regulations set out in Appendix 1.

Kevin Foster
Chief Operating Officer

Contact Officer: Jennie Barnes
Tel. No. 01273 335539
Email: jennie.barnes@eastsussex.gov.uk

LOCAL MEMBERS: All

A5.3 Capital Programme Management

- A.5.3.1 Capital expenditure, as defined in the Local Authorities (Capital Finance) Regulations 1990, or in such subsequent Regulations as may succeed these, will be considered for inclusion within the approved Capital Programme. The Chief Finance Officer will periodically review and issue a minimum threshold value below which projects cannot be charged to capital.
- A.5.3.2 The Government places controls on the financing capacity of the Council. This means that capital expenditure should form part of a programme, should be carefully prioritised in order to comply with the Council Plan, maximise the benefit of scarce resources and comply with CIPFA's Prudential Code for Capital Finance in Local Authorities (2013).
- A.5.3.3 A Capital Strategic Asset Board (CSAB) is in place to review and scrutinise the Capital Programme and to recommend business cases for inclusion in the Capital Programme. The membership of the CSAB includes senior officers from each service department, as well as Property, Finance and Procurement. The Chair of the CSAB is the Chief Operating Officer.
- A.5.3.4 Capital projects shall be incorporated in a Capital Programme for consideration by the Council, in conjunction with the annual revenue budget process detailing the phasing of expenditure on such projects and the full year revenue cost associated with each project, and having regard to the level of available resources. ~~The first year of the plan will form the approved capital budget for the forthcoming financial year.~~
- A.5.3.5 Prior to the approval by the Council of a Capital Programme each year, Chief Officers, jointly with the Chief Finance Officer, shall ~~prepare financial appraisals of all projects to be put forward for inclusion in review~~ the Capital Programme. This will be based on recommendations from the CSAB.
- A.5.3.6 The Chief Finance Officer, will determine the financing of the Capital Programme, taking into consideration the availability of reserves and balances, funding from other bodies and the affordability of borrowing.
- A.5.3.7 Subject to paragraphs ~~A.5.3.5 and A.5.3.6~~ A.5.3.8, A.5.3.10 and A.5.3.11 below, no expenditure shall be incurred on capital projects which is not included in the approved Capital Programme and no contracts entered into or tender accepted unless any necessary government approvals and borrowing powers have been received, and resources approved in accordance with these Regulations.
- A.5.3.8 The Capital Programme may be varied with the agreement of the Chief Finance Officer, if no additional commitments for future years are incurred, in the following circumstances:
- (a) where budget provision is transferred to capital expenditure financed from revenue account (CERA) in accordance with Regulation A.13 (Financial Limits) below ~~or the recommended use of the capital risk provision by CSAB.~~
 - (b) where earmarked capital receipts ~~and grants or other specific funding~~ are spent for the purpose they were received, provided that capital resources are enhanced by the amount received and that the capital receipts are received either before the payments are made, or within the same financial year.

For all other proposals that vary the Capital Programme, the approval of the Cabinet must be obtained [subject to A.5.3.7 below](#).

A.5.3.9 Capital schemes shall not be changed without the approval of the Cabinet ~~and any consequent increase in the cost of the scheme shall be contained within the relevant Department's approved Capital Programme~~. Any significant alteration to the size, content or specification of a scheme which increases the cost by more than 10% must be reported in a timely manner to the Cabinet. Variations within 10% of a project's total current budget can be agreed by the Chief Finance Officer, where funding has been identified (as outline in a.5.3.8 above). This should be done in line with CSAB governance and with current variation policy and guidance.

A.5.3.10 A capital risk provision is held to mitigate the risks associated with having a Capital Programme. These include inflationary pressures on construction costs, uncertainty regarding delivery of projects, still unknown requirements and the uncertainty regarding the level of Government grants. The level of the capital risk provision is to be determined annually by the Chief Finance Officer after considering financial risk. The Chief Finance Officer, following recommendation from the CSAB, can approve use of this provision on individual projects. The use of which will be reported to Cabinet as part of the RPPR process.

A.5.3.11 Capital payments must be contained within the individual provisions in the approved Capital Programme.

(a) ~~Where slippage occurs on a project Where over and underspendings arise because of slippage~~ and there is no effect on the availability of capital resources, these should be reported at the earliest available opportunity as part of quarterly monitoring and equivalent adjustments will be made to the following year's programme ~~as part of the wider RPPR process~~.

(b) Where overspendings compared to the annual provisions in the Capital Programme arise, ~~which are not the result of slippage~~, departments must report the figures to the Chief Finance Officer, ~~together with proposals for equivalent savings from other approved projects~~. CSAB, together with proposals for funding the overspend. These will be signed off by the Chief Finance Officer following recommendation of the Board.

(c) Where underspends occur these must be reported to the CSAB who again will make recommendations on the use of the underspend to the Chief Finance Officer for approval.

A.5.3.12 If a tender price exceeds the Capital Programme provision, then ~~provision may be transferred from one approved project to another~~. This should be raised at CSAB in line with A.5.3.11 (b) ~~If such a transfer is not possible then the approval of the Cabinet must be obtained before the tender is accepted~~.

~~A.5.3.13 The final cost of each capital scheme chargeable against the Capital Programme shall be reported by the appropriate Chief Officer to the Cabinet if the cost exceeds the provision in the Capital Programme by 10% or more, as soon as possible after completion together with explanations for variances from the estimated cost.~~

A.5.3.13 The Chief Finance Officer will report on the outturn of capital expenditure to the Cabinet as soon as practicable after the end of the financial year.

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Report to: Governance Committee

Date of meeting: 23 January 2018

By: Assistant Chief Executive

Title: Amendments to the Constitution – motions

Purpose: To consider a minor amendment to the Constitution relating to the referral of motions.

RECOMMENDATIONS

The Governance Committee is recommended to recommend the County Council to agree to the Constitution being amended as set out in the report.

1 Background

1.1 Standing Orders 36.12 – 37.2 deal with Motions referred to a Committee and Members' rights in relation to those motions.

1.2 Section 36.12 permits the Chairman to direct that, under certain circumstances (namely where a motion is not to be included on the agenda for the next meeting of the Council as set out in sections 36.9 and 36.11), the "motion is referred to a Committee".

1.3 The custom and practice of the Council is to interpret "Committee" in this context to mean either an individual Lead Member or a Committee. For the avoidance of doubt, it is proposed to amend the Constitution to expressly state this.

2 Proposed amendments to the Constitution Part 4 – Rules of Procedure

Motions referred to a Committee or a Lead Cabinet Member

- 36.12 (1) If Standing Orders 36.9 or 36.11 do not apply, the Chairman shall direct that each motion is referred to a Committee **or a Lead Member**.
- (2) **Where a Committee or Lead Member which** has considered a motion referred to it by the Chairman **they** shall report thereon to the Council at the earliest practicable meeting. A Sub-Committee shall report to the Council through its parent Committee.
- (3) When such a motion is considered by the Council one signatory shall have a right of reply immediately before the Chair of the Committee or the relevant Cabinet member (if nominated by the Chair of the Cabinet).

Members' rights in relation to motions

37.1 Where the member or members who signed a motion are not present at a meeting at which it is to be considered, another member authorised by him or her may move the motion on behalf of a signatory.

37.2 A member or, if more than one, the first member signing a motion which is referred to a Committee **or a Lead Member**, shall have notice of each meeting of the Committee **or Lead Member** at which the motion is to be considered. He or she shall

be entitled to attend any meeting at which it is considered and to speak but not vote unless already a member of the Committee.

3. Conclusion

3.1 The Committee is asked to agree to the changes to the Constitution as set out in this report.

Philip Baker
Assistant Chief Executive

Contact Officer: Paul Dean

Tel. No. 01273 481751

Email: paul.dean@eastsussex.gov.uk

Report to: Governance Committee

Date of meeting: 23 January 2018

By: Assistant Chief Executive

Title: Amendments to the Council's quarterly monitoring and Terms of Reference of the Governance Committee – Local Government and Social Care Ombudsman reports

Purpose: To consider amendments to the Council's quarterly monitoring and the Terms of Reference of the Governance Committee relating to reports of the Local Government and Social Care Ombudsman.

RECOMMENDATION

The Governance Committee is recommended:

1. to note the proposed changes to the Council's quarterly monitoring; and
 2. to recommend the County Council to amend the terms of reference of the Governance Committee as set out in this report.
-

1. Background

1.1 At the Governance Committee when the annual complaints report was considered it was requested that information regarding complaints considered by the Local Government Ombudsman (LGO) could be reported to members more regularly. It is therefore proposed that a summary of LGO findings will be reported through quarterly monitoring.

1.2 Currently the terms of reference of the Governance Committee include the exercise of the powers and duties of the Council in respect of the making payments or the provision of other benefits in cases of maladministration. It is proposed that the terms of reference of the Committee be expanded as set out below to enable the Committee to consider reports issued by the LGO where there is a finding of maladministration. The Council has not received such a report in several years, but as we reduce services we may receive such reports, and should the situation arise will want to be able to make decisions in a timely fashion:

To consider reports from the Local Government and Social Care Ombudsman where there has been a finding of maladministration against the County Council.

2. Conclusion and recommendation

2.1 It is therefore proposed that the Council's quarterly monitoring include LGO findings and that the Governance Committee recommends to Council that the Committee's terms of reference be amended as set out in the report.

Philip Baker
Assistant Chief Executive

Contact Officer: Paul Dean
Tel. No. 01273 481751
Email: paul.dean@eastsussex.gov.uk

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Report to:	Governance Committee
Date of meeting:	23 January 2018
By:	Chief Operating Officer
Title:	Additional Leave Purchase scheme
Purpose:	To propose the implementation of an Additional Leave Purchase scheme for employees

RECOMMENDATIONS

The Governance Committee is recommended to agree the implementation of an Additional Leave Purchase (ALP) scheme, as set out in the report.

1 Background

1.1 The Corporate Management Team (CMT) recently considered a report, proposing the implementation of an Additional Leave Purchase (ALP) scheme. This was following feedback received via the income generation employee suggestion scheme. CMT were supportive of adopting a scheme, and have approved a supporting scheme guidance document, subject to final agreement by the Governance Committee.

1.2 The relevant trade unions have also been consulted, and are supportive of the scheme being implemented.

1.3 A variety of public sector employers offer their employees some form of additional leave scheme. The precise nature of each scheme varies between organisations. However, the basic principle is that purchasing additional leave is actively promoted to employees, as an option for taking time off in addition to their annual leave entitlement. This helps reduce staffing costs for employers, while providing employees with an attractive staff benefit that allows them greater flexibility to pursue interests outside of work. By implementing a formal scheme, as opposed to simply promoting the use of unpaid leave, managers and staff are provided with clear parameters within which use of additional leave can be considered and agreed.

1.4 A copy of the scheme document is attached as Appendix 1. In brief, it is proposed that employees can normally purchase up to twice their full weekly hours in additional leave per leave year.

1.5 Depending on the amount of additional leave requested, either the employee's line manager or their Head of Service would approve the application. Managers are of course free to decline requests, or to authorise lesser amounts of additional leave, with consideration of the business needs and staffing requirements of the service.

1.6 Once approved, the hours would then be added to the employee's annual leave entitlement, and taken as annual leave following the normal request and approval process. It is anticipated that this framework will provide employees with a reasonable degree of flexibility to take additional leave, while ensuring that managers can continue to deliver services effectively.

1.7 Employees can apply to purchase additional leave at any point during the leave year, but will always be required to pay for the additional leave by the end of that same leave year. Conversely, employees who apply ahead of a new leave year starting will be able to spread the cost of the additional leave over up to 12 equal monthly salary deductions. Coupled with appropriate staff communications, this approach should encourage employees to apply for leave in advance, allowing managers to consider any impact on service delivery in a planned and managed way.

2 Supporting Information

Reduced staffing costs

2.1 The mean average FTE daily salary for a non-school employee is £72.20. (£26,353 per annum ÷ 365 working days per year). If each non-schools corporate employee purchased one day of additional leave per year, based on an FTE of 3762.6 corporate employees, this would reduce gross staffing costs by £271,659 per year, not including on-costs and other residual expenses. It should be noted that this cost saving would be retained locally in the budgets of those services whose staff chose to purchase additional leave, rather than being pooled centrally.

2.2 If the Committee approve the scheme, it is envisaged that the scheme will launch in February 2018, supported by a communications campaign to raise awareness amongst colleagues. This would encourage employees to plan any leave they might like to purchase ahead of the 2018 leave year commencing in April.

3. Conclusion and reasons for recommendations

3.1 As the Committee will of course be aware, the Council is operating in financially challenging conditions. In addition, employees are increasingly seeking greater flexibility in balancing their work and personal commitments. An ALP scheme could serve to reduce staffing costs to the Council, while also offering an attractive staff benefit that helps enhance our reputation as an employer of choice.

3.2 The Committee is recommended to approve the adoption of an ALP scheme as detailed in Appendix 1.

KEVIN FOSTER
Chief Operating Officer

Contact Officers: Sarah Mainwaring, Head of HR/OD
Tel. No. 01273 482060
Email: sarah.mainwaring@eastsussex.gov.uk

Nicholas Earley, HR Officer
Tel No: 01273 335061
Email: nicholas.earley@eastsussex.gov.uk



Additional leave purchase scheme

Date: November 2017

Document summary

Eligible employees may apply to purchase additional annual leave, on top of their normal allowance. This document provides information on the application and approval process.

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About this document:

<p>Enquiries: HR Strategy Team Author: Personnel and Training Telephone: 01273 481527 Email: PATHRStrategyTeam@eastsussex.gov.uk</p> <p>Download this document From: Intranet: Personnel/leave and time off</p>	<p>Version number: 01 Related information: Annual leave policy Paid and unpaid leave options</p>
<p>Accessibility help</p> <p>Zoom in or out by holding down CTRL and turning the mouse wheel. CTRL and click on the table of contents to navigate. Press CTRL and Home key to return to the top of the document Press Alt-left arrow to return to your previous location. References shown in blue text are available on the Intranet and/or Czone. References shown in underlined blue text are hyperlinks to other parts of this document.</p>	

Additional leave purchase scheme

Key points

- Eligible employees may apply to purchase additional annual leave, to be taken during the next leave year.
- Line managers and heads of service are responsible for approving additional leave applications, with regard to the business needs of their team or service.
- Once purchased, the cost of additional leave is deducted from the employee's monthly salary payments, in monthly instalments.

1. What is the additional leave scheme?

- 1.1. All employees have an annual leave allowance, which entitles them to take time off of work as required throughout the year. However, the Council understands that some employees may find it useful to take additional annual leave, in order to help accommodate outside interests, personal projects, special events or longer periods of travel.
- 1.2. The additional leave scheme provides a framework for employees to purchase annual leave in addition to their normal entitlement. Approval is subject to the business needs of their team or service, and managers may decline requests to purchase additional leave.

2. Who is eligible to apply for additional leave?

- 2.1. All ESCC employees can apply to purchase additional annual leave, with the following exceptions:
 - Teachers, schools employees;
 - Employees who have not successfully completed their first probationary review (normally held after 3 months of service).
 - Apprentices or other employees who are required to attend work for a minimum number of hours per year, in order to gain a qualification.
 - Employees for whom bookable annual leave is not a feature of their working arrangements, or who do not have any permanent contractual hours.

3. How much additional leave may be applied for?

- 3.1. All leave is purchased in hours.
- 3.2. Employees may normally purchase up to twice their total contracted weekly hours in additional leave. So, a full time employee working 37 hours per week could purchase up to 74 hours of additional leave. For full time employees, one day's annual leave equals 7 hours and 24 minutes.
- 3.3. A part time employee working 15 hours per week could potentially purchase up to 30 hours of additional leave.

- 3.4. Who needs to approve the employee's application will depend on the amount of leave being purchased:
- If the application is for up to the employee's total contracted weekly hours' worth of leave, this can be approved by their line manager.
 - If the application is for an amount which is more than the employee's total contracted weekly hours, the application must also be signed off by the relevant Head of Service.
- 3.5. While the expectation is that employees should not normally be granted more additional leave than the amounts laid out above, Heads of Service may approve greater amounts of leave at their discretion, subject to service need.

4. How is additional leave applied for and approved?

- 4.1. There is a formal process for applying for additional leave – a copy of the application form is attached in Appendix 2.
- 4.2. Where possible, employees are encouraged to apply for additional leave in advance of the start of a new leave year. As standard, an employee's leave year runs from 1st April – 31st March each year.
- 4.3. As part of the application process, employees must state the number of hours additional leave they would like to apply for. However, at this stage, employees do not need to state the specific dates this leave will be taken.
- 4.4. Line managers/Heads of Service have final discretion to approve or decline requests for additional leave. Managers may agree to approve only a proportion of the hours an employee has applied for. For example, an employee might apply for 37 hours of additional leave, but their line manager may choose to only approve 15. In these instances, the line manager should seek written confirmation that the employee still wishes to purchase the lower amount of leave.
- 4.5. When considering additional leave applications, managers must ensure that they apply a fair and consistent approach to all applications.
- 4.6. In approving or declining applications, the manager/Head of Service's decision is final – there is no right of referral or appeal.
- 4.7. Once all applications have been considered and approved as appropriate, line managers must submit these to the payroll department.
- 4.8. A flow chart, illustrating the process for applying and approving additional leave, is included in Appendix 1.

5. Using additional leave

- 5.1. Once approved, the employee's annual leave card should be updated to show the amount of additional leave approved, and the total leave field should be amended as appropriate. An annual leave card template is available on the intranet – this includes a field for recording additional leave.
- 5.2. The process for booking time off, and carrying over any unused additional leave is the same as for standard annual leave, as detailed in the Annual Leave policy. Employees are therefore advised not to pay for any holidays, travel or similar until their chosen leave dates have been formally agreed by their line manager.

- 5.3. As per the Council's Annual Leave policy, employees are expected to use their full entitlement of standard annual leave throughout the leave year, as this can only be carried over in exceptional circumstances.

6. Paying for additional leave

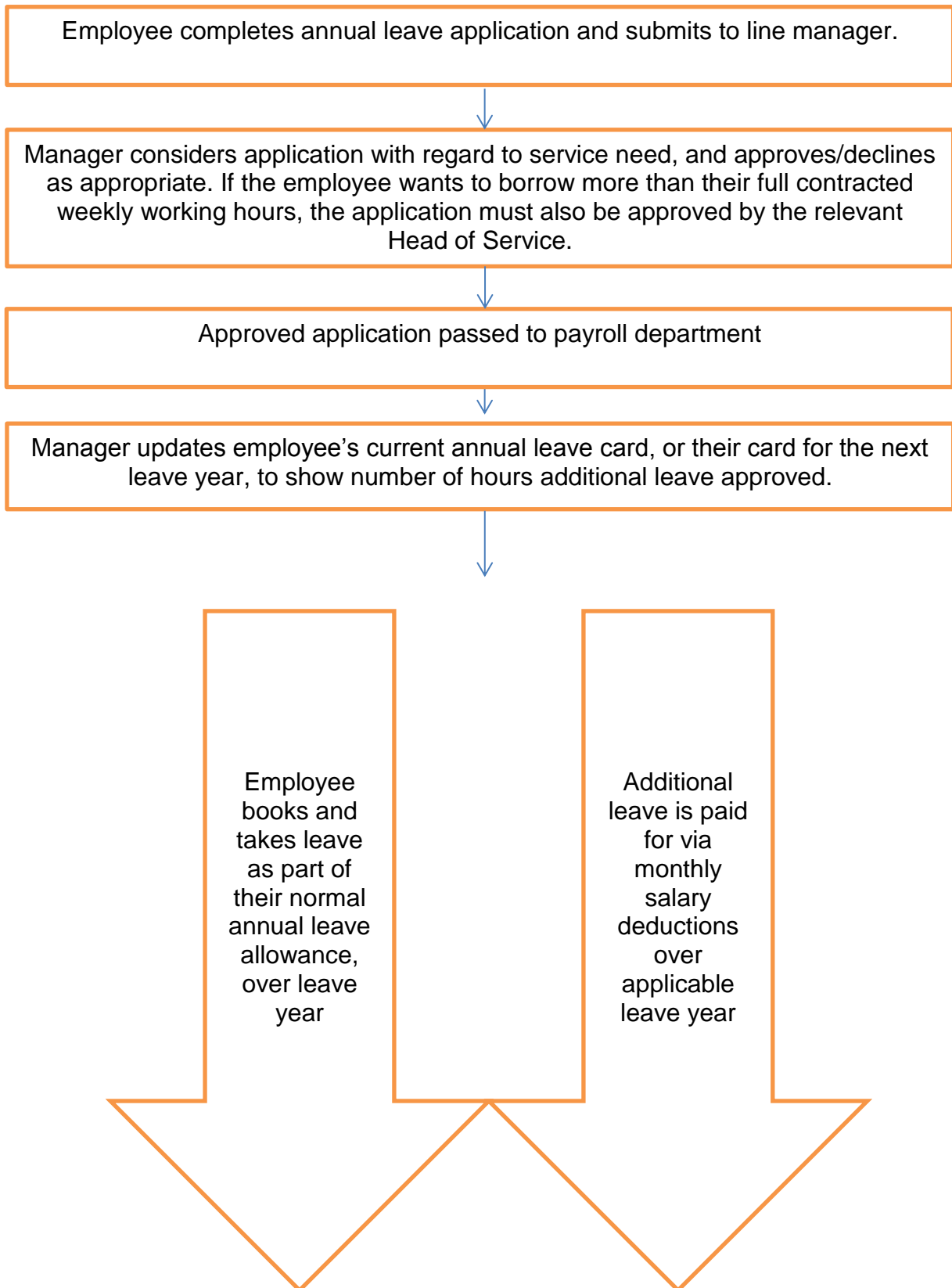
- 6.1. Additional leave is paid for by taking monthly deductions from the employee's salary. All additional leave must be paid for within the same leave year as it is intended to be taken in. As standard, an employees' leave year runs from 1st April to 31 March.
- 6.2. For example, an employee might apply in February, to take additional leave during the next leave year beginning in April. In this example, the total cost of the leave would be spread over 12 equal monthly deductions, with the first being taken in April and the last being taken in March.
- 6.3. Alternatively, an employee might apply in December for additional leave to be taken during the current leave year. The cost of this additional leave would therefore be spread over the remaining three months of the current leave year, with the first deduction taken in January and the last taken in March.
- 6.4. Additional leave is purchased per hour, at the same rate as the employee's hourly salary. An example table and leave purchase calculator, showing how much employees can expect to pay for additional leave, is available on the intranet.
- 6.5. As the cost of additional leave is deducted from the employee's gross salary, it is not subject to income tax or national insurance.
- 6.6. Once the application is processed by the payroll department, the value of the employee's monthly deductions is fixed. This means that, regardless of any changes to the employee's salary over the leave year, their monthly deductions will remain the same.
- 6.7. If an employee is absent from work for an extended period, and is only in receipt of statutory pay, or is unpaid, their monthly deductions will be suspended. These will then resume upon their return to work, until all remaining deductions have been repaid.
- 6.8. If a full time employee purchases additional leave, and subsequently moves to part time hours, they retain their existing entitlement to any leave already purchased, and this may be used as appropriate to their new working pattern.
- 6.9. As with standard annual leave, when an employee leaves the Council, their line manager should inform the payroll department of any additional leave they have taken, or still have to take. The payroll department will then calculate the appropriate refund or deduction from the employee's final salary payment. This same approach applies if the employee moves to a term-time only role, or another working arrangement which does not feature bookable annual leave.
- 6.10. In principle, once purchased additional leave cannot be refunded.

7. Effect on other entitlements

- 7.1. The cost of purchasing additional leave is deducted from employee's gross salary. This means that for the purposes of calculating entitlements such as pension, maternity/paternity and sick pay, the employee's salary will be reduced.

- 7.2. In most cases, the impact of such a reduction will be minimal. However, employees are advised to speak to the payroll team if they have any questions before they submit their application.
- 7.3. Employees in receipt of other state benefits such as tax credits, are also advised to check the impact that purchasing additional leave might have on these, before submitting their application.

Appendix 1 – Additional leave application process



Appendix 2 – Additional leave application form

Part 1 – to be completed by the employee			
Name			
Job title			
Department			
Personnel number			
Number of additional hours requested (Note – for a full time employee, a standard day is 7 hours and 24 minutes.		hours	minutes
<p><u>Declaration</u></p> <p>By submitting this application, I agree to purchase the amount of additional leave indicated above, subject to approval from my line manager. I understand that this will be deducted from my salary via 12 monthly deductions, at the rate detailed in the Additional Leave Purchase scheme document. In the event that I leave employment with ESCC, I understand that my final salary payment will be adjusted to reflect any additional leave taken and not yet paid for.</p>			
Signature		Date	
Part 2 – to be completed by the line manager			
Number of additional hours approved		hours	minutes
Line manager's signature		Date	
Part 3 – to be completed by the Head of Service if more than the employee's total contracted weekly hours have been requested			
Head of service signature		Date	

Report to:	Governance Committee
Date of meeting:	23 January 2018
By:	Chief Operating Officer
Title:	LMG Managers Pay Offer 2018/19
Purpose:	To appraise the Governance Committee on the considerations in relation to the LMG pay award for 2018/19.

RECOMMENDATIONS

The Governance Committee is recommended to defer consideration of the pay offer to LMG Managers until the level of the NJC national pay award is known.

1 Background

1.1 LMG Managers' pay is locally negotiated with Unison and reported to the Governance Committee on an annual basis, to approve the pay offer and any subsequent settlement. Two reports are therefore presented: the first, in January, seeking agreement to the offer and the second, in March, finalising the offer following local negotiations with Unison in January/February.

1.2 The national (NJC) pay award is relevant to these local negotiations as the decision made regarding the local pay offer needs to take into account the impact on the wider workforce and organisation as a whole. In addition, there is an overlap between LMG1 and the top of the Single Status pay range (SS13) which applies to specialist professional posts, such as Senior Practitioners in Adult Social Care and Children's Services. It is therefore important to ensure that these two grades remain comparable and that the relativities do not widen too far.

1.3 Set against this background, the local pay award for LMG Managers has therefore historically mirrored the national award. Any consideration of a pay increase must, however, take into account the savings targets and significant financial challenges facing the Council, as well as any Government pay policy for the public sector.

2 Supporting information

2.1 The annual Consumer Prices Index (CPI) inflation measures changes in the price level of consumer goods and services purchased by households. The CPI 12 month rate (the amount prices change over a year) between October 2016 and October 2017 stood at 3% (Office for National Statistics, November 2017), unchanged from September 2017. CPI is the inflation measure used in the Government's target for inflation and for purposes such as uprating pensions, wages and benefits.

2.2 On 21 March 2017, the CPI was replaced by a new measure: the Consumer Prices Index, including owner occupier's housing costs (CPIH). This extends the CPI to include a measure of the costs associated with owning, maintaining and living in one's own home (owner occupiers' housing costs OOH), along with council tax. This is the most comprehensive measure of inflation. The CPIH 12 month rate between October 2016 and October 2017 stood at 2.8% (Office for National Statistics, November 2017); unchanged from September 2017.

2.3 For the three months ending September 2017, the median pay settlement for the private sector was 2%, whereas in the public sector it was 1%. The median for the whole economy was 2% (Xpert HR, November 2017). Total pay in the public sector (average weekly earnings including bonuses adjusted for CPI) grew by 0.3% to 1.7% when compared with a year earlier over the three months to September 2017. In contrast, total pay in the private sector fell by 0.2 to 2.4% over this period. Overall, average weekly earnings for employees in Great Britain in real terms (that is, adjusted for price inflation) fell by 0.3% to 2.2% including bonuses compared with a year earlier (Labour Market Statistics, ONS).

2.4 The wastage figure for voluntary leavers among LMG Managers (e.g. resignations) for the half year period April to Sept 2017 is 2.54%. For comparison purposes, for the period April to Sept 2016 it was 2.63% and for April to Sept 2015, 3.6%.

2.5 Whilst the current rate of inflation is 2.8%, unchanged from September 2017, the National Institute of Economic and Social Research (NIESR) states "*CPI inflation is set to remain stubbornly above the target rate of 2 per cent until at least mid-2019 on our forecast. Household disposable income will be squeezed as a result.*" (NIESR, December 2017).

Pay Negotiations 2017/18

2.6 The national NJC local government services pay negotiations are as yet to be concluded. The National Employers have made a final pay offer covering the period 1 April 2018 to 31 March 2020. If agreed, the two-year deal would provide for pay increases of 2% each year on salaries at the top end of the scale. A response from the Unions is yet to be received.

2.7 LMG Managers received a pay award of 1% for the financial year 1 April 2017 to 31 March 2018 to mirror the national NJC award. Prior to this, they received an overall pay award of 2.20% for the two-year period 1 April 2015 to 31 March 2016, again, in line with the national NJC pay award.

Financial Implications

2.8 The LMG pay bill is approximately £27.9m per annum including on-costs. If the national NJC pay offer were mirrored, this would provide for an offer of 2% in 2018/19, which would cost approximately £558,000 including on-costs. An award of 2% each year, over 2 years, would therefore cost approximately £1.1m including on-costs.

2.9 Revenue budgets for 2018/19 have been prepared with provision for a pay award of 1%, in line with the Government's pay policy for the public sector. However, the provision made for the National Living Wage (NLW) could also be used to support this.

2.10 Appendix 1 provides high level benchmarking data in relation to the key LMG grades. As can be seen from this, the LMG grades are broadly in line with our neighbours. The majority have confirmed that their pay awards will mirror the national position.

3. Conclusion and reasons for recommendations

3.1 In light of the current uncertainty around the national NJC pay award and the relevance of this to the LMG grades given the need to ensure that the relativities between the grading systems do not widen too far, the Governance Committee is recommended to defer consideration of the pay offer to LMG Managers until the level of the NJC national pay award is known.

KEVIN FOSTER
Chief Operating Officer

Contact Officers:

Sarah Mainwaring, Head of HR & OD
Tel. No. 01273 482060

Email: sarah.mainwaring@eastsussex.gov.uk

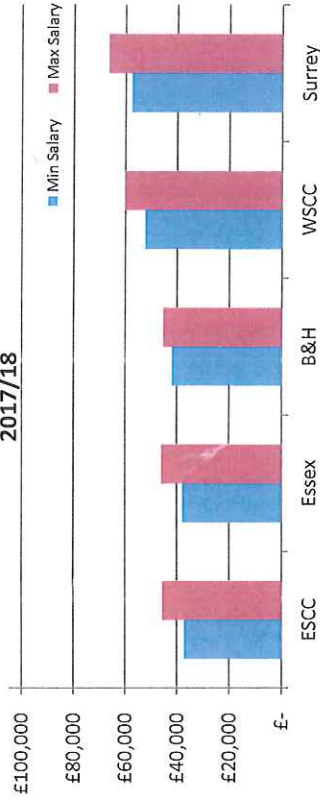
Melanie Funnell, HR Manager
Tel No 01273 481867

Email: melanie.funnell@eastsussex.gov.uk

Team Manager (LMG 1/2)

	Min Salary	Max Salary
ESCC	£ 37,149	£ 45,700
Essex	£ 38,000	£ 46,000
B&H	£ 41,967	£ 45,418
WSCC	£ 52,346	£ 60,069
Surrey	£ 57,494	£ 66,644

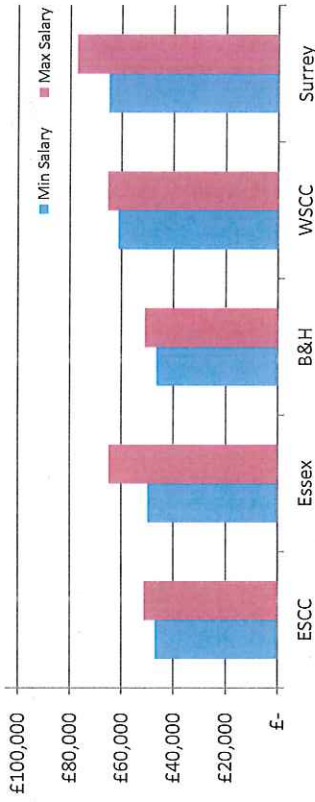
Team Manager (LMG1/2) benchmark salaries 2017/18



Operations Manager (LMG 3)

	Min Salary	Max Salary
ESCC	£ 47,072	£ 51,440
Essex	£ 50,000	£ 65,000
B&H	£ 46,552	£ 51,043
WSCC	£ 61,234	£ 65,447
Surrey	£ 65,025	£ 77,297

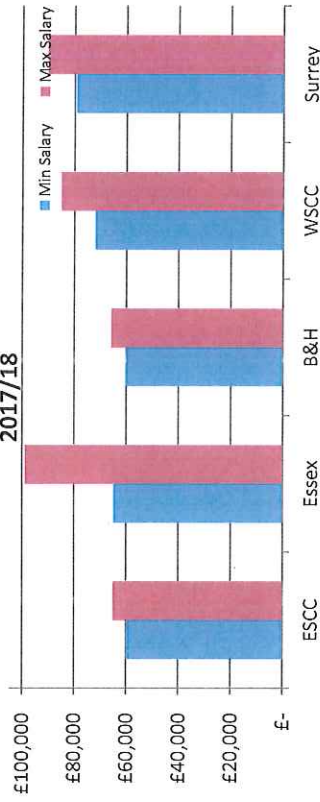
Operations Manager (LMG3) benchmark salaries 2017/18



Head of Service (LMG 5)

	Min Salary	Max Salary
ESCC	£ 59,651	£ 65,185
Essex	£ 65,000	£ 99,000
B&H	£ 60,022	£ 65,967
WSCC	£ 72,000	£ 85,000
Surrey	£ 79,389	£ 90,469

Head of Service (LMG5) benchmark salaries 2017/18



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Report to: **Governance Committee**

Date: **23 January 2018**

By: **Chief Operating Officer**

Title of report: **East Sussex Pension Board – Appointment of a Member Replacement and Vice Chairs**

Purpose of report: **To agree the appointment of Pension Board member replacement in compliance with the arrangements for administering the Local Government Pension Scheme (LGPS) in East Sussex; and to agree the appointment of two vice chairs**

RECOMMENDATIONS – The Governance Committee is recommended to agree:

- 1) the appointment of the Pension Board member replacement as set out in the report; and**
2 the appointment of the two vice chairs as set out in the report.

1. Background

1.1 This report deals with the need to appoint a replacement for scheme member’s representative on the Pensions Board and to agree the nominations for a scheme member vice chair and employer vice chair. The Council has established the Pension Board in compliance with the Local Government Pension Scheme (LGPS) regulations.

2. Pension Board appointment – member replacement

2.1 The Council received a letter of resignation from a scheme member representative, who, due to ill-health will not be able to carry out the role as required by the Pension Board terms of reference. Pensioners were immediately contacted through letter, advertisement within the local newspapers, and on the Council’s website, seeking an expression of interest as scheme member’s representative on the East Sussex Pension Board.

2.2 Following careful consideration by the interview panel on Friday 8 December 2017 and the selection of a successful candidate, the current and revised Pension Board members are as follows:

	Representing	Organisation	Board Members	Revised Board Members
1	Employer	University of Brighton	Sue McHugh	Sue McHugh
2	Employer	Wealden District Council	Cllr. Brian Redman	Cllr. Brian Redman
3	Employer	Brighton & Hove C. C.	Cllr. Kevin Allen	Cllr. Kevin Allen
4	Scheme Members	UNISON	Angie Embury	Angie Embury
5	Scheme Members	GMB	Bernadette Carlyle	Bernadette Carlyle
6	Scheme Members	Pensioners representative	Tony Watson	Diana Pogson <i>~(replacing Tony Watson)</i>
7	Independent Chair	-	Richard Harbord	Richard Harbord

3. Vice Chair appointment

3.1 There is provision in the terms of reference of the Pension Board for a Vice Chair but this role has not yet been appointed to. Meetings of the Board cannot go ahead without the Chair or Vice Chair present, so there is a risk that a meeting of the Board would not be able to proceed if the Chair is unable to attend for any reason.

3.2 The Board agreed at its 16 November 2017 in order to maintain the balance between scheme members and employer representation that a scheme member vice chair and an employer vice chair would be nominated from the existing Board members, and that the role of vice chair would alternate between scheme member and employer at each meeting.

3.3 The Scheme Member nomination is Angie Embury and the employer nomination is Councillor Brian Redman.

4. Conclusion and reasons for recommendations

4.1 The Committee is recommended to agree the appointment of a Pension Board member replacement as set out in para 2.2 above, and agree the appointment of the two vice chairs as set out in para 3.3 above.

KEVIN FOSTER

Chief Operating Officer

Contact Officers:

Ola Owolabi, Head of Accounts and Pensions, 01273 482017

ola.owolabi@eastsussex.gov.uk

Local Member(s): All

Background Documents - None

Report to: **Governance Committee**

Date: **23 January 2018**

By: **Assistant Chief Executive**

Title of report: **Appointments to Outside Bodies**

Purpose of report: **To appoint a councillor as the Council's representative to Chailey Heritage Foundation Governing Body**

RECOMMENDATIONS: The Governance Committee is recommended to approve the appointment of the Council's representative on the Governing Body of the Chailey Heritage Foundation for a period until May 2021

1. Supporting Information

1.1 The County Council is invited to appoint Members (and in some cases non-County Councillors are eligible) to serve on a wide range of outside bodies whose role has a relationship to a function of the County Council. The appointments are a vital part of the County Council's working in partnership with voluntary bodies, statutory agencies and the public and private sectors.

1.2 The Chailey Heritage Foundation has updated its Articles of Government to reflect the Non-Maintained Special Schools (England) Regulations. The Regulations stipulate that Governing Bodies of special schools should include as least one member appointed by the local authority. The County Council has therefore been approached by the Foundation and has asked been asked to appoint a representative to the Foundation's Governing Body.

2. Recommendations

2.1 The Committee is asked to agree the appointment of one councillor to the Chailey Heritage Foundation Governing Body.

PHILIP BAKER
Assistant Chief Executive

Contact Officer: Andy Cottell

Tel: 01273 481955

E-mail: andy.cottell@eastsussex.gov.uk

Background Documents

None

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