

Audit and Standards Committee

Agenda

3rd February 2010

The Audit and Standards Committee will meet at the **SHIRE HALL, WARWICK** on **Wednesday 3rd February 2010 at 10:00 a.m.**

The agenda will be: -

1. General

(1) **Apologies for absence**

(2) **Members' Disclosures of Personal and Prejudicial Interests**

Members are reminded that they should declare the existence and nature of their personal interests at the commencement of the relevant item (or as soon as the interest becomes apparent). If that interest is a prejudicial interest the Member must withdraw from the room unless one of the exceptions applies.

(3) **Minutes of the Audit and Standards Committee meeting held on 23rd November 2009 and matters arising.**

STANDARDS ITEMS

2. Standards for England - Bulletin No 46

Report of the Strategic Director Customers, Workforce and Governance.

The report encloses the latest issues of the Standards Board Bulletin No. 46

Recommendation

That the Committee notes the latest Standards Board for England Bulletin.

For further information please contact Jane Pollard, Democratic Services Manager Tel: 01926 412565 e-mail janepollard@warwickshire.gov.uk.

AUDIT ITEMS

3. Presentation by Gill Gowers, Local Commissioning Division on Direct Payments Scheme (see minute 8 of previous meeting).

4. Review of Contract Standing Orders

Report of the Strategic Director Customers, Workforce and Governance.

This report considers proposed changes to Contract Standing Orders following an internal review process.

Recommendation

That the Audit and Standards Committee considers the results of the review of Contract Standing Orders and recommends to Cabinet and to Council that the revised Contract Standing Orders attached to this report at Appendix 1 are adopted subject to any minor amendments made by the Strategic Director of Customers, Workforce and Governance and the Strategic Director of Resources in advance of those meetings.

For further information please contact David Carter, Strategic Director Tel: 01926 412564 e-mail davidcarter@warwickshire.gov.uk or Sarah Duxbury, Corporate Legal Services Manager: Tel: 01926 412090 e-mail sarahduxbury@warwickshire.gov.uk.

5. Annual Audit Letter

Report of the Strategic Director of Customers, Workforce and Governance.

To consider the Annual Audit Letter 2008/09.

Recommendation

That the Committee considers the Audit Commission's Annual Audit Letter 2008/09.

For further information please contact Oliver Winters, Head of Finance, Tel 01926 412441 e-mail oliverwinters@warwickshire.gov.uk

6. Audit and Standards Work Programme

Report of the Strategic Director of Customers, Workforce and Governance.

This report encloses the latest work programme for the Committee

Recommendation

That the Committee considers the latest work programme for the Committee

For further information please contact Jean Hardwick, Committee Manager, Tel: 01926 412476 e-mail jeanhardwick@warwickshire.gov.uk.

7. Any Other Business

Which the Chair decides is urgent.

8. Future Meeting Dates

To note future meeting dates to be held in Shire Hall as follows -

Tuesday 11 May 2010 at 10:00 a.m.
Thursday 23 September 2010 at 10:00 a.m.
Tuesday 23 November at 2:00 p.m.
Thursday 24 February 2011 at 10:00 a.m.

9. Report Containing Confidential or Exempt Information

To consider passing the following resolution:

'That members of the public be excluded from the meeting for items 10 and 11 below on the grounds that their presence would involve the disclosure of confidential or exempt information as defined in paragraphs 1,2,3 & 7 of the Local Government Act 1972'.

(NB. Copies of extracts describing exempt information are available in Warwickshire Libraries, the County Council Handbook and the Access to Information Register held in my office).

10. Exempt minutes of the meeting held on 23 November 2009

11. Compliance with Contract Standing Orders Audit 2009

Report of the Strategic Director of Customers, Workforce and Governance

This report outlines the findings of the 2009/10 contract standing orders compliance audit.

Recommendation

That the Committee considers the audit findings.

For further information please contact Garry Rollason, Audit and Risk Manager
Tel: 01926 412679 e-mail garryrollason@warwickshire.gov.uk

Jim Graham
Chief Executive

Shire Hall,
Warwick
January 2010

Membership

Councillors Sarah Boad, Clare Hopkinson Tim Naylor, Helen Walton, Bob Stevens and John Vereker CBE.

Independent Members: John Bridgeman CBE, (Chair), Rob Jeanes, and Bob Meacham OBE

If you have any questions about this agenda please contact Jean Hardwick, Committee Manager, Democratic Services, Customers, Workforce and Governance Directorate, Tel. 01926 412476 or e-mail jeanhardwick@warwickshire.gov.uk

The **AUDIT AND STANDARDS COMMITTEE** met at **WARWICK** on the **23 November 2009**

Present: -

Independent Members

John Bridgeman CBE (Chair)
Rob Jeanes
Bob Meacham OBE

County Councillors

Clare Hopkinson
Tim Naylor
Kate Rolfe
Bob Stevens
Helen Walton
John Vereker

Officers

David Carter, Strategic Director, Customers, Workforce and Governance
Jean Hardwick, Principal Committee Administrator
Diana King, Service Manager, Performance & Quality Local Commissioning.
Ruth Pickering, Health, Safety and Wellbeing Manager
Jane Pollard, Democratic Services Manager
Garry Rollason, Audit and Risk Manager
Oliver Winters, Head of Finance

Also present:

David Rigg, District Auditor, Audit Commission
Helen Lillington, Audit Manager, Audit Commission

1. General

(1) Apologies for absence

None

(2) Members' Disclosures of Personal and Prejudicial Interests

None.

(3) Minutes of the Audit and Standards Committee meeting held on 21 September 2009

Resolved that the minutes of the meeting held on 21 September 2009 be approved and signed by the Chair as a correct record.

Matters Arising

(1) Minute 1 (3) Matters Arising Standards Board For England Bulletin No 42 and 43

Jane Pollard confirmed that, in addition to being covered by the authority's insurance, co-opted members were included in the County Council's indemnity cover.

(2) Minute 5.4 External Auditors Annual Governance Report 2008/09

Cash in the Bank error – the Committee noted that the error in terms of coding involving two schools had been rectified. Oliver Winters said that Resources Directorate was looking at introducing new financial systems to overcome this problem occurring in the future.

(3) Minute 7 – Resignation of Mark McGowan

Resolved that a letter be sent to Mark Magowan thanking him for his work with the Committee and for the County Council.

STANDARDS ITEMS

None

AUDIT ITEMS

2. Update on Case Recording

The Committee considered the report of the Strategic Director Adult, Health and Community Services updating members on the Quarterly Case File Audit together with more detailed commentary as requested by the Committee at a previous meeting.

Diana King explained the further measures that had been introduced to ensure improvement in the quality and quantity of case recording. A big improvement had been seen from June 2009 following the appointment of a team of 5 Quality Assurance clerks who had taken on the responsibility of case file audit.

In reply to questions Diana King explained that –

- (1) Where there was a drop in the level of recording this was usually found to relate to high levels of service activity;
- (2) The National Indicator for putting together a care package was 28 days;
- (3) Staffing levels were fairly stable and better in Warwickshire than other authorities;

- (4) The review of the Quality Assurance Panel in 2009 and the resignation of two of the service user representatives provided the opportunity to introduce a Quality Assurance Panel (Customers), chaired by the Service Manager and made up ten service users and carers.

The Chair thanked Diana King for a very informative report and stressed the importance of this work.

Resolved to note progress made in the auditing of case file records.

3. Health and Safety Annual Report 2008/09

The Committee considered the report of the Strategic Director of Customers, Workforce and Governance, which provided an annual position statement on the management of health and safety within the County Council. The report summarised the health and safety activities within the Authority from 1st April 2008 to the 31st March 2009.

During discussion comments were noted as follows:

1. The Corporate Health, Safety and Wellbeing Manager was commended on her report;
2. Concern was expressed about the low percentage received from the Fire and Rescue Service for the health and safety questionnaire in the 2008 staff survey;
3. That it would be useful if future reports contained a more detailed breakdown of the type of accident and also actual numbers in addition to percentages;
4. That it was difficult to judge how well the County Council was doing without comparable statistics from other similar shire counties;
5. A question was asked about the number of cases of swine flu.

In reply David Carter said that -

- (1) The Fire and Rescue Improvement Plan would address the concerns highlighted;
- (2) Corporate Services and Community Safety Overview and Scrutiny Committee would consider a report on sickness absence where this issue would be examined in greater detail.

Ruth Pickering added that –

- (1) Improved reporting and training mechanisms had meant that the numbers of recorded accidents had increased;
- (2) This improved recording would mean that a more detailed analysis of serious accidents could be included in future reports;
- (3) There was no benchmarking data available to compare the statistics against those of other authorities but she undertook to take this up with the West Midlands Local Government Association;
- (4) The Environment and Economy Directorate was leading on addressing the swine flu epidemic, with advice from the PCT, and was recording the number of cases.

Resolved that the Committee –

- (1) Endorses the priorities recommended in the report;
- (2) Asks that future report include actual numbers,
- (3) Notes with concern the areas where there has been an increase in the number of serious accidents.
- (4) Refers the report to the Corporate Services and Community Safety Overview and Scrutiny Committee for further consideration.

4. Audits and Standards Work Programme

The Committee noted the report of the Strategic Director of Customers, Workforce and Governance outlining the latest work programme.

4 (a) Use of Resources 2008/09

Oliver Winters presented the report of the Strategic Director, Resources which included the Audit Commission's report on the County Council's Use of Resources assessment for 2008/09. He highlighted that under the old model used in 2007/08 the Authority achieved a Level 4 rating and that under the revised model used for the 2008/09 assessment the Authority achieved Level 3.

David Rigg explained that Warwickshire County Council had done well in achieving a score of 3 out of 4 and had good financial plans and managed its spending well. At the current time no shire county had achieved a level 4 score. Authorities were able to appeal against the rating given to them but Warwickshire had indicated that it would not appeal. A level 4 would be for an exemplar authority. He referred to page 6 of the Audit Commission's report, which listed the score against each of the resource theme scores. With regard to Managing Finances and Governing the Business, a level 3 score had been given but a level 2 score given for Managing Resources. The Council had made good progress in its approach to the use of managing resources (level 2 score), the weaknesses identified related to –

- The Climate Change Strategy and the lack of baseline data in relation to environmental sustainability;
- Working with partners in relation to waste treatment and recycling;
- Quantifying the environmental impact of working with partners and this partnership not including the health sector;
- Asset Management – the impact of the recession on enabling delivery of corporate priorities investment on property management.

In reply to questions David Rigg said that –

1. he was not aware of any authority that had achieved a level 4 score;
2. no unexpected new areas of assessment were likely to be brought in next year except for "how the workforce was managed" but notice had been given of this work;
3. the Council had done well in achieving a 3 out of 4 score and was still a high performing authority that provided value for money.

The Chair thanked the Audit Commission representatives for their presentation and valuable work in producing the report.

5. Any Other Business

There was no urgent business.

6. Future Meeting Dates

Following discussion of the proposed meeting dates for the forthcoming year it was –

Resolved that:

- (1) The 22 February 2010 meeting date be brought forward to Wednesday 3rd February at 10:00 am;
- (2) Further consideration be given to the meeting dates for 2010 to 2011 taking into account members preference for Tuesday or Thursday meetings.

7. Report Containing Confidential or Exempt Information

Resolved that members of the public be excluded from the meeting for item 8 below on the grounds that their presence would involve the disclosure of confidential or exempt information as defined in paragraphs 1,2 & 7 of the Local Government Act 1972'.

8. Internal Audit Report 1st April – 30 September 2009

The Committee considered the report of the Strategic Director of Customers, Workforce and Governance that summarised the results of internal audit work during the period 1st April – 30 September 2009.

Resolved -

That the results of internal audit work in the period 1 April 2009 to 30 September 2009 be noted.

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Chair of Committee

The Committee rose at 12.55 p.m.

Other Bodies/Individuals

FINAL DECISION YES

SUGGESTED NEXT STEPS:

Details to be specified

Further consideration by this Committee

To Council

To Cabinet

To an O & S Committee

To an Area Committee

Further Consultation

Agenda No

Audit and Standards Committee – 3rd February 2009. Standards For England - Bulletin No.46

Report of the Strategic Director Customers, Workforce and Governance

Recommendation

That the Committee notes the contents of the latest Standards for England Bulletins.
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1. This report attaches the latest Standards for England Bulletins
2. Bulletin 46 - highlights include:
 - Bias, Predetermination and the Code
 - Local Assessment: sharing lessons learnt

DAVID CARTER
Strategic Director of Customers, Workforce and Governance

Shire Hall
Warwick
4 January 2010

Standards and Ethics Award

The closing date for entries to the 2010 Local Government Chronicle (LGC) awards was Friday 20 November. Around 20 authorities entered the Standards and Ethics Award, which is supported by Standards for England. Our judges, Dr Robert Chilton, Dr Michael Macaulay and Nick Raynsford MP have reviewed the entries and shortlisted six authorities who will be announced on 17 December. The judges will then meet in London to choose a winner which will be announced on 24 March 2010.

More information on the shortlisted authorities will be available on our website in January.

Bias, Predetermination and the Code

At this year's Annual Assembly we ran a session called 'Understanding Predetermination and Bias'. It looked at the relationship between bias, predetermination and the Code of Conduct (the Code). The session proved to be hugely successful in providing information that all standards committees and monitoring officers should be aware of, particularly as it drew on recent and relevant case law in this area. This article attempts to draw out some of the key messages from the session that make understanding predetermination and the Code easier.

Predetermination is a more accurate term than 'bias' used to describe a state of mind which is capable of breaching both the law and the Code. This is not to be confused with predisposition where a councillor holds a view in favour of or against an issue, for example an application for planning permission, but they have an open mind to the merits of the argument before they make the final decision at the council meeting. This includes having formed a preliminary view about how they will vote before they attend the meeting, and/or expressing that view publicly.

There are two types of predetermination; actual and apparent:

- **Actual predetermination** is when a person has closed their mind to all considerations other than an already held view.
- **Apparent predetermination** is where the fair minded and well-informed observer, looking objectively at all the circumstances, considers that there is a real risk that one or more of the decision makers has refused even to consider a relevant argument or would refuse to consider a new argument.

Recent case law has provided some clarity on how to establish whether predetermination might have occurred by using a two stage test:

- **Stage one** - all the circumstances which have a bearing on the suggestion that the decision was undermined by actual or apparent predetermination must be established.
- **Stage two** - the questions to be asked are:
 - a) was there actual predetermination or
 - b) were the circumstances such as would lead a fair minded and informed observer to conclude that there was 'real risk' that one of the decision makers had predetermined the outcome?

It is important to note that apparent predetermination is to be assessed having regard to all the circumstances which are apparent upon investigation. This extends beyond the circumstances available to the 'hypothetical observer.'

This could include information on any other relevant facts affecting the decision, for example, council procedures. It does not include evidence from the member concerned as to their state of mind or evidence from the complainant as to why they believed the subject member's mind was closed.

The test is objectively looking at what view the facts give rise to. The courts have decided that the fair minded and informed observer has: access to all the facts, is neither complacent nor unduly sensitive or suspicious when looking at the facts, is able to decide between the relevant and irrelevant and on the weight to be given to the facts and is aware of the practicalities of local government.

The courts have accepted that these practicalities mean that the **fair minded and informed observer** accepts that:

- a) Manifesto commitments and policy statements which are consistent with a preparedness to consider and weigh relevant factors when reaching the final decision, are examples of legitimate predisposition not predetermination.
- b) The fact that the member concerned has received relevant training and has agreed to be bound by a Code of Conduct is a consideration to which some weight can properly be attached when determining an issue of apparent predetermination.
- c) Previously expressed views on matters which arise for decision in the ordinary run of events are routine and councillors can be trusted, whatever their previously expressed views, to approach decision making with an open mind.

d) To suspect predetermination because all members of a single political group have voted for it is an unwarranted interference with the democratic process.

e) Councillors are likely to have and are entitled to have, a disposition in favour of particular decisions. An open mind is not an empty mind but it is ajar.

What has become evident is that **the threshold**, in the context of administrative decisions, on the test of apparent predetermination is an extremely difficult test to satisfy. Unless there is positive evidence that there was indeed a closed mind, prior observations or apparent favouring of a particular decision is unlikely to be sufficient to establish predetermination.

The Adjudication Panel for England (APE) in case reference 0352 has also looked at the relationship between the Code and predetermination and gave an indication that where such issues arise there is a potential paragraph 5 Code breach. The outcome is likely to depend on the individual circumstances of a case and any other Code issues and breaches. This is because a councillor who renders the decision of a council unlawful due to predetermination could reasonably be regarded as bringing that authority or his office into disrepute.

An important issue for members is that by and large predetermination will not amount to a personal or prejudicial interest. Therefore there is no specific requirement to declare an interest and leave the room under paragraph 8 to 10 of the Code. Members may however find themselves the subject of a complaint under paragraph 5 on disrepute. This paragraph of the Code has no provision for declaring interests or leaving meetings.

For more information on the relationship between predetermination and the Code, what the practicalities of local government have been held to be and case details please see [Day One](#) on the events page of our Annual Assembly website.

For further information on determination please see our [Online Guide on Predetermination and Bias](#).

Local Assessment: sharing lessons learnt

One of the breakout sessions at our Annual Assembly in October was entitled *Local Assessment, sharing lessons learnt*. This session took the form of a discussion forum giving delegates the opportunity to share their experiences of the local assessment process since its introduction in May 2008.

Sessions were held in tandem for monitoring officers and standards committee members respectively. This gave each group the opportunity to share with their peers the challenges that had arisen in their authority and the solutions they had developed to meet these challenges. In addition, delegates

suggested a number of changes to the local standards framework. We value these suggestions but, clearly, many need further evaluation before a decision could be taken whether to make any changes.

A full breakdown of feedback from the sessions can be found on our dedicated [Assembly website](#), but we thought you might be interested in hearing what some of the main issues discussed were.

Top five issues discussed

1. Vexatious or Persistent Complainants

This topic was raised in all four sessions that took place. Potential solutions suggested by delegates included:

- asking for further Standards for England guidance on the definition of what a vexatious complaint is
- change legislation to allow monitoring officers to filter out such complaints and allow committees to refuse complaints from vexatious complainants
- having robust assessment criteria to filter out such complaints at assessment
- to write warning letters to complainants deemed vexatious by the council procedures
- to deliver targeted training
- to publish the average cost of assessing and investigating a complaint.

We are aware that persistent vexatious complainants are causing problems for a number of authorities. This is one area where we intend to provide further guidance for standards committees early in 2010, although we recognise that guidance alone is unlikely to solve this issue.

2. The role of the monitoring officer

Delegates questioned what role, if any, a monitoring officer should have in filtering out complaints before formal assessment by the standards committee. A variety of suggestions were made including that:

- Standards for England should produce further guidance on what steps monitoring officers can take before assessment
- monitoring officers should be given the power to filter complaints before assessment in consultation with the standards committee chair
- monitoring officers should make the initial assessment decision with any review undertaken by the assessment sub-committee

- monitoring officers should make the initial assessment decision for parish complaints
- there should be discretion to halt the formal process if a local solution is reached.

3. Informing the subject member that a complaint has been made

Currently monitoring officers can take the administrative step of informing a member that a complaint has been made about them. However, the current regulations do not allow them to disclose any details of the complaint. Many delegates felt that this puts monitoring officers in a difficult position, especially in circumstances where the complainant has spoken to the press.

Delegates suggested a number of solutions and changes that they would like to see including:

- asking members in advance whether they would like to be told if a complaint is made about them, and make them aware they cannot be told any details until after the assessment
- giving monitoring officers the discretion to reveal some details of a complaint to the subject member depending on the circumstances, in consultation with the standards committee chair
- requesting guidance from Standards for England on what the subject member should be told prior to assessment
- requesting guidance from Standards for England on what the subject member should be told prior to an investigation.

4. Resources

A number of delegates highlighted problems with finding resources to deal with processing complaints. There were some suggestions that monitoring officers could use the Local Government and Housing Act 1989 to ensure they had adequate resources to perform their functions.

Another suggestion was that parishes should either be asked to contribute or alternatively they should be charged for processing complaints about parish members. Currently parish councils cannot be charged for any costs incurred during the assessment or investigation of a complaint about a parish member.

5. Quality of complaint information

Delegates stated that poorly written complaints and lack of information from the complainant could make it difficult to make an assessment decision.

Delegates suggested that:

- a model complaint form from Standards for England would be helpful (we have already published a complaints form – [click here to download](#)).
- complainants should be encouraged to use, or that it should be mandatory to complete, an official form
- monitoring officers should request further information from the complainant if there is insufficient information to make an assessment decision
- the complainant should be asked what they would like the outcome of the process to be.

We are currently undertaking a review of the local standards framework and information gathered from the sessions will feed into this review process. However, some of the changes to the standards framework suggested would be difficult to implement as they would require primary legislation to be amended.

A number of requests were made during the sessions for further guidance from Standards for England. We will consider these requests and use the feedback to inform future guidance updates.

Annual return 2010

In April 2009 we collected annual information returns from the 438 local authorities that we work with, covering the period 8 May 2008 to 30 March 2009.

It is important for us to collect information from monitoring officers and standards committees on how they are helping to maintain high standards of ethical conduct in their authorities. This assists us in ensuring the effectiveness of local standards arrangements.

Last year's return was an opportunity for monitoring officers and standards committees to tell us in detail about the particular achievements, successes and difficulties they had in supporting and promoting the ethical framework. We used the returns to build up a bank of notable practice examples to share across the standards community. Many of these can be found on a dedicated [notable practice](#) section of our website and in our [annual review of 2008-9](#).

We will be continuing to collect examples of notable practice in the annual return 2009-10. The information we gather will allow us to cultivate a national overview of the local operation of the standards framework. We will use this to identify strengths and weaknesses of the framework, prompting where we should be producing guidance or seeking policy changes in response to emerging national trends.

The questions in the annual return are currently being developed. Some will stay the same as last year so that we can report on progress, but many of them will change.

Our reasons

We are aiming to have a shorter questionnaire which will use tick boxes where possible to capture practices that are common across many authorities. This should mean that less time is required completing responses; unless there are exceptional circumstances or innovative activities to tell us about. We only expect authorities to provide lengthy responses where they think that a narrative will help others in the standards community who may find themselves in a similar position.

We appreciate that the timing of the annual return is not ideal. April marks the start of the new financial year and is inevitably a busy time for all concerned. However, we want to be able to relay the messages from the year as soon as possible. Therefore, like last year, we will be asking for annual returns to be completed during April and May.

To help authorities complete this task during a busy time, we will be publishing the questions earlier. We hope to communicate the questions to monitoring officers in January 2010. This is so authorities have more time to plan and consult with their standards committee and other key figures, such as the council leader and chief executive, when preparing their responses.

Governance Toolkit for Parish and Town Councils

The second edition of the Governance Toolkit for Parish and Town Councils was well-regarded, winning a *Municipal Journal* Legal Achievement of the Year Award in 2007. The third edition of this valuable resource was finalised in April and is now available to download.

This edition has been revised, updated and produced in partnership between the National Association of Local Councils, the Society of Local Council Clerks, Standards for England and the Association of Council Secretaries and Solicitors. It is also endorsed by the Local Government Association. Milton Keynes Council, a fully parished part urban and part rural authority, is recognised as having been at the forefront of parish council initiatives for many years, and undertook the editing and production of this edition of the toolkit.

This new edition toolkit is a comprehensive, practical reference guide. The topics covered include governing documents, public engagement and managing information, creation of new town and parish councils and elections.

The toolkit will be most useful for

- town/parish clerks and councillors
- those interested in becoming a parish councillor

- principal councils wanting to establish parish councils in their areas
- monitoring officers.

If you would like to download a copy, you can find it in the [Resource Library](#) on our website under 'toolkits'.

Assessment Made Clear DVD

Copies of our new DVD – '*Assessment Made Clear*' have now been distributed to local authorities. We are keen to hear your feedback and so with each DVD there is a freepost feedback postcard, which should be quick and easy to complete and return to us. If you prefer to provide feedback online there is now an [online form](#) on our website.

So far we have been pleased with the response you've given to its approach in dealing with different assessment scenarios. However, some monitoring officers have expressed disappointment that it is not possible to freely copy the DVD as was the case with our previous DVD.

We have not envisaged a need for authorities to consider widespread distribution of this particular DVD. Our view is that this DVD is targeted at standards committee members serving on assessment sub committees and is best watched in a training situation, where group discussion supports the learning points set out in the DVD.

While it may be considered informative for a wider community of local councillors and appropriate officers, for such audiences we believe the context of the DVD, and discussion around it, are best moderated within a group training setting.

We do appreciate there may be cases where exceptions are to be made - so we have taken the decision to make further copies of the DVD available from us for £12.50.

Using the DVD

Alongside the usual features, the DVD includes 'pause and discuss' slides to allow you to pause after each case study and, as a group or as individuals, discuss or think through what you would do in that situation.

Subtitles are provided as an extra and scene selection allows you to revisit easily the sections that are of most interest to you. A pdf of the learning points is also available when viewing the DVD on your PC.

You can [view a trailer](#) of the DVD on Standards for England's website.

To order further copies please contact publications@standardsforengland.gov.uk or call our reception number – 0161 817 5300.

Police authorities and joint standards committees

In the *Joint standards committee guidance* we state that a police authority is unable to enter into joint arrangements with another police authority because Section 107(2) of the Local Government Act 1972 prevents them from having any of their functions carried out by other police authorities.

After receiving a large number of queries about this from police authorities we consulted again with Communities and Local Government. As a result of this liaison we now believe that our original interpretation of the legislation was incorrect. It is now understood that the 1972 Act does not prevent police authorities from forming joint standards committees with each other in line with the [Standards Committee \(Further Provision\) \(England\) Regulations 2009](#).

We would like to take this opportunity to apologise for the confusion. Our guidance will be modified shortly to reflect our updated position.

Review of the standards framework

We have all been operating the new standards framework for 18 months. As such, now is a good time for Standards for England, as the strategic regulator responsible for making sure it works effectively, to carry out a review of its effectiveness and proportionality. Where necessary we want to make recommendations to Communities and Local Government (CLG) for improvement.

We already have much of the information we need gathered from our research among various stakeholder groups (to which many of you have contributed - thank you), and from our own experience of monitoring and working with the standards framework. Soon we will be consulting with various bodies representing key local government and standards interests on what they think and about any recommendations we want to make. Our intention is to send these recommendations to CLG in March of next year.

We will keep you informed on the progress of the review through future bulletins and on our website. If, in the meantime, you have any queries then please contact Dr Gary Hickey on 0161 8175416 or gary.hickey@standardsforengland.gov.uk

Share your experiences of local standards

You can discuss anything you find topical in this Bulletin with fellow monitoring officers or standards committee members by using our new online forum. The Standards Forum, launched in October, provides a place for you to network, ask questions, share good practice, make recommendations and discuss any topics relating to the local standards framework.

All monitoring officers were automatically registered for the Forum and asked to send us the details of any members of their standards committees who wanted to join along with one other nominated officer. We have had a positive response and registered an additional 300 users, with more requests for membership being received daily. We intend to open membership up further by granting a further two officer registrations for each authority once we have registered this first wave of users. This is likely to happen early in the new year.

There are currently over 30 different subjects being discussed on the Forum. Popular topics include recommendations for external investigators and trainers; debates about protocols including the notification of subject members and the publication of decision summaries; and advice on the recruitment of parish members.

To find out more please access the [forum](#).

If you have any questions please contact forum@standardsforengland.gov.uk

Reminder: the importance of completing information returns

Within part 10 (Ethical Standards) of the Local Government and Public Involvement in Health Act 2007 it states that local authorities must send a periodic information return to us when we request one.

The periods we have specified, in the interest of not placing an unnecessary burden on local authorities, are the financial year quarters. In addition, we request a further return on an annual basis, meaning that there are five information returns required per year.

The information returns are extremely important. We need them to keep us up-to-date with how the local framework is functioning. They allow us to identify individual authorities that are not complying with the local standards framework or who are facing difficulties in implementing it.

So far authorities have been responsive in providing us with information on their experience, and the average percentage of returns completed for each quarter of the year is 99%. Over the 6 quarters for which we have requested returns, there have been just **13** instances where authorities have not provided a response. This is not bad when you consider there are over 400 authorities that we send requests to.

However, it often takes a significant effort to collect all of the returns. Roughly 75% of authorities complete their return by our deadline which is 10 working days after the close of each quarter. But the remaining authorities, who number more than 100, require multiple e-mail reminders and telephone calls before they complete their return. This is unacceptable, as it means it takes us longer than we would like to pull together all of the data and report on our findings.

Ultimately, we expect the authority's monitoring officer to complete our information returns. However, they can delegate this task to a colleague if they wish. For consistency we will always send our email correspondence directly to the monitoring officer, but if they know that they are not going to be available when a return is due they should delegate the task to somebody who is.

For more information on Standards for England's information returns please contact our monitoring team on 0161 817 5300.

Update on the transfer of the Adjudication Panel for England into the unified Tribunal structure

On 1 September, the General Regulatory Chamber (GRC) was launched as part of the First-tier Tribunal. The work of the Adjudication Panel for England will be transferred into the GRC in January 2010.

Legislative process

A 'Transfer of Tribunal Functions Order', transferring the functions of the Adjudication Panel into the GRC, has now been laid in Parliament. The order requires Parliamentary approval. Debates on the order will take place before the end of the year. The order contains amendments to the Local Government Act 2000, to the Standards Committee Regulations and to the Case Tribunal Regulations. Once Parliamentary approval has been obtained an amended version of each of those provisions will be available on the [Tribunals Service website](#).

The Order abolishes the Adjudication Panel for England, whose functions will then be undertaken by the First-tier Tribunal and will be known as the First-tier Tribunal (Local Government Standards, England). The President and members of the Adjudication Panel will be transferring as either judges or members of the First-tier Tribunal assigned to work in the General Regulatory Chamber of that Tribunal. The President will also be a deputy judge in the Upper Tribunal.

Impact on users

References and appeals made to the President of the Adjudication Panel are determined by Case Tribunals and Appeals Tribunals. The people who sit on those Tribunals will be the same people who determine these kinds of matters in the name of the First-tier Tribunal (Local Government Standards, England). The associated administrative work will also be undertaken by the same people as currently do this. Such work will continue to be based at the Tribunals Services offices in Leeds.

Since it was established, the Adjudication Panel has operated without any formal rules. That situation will change as a result of the transfer of work into the First-tier Tribunal. The procedure rules give more explicit powers of

direction to the First-tier Tribunal than were available to the Adjudication Panel, including power to summon witnesses.

All proceedings taking place after the transfer order comes into effect will be conducted in accordance with the rules of the First-tier Tribunal unless, in the case of proceedings which have already started, it would be unfair to apply particular provisions of those rules.

You can view regular updates on the [GRC page](#) of the Tribunals Service website.

Police

Other Bodies/Individuals Considered by Contracts Coordinators at meetings on 12th October 2009, 1st December 2009 and 14th January 2010

FINAL DECISION **NO**

SUGGESTED NEXT STEPS: Details to be specified

Further consideration by this Committee

To Council For approval on 30th March 2010

To Cabinet For consideration on 11th March 2010

To an O & S Committee

To an Area Committee

Further Consultation

Agenda No 4

Audit And Standards Committee - 3rd February 2010.

Review of Contract Standing Orders

Report of the Strategic Director of Customers, Workforce and Governance

Recommendation

That the Audit and Standards Committee considers the results of the review of Contract Standing Orders and recommends to Cabinet and to Council that the revised Contract Standing Orders attached to this report at Appendix 1 are adopted subject to any minor amendments made by the Strategic Director of Customers, Workforce and Governance and the Strategic Director of Resources in advance of those meetings.

1. Background

- 1.1 As part of our commitment to ensuring that the Council maintains sound systems of corporate governance, the Council periodically reviews its Contract Standing Orders. Our last major review was carried out in 2007/08 and reported to elected members in February and March 2008.
- 1.2 The current review process commenced in October 2009 and has been carried out through the Contract Coordinators group. The group comprises representatives from each Directorate and includes nominated Directorate Contract Coordinators, Audit Officers, Legal Officers and the Strategic Procurement Manager. The group has met on three occasions to consider the proposed changes to Contract Standing Orders. All meetings have been well attended with positive and constructive suggestions made as to how we can improve Contract Standing Orders.
- 1.3 The review takes into account the following;
 - Recent procurement Policy Guidance issued by the Office of Government Commerce
 - The new Remedies Directive effective from 20th December 2009
 - Case law developments in the field of procurement particularly European case law
 - Comments from Directorate Contract Coordinators
 - Input from the Council's Audit and Risk Manager
 - Input from the Council's Strategic Procurement Manager

- 1.4 It should be noted that this review did not consider Schools' Contract Standing Orders. This needs to be picked up separately and a small working group is being established to take this work forward with the first meeting taking place later in February.

2. Proposed Amendments

- 2.1 Appendix 1 contains the proposed changes to Contract Standing Orders. The main amendments have been highlighted (underlined) so that they are easier to identify.

- 2.2 The main changes being proposed are as follows;

- 2.2.1 Greater emphasis in Sections 4 and 5 of planning ahead as regards the procurement process and any exemption requests. This includes a requirement to commence preparatory work as soon as authority to tender has been granted to enable timely corporate legal /financial /procurement input to be obtained as well as to consider at the outset the resources / capacity required to manage the contract after it has been let;
- 2.2.2 Clarification as to the criteria that can be applied at selection stage (PQQ) (Section 11) and evaluation stage (Section 12)
- 2.2.3 A change to the standstill period in Section 18 in light of the Remedies Directive – this is the period after the successful tenderer has been identified but before the contract can be awarded during which unsuccessful tenderers can mount a challenge
- 2.2.4 A requirement that for contracts where the total contract value is above £3 million the project governance/service monitoring arrangements have the prior written approval of the Strategic Director of Customers Workforce and Governance (Section 5.6).
- 2.2.5 Strengthening the rules around contract management requirements, particularly for major contracts where the total contract value is above £3,000,000. This includes the establishment of a senior officer contract management board (comprising a representative nominated each by the Strategic Director of Customers Workforce and Governance and the Strategic Director of Resources) to monitor the progress of all such contracts across the county once they have been let. The board would meet to consider reports from Heads of Service regarding issues such as the budget position, the monitoring arrangements in place and identifying any potential problem/ risk areas. The board could also keep under review the position on contracts starting without a contract being in place (see 2.2.6 below) and the position regarding exemption applications across the Council. The board would provide 6 monthly reports to the Strategic Director of Customers Workforce and Governance and the Strategic Director of Resources. A sample of the contracts considered by the board could then be considered as part of the CSO Audit. (Sections 3.1, 3.2 and 3.3).

- 2.2.6 Greater emphasis on the requirement for a signed contract to be in place before the contract start date and in the absence of which a formal authorisation process involving authorisation by the relevant Strategic Director for contracts below £1 million and by the Strategic Director of Customers Workforce and Governance and the Strategic Director of Resources (or their nominees) for contracts above £1 million before the contract can start. This process could then be considered as part of the regular CSO Audit. (Sections 3.1, 3.2, 3.3 and 35.1).
 - 2.2.7 Clarity around the requirements for risk registers to be maintained during the contracting process (Section 5.2).
 - 2.2.8 A review of the rules around supply contracts (Section 26) to ensure staff are aware that CSOs also apply to these types of contract.
 - 2.2.9 A new section on service contracts and the application of TUPE (Section 31)
 - 2.2.10 Clarification as to the contract value (£30,000 and under) at which Purchase Orders can be used (Appendix 1 of CSOs and 34.5). There are standard contract terms and conditions for Purchase Orders
 - 2.2.11 Introduction of a back-up authorisation process where the relevant Strategic Director is not available (eg authority to start the tender process and award contracts where the value of the contract is between £500,000 and £1m) (Appendix 2 of CSOs)
 - 2.2.12 Clarification that when the Council accepts grant money, we must comply with any procurement related grant conditions and if none, CSOs must be followed when spending that grant money (Section 32)
 - 2.2.13 Clarification around exemption applications where there is likely to be a subsequent related exemption request made (Section 7.3)
 - 2.2.14 Future proofing CSOs given the greater emphasis on collaborative procurement and shared service arrangements (Section 9)
 - 2.2.15 A new section on sponsorship and the guiding principles with a signpost to further guidance (Section 33)
 - 2.2.16 A change to the requirements on procurement plans for Major Contracts such that procurement plans must be approved by Strategic Procurement before the procurement process commences. Previously copies of the plan had only to be sent to Strategic Procurement (Sections 4.2 and 5.3).
- 2.3 Members will note that the above amendments are not as significant as those proposed during the last CSO Review process in 2007/08. Feedback from Contracts Coordinators is that the last review produced a set of CSOs which are easier to follow, with the Minor Contracts Procedure and the Scheme of

Delegation being particularly welcomed as bringing greater clarity to the contracting process. Whilst the CSO Audit (also on the agenda for this meeting) has identified a number of areas related to procurement which need strengthening, officers feel that work needs to be undertaken within Directorates further embedding CSOs and improving understanding rather than amending the content of CSOs themselves. The CSO Audit report makes reference to this.

3. Exemptions from Contract Standing Orders

- 3.1 The last review of CSOs undertaken in 2007/08 recommended a strengthened approach to dealing with exemptions from Contract Standing Orders.
- 3.2 Those officers responsible for considering exemptions have changed their approach as a result of this, for example, there have been more applications turned down or referred back to Directorates for further supporting evidence to justify the application. In turn, officers submitting applications are more aware of the supporting evidence required and Contracts Coordinators are more actively involved in the process.
- 3.3 As a result of this, the process is generally becoming more robust with early input from officers and Contracts Coordinators often requested and fewer last minute urgent applications being received.
- 3.4 None the less, as part of this review we have also considered the exemptions process. As a result the following proposals are recommended, however, these do not require any changes to Contract Standing Orders;
 - 3.4.1 That the exemption request form includes a box to allow for Contract Coordinators to make comments on the robustness of the application. A collaborative approach to exemptions over the past 12 months, working closely with Contracts Coordinators has proved very effective;
 - 3.4.2 That the application form requests the officer submitting the form to confirm that there are no conflicts of interest.
- 3.5 Our approach to exemptions and exemption activity across the Council will be kept under review with periodic monitoring reports to relevant Strategic Directors and Contracts Coordinators. The new senior officer Contract Management Board will also have a role to play in this respect.

4. Conclusions

- 4.1 Members of the Audit and Standards Committee are therefore asked to consider the contents of this report and recommend to Cabinet and to Council that the revised Contract Standing Orders attached to this report at Appendix 1 are adopted subject to any minor amendments made by the Strategic Director of Customers, Workforce and Governance and the Strategic Director of Resources in advance of those meetings.

David Carter
Strategic Director of Customers, Workforce and Governance

Shire Hall
Warwick
20th January 2010

APPENDIX 1

Revised Contract Standing Orders with Changes Highlighted

Contract Standing Orders

**Council rules for buying and supplying goods, works,
or services and for disposing of assets**

EFFECTIVE FROM 1 APRIL 2010

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Contract Standing Orders (CSOs)

Section 1 Purpose and scope

1 Purpose

The Council approves CSOs. The Procurement Code of Practice also forms part of CSOs and must be followed. The Council's Minor Contract Procedures contained at Appendix 1 must be followed for contracts below £30,000.

CSOs for Schools are contained in a separate document.

CSOs help us to:

- get value for money;
- keep within the law;
- maintain standards of conduct;
- be fair to our suppliers;
- protect our officers;
- show the public that we are honest; and
- meet the Council's corporate and directorate aims and policies.

2. Scope

CSOs must be followed for **all** contracts with outside organisations or people. Community, foundation and voluntary schools in Warwickshire are not classed as outside organisations.

A contract is any agreement to provide goods, works or services in exchange for payment. CSOs cover all types of contract including placing orders, loan or leasing arrangements, employing outside consultants and even cases where the Council is supplying goods, works or services, or disposing of assets (other than land) or spending grant income received from a third party.

3. Officers' responsibilities

3.1 Strategic Directors (for their Directorate)

- **To follow** CSOs and any codes of practice, guidance or instructions provided by the Strategic Director of Customers Workforce and Governance and the Strategic Director of Resources.

- **To follow** the Council's Contract Scheme of Delegation (Appendix 2).
- **To follow** all relevant UK and European laws.
- **To make sure** that all contracts comply with financial standing orders and that there are effective systems in place to control budgets properly.
- **To agree** with the Strategic Director of Resources how best to check the financial situation of suppliers to ensure that the Council manages risk effectively and to make sure that financial evaluations are undertaken in accordance with advice given by the Strategic Director of Resources.
- **To get** legal, financial, procurement and other advice in good time and to make sure that contracts are legal and we can carry out our duties under them.
- **To make sure** that their directorates have systems in place to avoid fraud and corruption.
- **To provide** any information which the Strategic Director of Customers Workforce and Governance or the Strategic Director of Resources needs to help us meet legal requirements and our own CSO procedures.
- **To appoint** a Contracts Co-ordinator for their directorate.
- **To record** all contracts with a total value of £10,000 or above within the Contracts Management System.
- **To make sure** that all relevant officers with powers to agree contracts have received corporate procurement training before receiving those powers.
- **To make sure** that all Council suppliers have in place sufficient insurance cover as appropriate to the contract in accordance with the Council's insurance guidance.
- **To make sure** that any of their officers involved in contract negotiations are sufficiently skilled and understand the legal parameters that apply to contract negotiations.
- **To attend** upon request (or arrange appropriate representation at) any meeting of the senior officer Contract Management Board established by the Strategic Director of Customers Workforce and Governance and the Strategic Director of Resources and/or to provide such information requested by the Board.
- **To approve** contracts starting before a signed contract is in place for contracts up to £1 million.

3.2 Strategic Director of Customers Workforce and Governance

- **To provide** codes of practice, guidance and instructions on any matters which are relevant to contracting arrangements.
- **To carry out audits** to assess whether directorates have used CSOs correctly and have also taken into account the Procurement Code of Practice and to report annually on the results.
- **To sign and record** in our central registers all contracts under seal **and** all major contracts.
- **To maintain** a record of all exemption applications made which have a total contract value of £10,000 or above.
- **To consult** the Strategic Director of Resources and recommend action if a directorate's arrangements for agreeing contracts have not met the requirements of these CSOs. This action may include reducing the value at which contracts are classified as minor, ordinary and/or major.
- **To approve** all contracts with a total value of £30,000 or above where we are the supplier.
- **To approve jointly with the Strategic Director of Resources** contracts starting before a signed contract is in place for contracts over £1 million.
- **To establish jointly with the Strategic Director of Resources** a senior officer Contract Management Board to monitor contractual arrangements.

3.3 Strategic Director of Resources

- **To provide** codes of practice, guidance and instructions on any matters which are relevant to contracting arrangements.
- **To make sure** that we get proper value for money.
- **To consult** the Strategic Director of Customers Workforce and Governance and provide guidance on any relevant financial matter.
- **To consult** the Strategic Director of Customers Workforce and Governance and recommend action if a directorate's arrangements for agreeing contracts have not met the requirements of these CSOs. This action may include reducing the level at which contracts are classified as minor, ordinary and/or major.
- **To approve jointly with the Strategic Director of Customers Workforce and Governance** contracts starting before a signed contract is in place for contracts over £1 million.

- **To establish jointly with the Strategic Director of Customers Workforce and Governance** a senior officer Contracts Management Board to monitor contractual arrangements.

3.4 Contracts Co-ordinator

Each directorate must have one member of staff to act as its 'Contracts Co-ordinator' and must tell the Strategic Director of Customers Workforce and Governance the name of that person. Each Contracts Co-ordinator is responsible for;

- monitoring compliance with Contract Standing Orders by their Directorates;
- ensuring that his/her directorate records details of all contracts that the directorate has let with a total value of £10,000 or above in the Contracts Management System and keeps the system up to date;
- approving applications for exemptions from their Directorate where the total value of the contract is below £10,000;
- acting as the point of contact for consultation on matters relating to procurement and contracting;
- disseminating information on procurement and contracting to relevant officers within their directorate; and
- submitting an annual report by 31 January each year to the Strategic Director of Resources (Strategic Procurement Manager) detailing the exemptions below £10,000 approved by their directorate in the previous calendar year.

3.5 Authorised Officers

Authorised Officers are those officers who are authorised by their Strategic Directors to carry out the day to day activities required to let a contract. They must;

- * make sure that they follow the Councils Contract Scheme of Delegation (Appendix 2);
- * make sure that where appropriate any requirements relating to key decisions and Forward Plan have been complied with (see paragraph 4.1 below);
- * make sure that any actions taken are within their powers;
- * check that there are sufficient funds in the budget to cover the financial commitment they are making both in the current and future financial years; and
- * provide details of all the contracts they are responsible for to their directorate's Contracts Co-ordinator.

3.6 Financial Services Managers

Financial Services Managers are responsible for approving applications for exemptions from their Directorate where the total value of the contract is below £10,000.

3.7 Cost centre managers

Cost Centre Managers must make sure they are familiar with their responsibilities which are clearly set out in the 'Cost Centre Manager's Guide'.

3.8 All officers

- * To understand the procedures they must follow when agreeing contracts and ordering goods, work or services for the Council.
- * To follow the code of conduct for employees (found in Managing People).
- * To declare to their line manager any interest which could influence their judgement in contracting matters. Officers must also record their interest and their partner's interest in the Staff Register of Interests which is updated annually.

Section 2 Steps Prior to Purchase

4. Approvals

4.1 The Council's Contract Scheme of Delegation (Appendix 2) sets out the approvals necessary for different types on contract.

4.2 Before beginning a purchase, the Authorised Officer responsible for letting the contract must:

- make sure that the appropriate authority is in place to start the process and spend the money (see the Council's Contract Scheme of Delegation at Appendix 2);
- make sure that there is enough money in the budget to cover the total whole-life financial commitment being made (including any consultant's or other external charges or fees);
- make sure that the Forward Plan requirements have been followed where the purchase is a Key Decision. The definition of a Key Decision and the Forward Plan requirements can be found in the Council's Standing Orders that are contained in Part 3, Section 1 of the Constitution (Standing Order 12 and Standing Order 16);
- Prepare a procurement plan (and get it approved by Strategic Procurement), where required in accordance with paragraph 5.3

- Plan ahead in good time to ensure timely submission of any requests for exemptions from Contract Standing Orders. If an exemption request is not granted the Authorised Officer must ensure that there is sufficient time to carry out a proper procurement exercise.

5. General Requirements

Before beginning a purchase, the Authorised Officer responsible for it must also;

- 5.1 Carry out an options appraisal to decide what procurement method is most likely to achieve the procurement objectives;
- 5.2 Assess the risks associated with the purchase and how to manage them. The risk register must be kept under review and amended as necessary during the procurement process;
- 5.3 Prepare a procurement plan where the value of the purchase meets or exceeds the Major Contracts threshold or where the purchase poses a significant risk to the Council and get it approved by Strategic Procurement prior to the procurement exercise commencing;
- 5.4 For contracts with a total value of £10,000 or above, create an entry in the Contracts Management System and get a contract number. You can not let a contract which has a total value of £10,000 if it is not recorded in the Contracts Management System;
- 5.5 Consider whether the European Procurement Rules apply. If they do, you must inform the Strategic Director of Customers Workforce and Governance (Corporate Legal Services Manager) and the Strategic Director of Resources (Strategic Procurement Manager) before you start the tender process. You must also send a draft of your OJEU Contract Notice to Strategic Procurement for approval before it is submitted to the OJEU.
- 5.6 Ensure that for contracts above £3 million the project governance/ service monitoring arrangements have the prior written approval of the Strategic Director of Customers Workforce and Governance.
- 5.7 Plan ahead in good time in order to:
 - get any professional support required in sufficient time for it to be most effective (e.g. legal, procurement and financial support);
 - ensure the appropriate form of contract is selected and that it properly protects the Council's interests,
 - consider what resources are needed to manage the contract once it has been let (this means identifying people with sufficient skills and capacity);

Section 3 Conducting a Purchase

6. Deciding which procedure and competition requirements

6.1 Contract Procedure

The table below sets out which procedures must be followed for different contract values.

The Total Value of the contract is:

Yearly contract value x Contract period in years (including any extension periods). [link to worked example]

Total Value	Type of Contract	Procedure to Follow
Below £30,000	Minor	Minor Contract procedures (contained at Appendix 1)
£30,000 or above but below EU threshold for goods and services	Ordinary	Ordinary contract procedures (i.e. these CSOs including any specific requirements for Ordinary contracts).
The EU threshold for goods and services or above	Major	Major contract procedures (i.e. these CSOs including any specific requirements for Major contracts) and the EU procurement rules as appropriate (i.e. for goods and services contracts)
Any value contract where we are the Supplier	Supply	Supply contract procedures (section 26)
Any value contract where we are disposing of assets	Disposal	Disposal procedures (section 30)

Note: the current EU thresholds are set out in Appendix 3

6.2 Competition requirement

- all contracts must meet the requirements of CSOs
- All contracts with a total contract value of £2,000 or above must be competitively let unless you have obtained an exemption from CSOs (see Section 7)
- You must not enter into separate contracts or select methods of calculating Total Value in order to minimise the application of CSOs or EU Procurement Rules. EU guidance can be accessed through the Procurement Code of Practice.

7. Exemptions from Contract Standing Orders

7.1 We will only allow exemptions from Contract Standing Orders **in exceptional circumstances**. For contracts with a total contract value of £10,000 or above exemptions must be approved by the Strategic Director of Customers Workforce and Governance and the Strategic Director of Resources. For contracts with a total contract value of below £10,000 exemptions can be approved by your Directorate Financial Services Manager and Contracts Coordinator.

7.2 To apply for an exemption, you must fill in an Exemption Form which must be signed in accordance with the Council's Contract Scheme of Delegation (Appendix 2). It should then be sent to those with authority to approve exemptions as set out in the Council's Contract Scheme of Delegation. You must allow plenty of time for your application to be considered and to allow for tendering if your application is refused.

7.3 Your Exemption Form must clearly identify cases where there is likely to be a subsequent related exemption request made (e.g. where there is a Phase 1 funding bid made to a Government Department and subsequent phases are anticipated)

7.4 Examples of circumstances which **may** justify an exemption are:

- * **urgency** - real emergencies, not delays in making arrangements to agree particular contracts;
- * **no real competition** - the Strategic Director must use market analysis to explain why there is insufficient competition;
- * **extending an existing contract** - it must be in our interests to negotiate with the existing supplier;
- * **price control** – if the price is controlled by trade organisations or government order and there is no reasonable alternative;

- * **repairs or parts** – if the only option is to repair or buy new parts for existing equipment or buildings and there is only one supplier;
- * **a partnership arrangement** – if the supplier is making a large contribution to the funding, and the work, goods or services could not be provided as economically without that contribution.

7.5 For certain categories of contract, directorates may wish to apply for a block/blanket exemption. In such cases the justification for seeking such a blanket exemption must be clearly set out in the Exemption Form.

7.6 An exemption must also be obtained where you want to vary the insurance levels the Council requires contractors to have in place. An Insurance Exemption Form must be completed and the same process as set out at paragraph 7.2 above must be followed.

8. Drafting your contract specification

8.1 You must produce a description of the goods, services or works you need before you start the tender process (the specification). This will allow you to compare prices properly and once the contract has been let, will enable you to manage the contractor's performance.

8.2 The level of detail of your specification will depend on the value and type of goods, services or works you are buying.

9. Deciding which procurement method

9.1 To select your contractor you can either use;

- **Centrally approved contracts** - (e.g.. WCC, ESPO, OGC, any other regional or sub-regional collaborative procurement arrangements of which WCC is a part etc)._ Where these exist they **MUST** be used and you will be deemed to have complied with CSOs. Further details can be obtained from the Strategic Procurement Unit.
- **An external tender service** - i.e If it is more cost effective to use an organisation like ESPO to carry out the procurement process for you.
- **Approved supplier lists** - Where such a list is available. You must not use approved supplier lists for contracts governed by the EU Procurement Rules as these contracts must be advertised.
- **Conducting a competitive process** – i.e. if the above options are not suitable or cost effective. The rules set out in CSOs must be followed. Where there are different rules for different types or values of contract, these are set out in paragraphs 10 – 23 below.

10. Getting prices / advertising

There are different rules on whether you need to advertise and invite tenders depending on the type of contract concerned. These are set out below.

Type of Contract	Minimum Procedure
<p>Minor Below £30,000 < than £2,000</p> <p>£2,000 or above but < £10,000</p> <p>£10,000 or above but < £30,000</p>	<p>You must follow the Minor Contract Procedures contained at Appendix 1 A single oral quotation is acceptable (confirmed in writing if greater than £500) however a second quotation should be considered</p> <p>At least 2 written quotations must be obtained before an order is placed through WCC financial systems. Fax / e-mail quotes are permissible</p> <p>At least 3 written quotations must be obtained using the WCC standard quotations template before an order is placed through WCC financial systems. A Contracts Management System (CMS) entry is required</p>
<p>Ordinary £30,000 or above but below EU threshold for goods and services</p>	<p>You must tender. You must advertise on the Council's web-site (Tender's Available page) and invite to tender. You should also consider advertising more widely (e.g. external trade or professional journals). You should assess the cost and benefits of using such advertising media.</p>
<p>Major but not EU (this applies to works contracts only) Above the EU threshold for goods and services but below the EU threshold for works.</p>	<p>You must tender. You must advertise on the Council's web-site (Tenders Available page) [link to application form and Supply2Gov] and invite to tender. For higher value contracts you should advertise more widely (e.g. external trade or professional journals) unless there are valid reasons for not doing so (such as the cost vs benefits of using such advertising media).</p>
<p>EU contracts (whether goods, services or works)</p>	<p>You must advertise in the EU Journal and invite to tender. [Link to appropriate website] You must also advertise on the Council's web-site (Tenders Available page). [Link to application form]</p>

11. Selection / Shortlisting Tenderers

- 11.1 Contracts that are subject to the EU procurement rules (and other contracts where that is appropriate) generally follow a two-stage process;
- **Stage 1; selection (shortlisting).** This stage uses a Pre-Qualification Questionnaire ('PQQ') to short-list those tenderers who you want to invite to submit a tender. Essentially, at this stage you are looking at the background and status of the tenderers themselves to see if they have the capacity to deliver the contract; and
 - **Stage 2 ; evaluation (award).** This will usually lead to the award of the contract. It is at this stage that any contract specific proposals (e.g. price and how the contract will be delivered) are assessed. This stage is limited to assessing the merits of the tender, not the ability of the tenderer. Evaluation is dealt with in more detail at 12 below.

Note that the “**selection**” and “**evaluation**” stages have distinct processes and criteria, even if both are carried out at the same time using a one-stage process. One-stage processes are best used where the contract requirements are specialist and the number of potential bidders is relatively limited.

You must seek advice from Strategic Procurement on selection and evaluation criteria for contracts above the EU threshold.

- 11.2 The EU rules say that at Stage 1 (selection) you may only consider those matters which are relevant to the performance of the contract in question (e.g. financial standing, expertise, experience and technical capacity). You **CAN NOT** consider the suppliers' proposals as to *how* the contract would be delivered.
- 11.3 Where you are advertising for suppliers, **you must agree in full and record your method for selecting short-listed tenderers before you advertise.** This includes any sub-criteria. When deciding your method, you must;
- Treat all tenderers in the same way ;
 - Keep the process simple and clear; and
 - Record and retain all documentation relating to your selection decisions.
- 11.4 Full details about the scoring of a PQQ, including any weightings and sub-criteria, must be made known to suppliers, as must any “pass mark” for the PQQ. Suppliers should be given details if an unsatisfactory answer to any PQQ questions may lead to exclusion, irrespective of the score on the rest of the PQQ.
- 11.5 Subject to any timeframes set out in the EU procurement rules you must give tenderers a reasonable amount of time to properly complete the PQQ.

- 11.6 The receipt and opening of PQQs should be formally recorded, dated and signed by 2 Directorate officers.
- 11.7 You should not normally accept the submission of a late PQQ except in the same circumstances where a late tender would also be accepted (see paragraph 15 below).
- 11.8 Once a supplier has been selected through the selection stage, they are deemed to be suitable to undertake the contract and you cannot then evaluate them on the same criteria at the evaluation stage (Stage 2) unless there are exceptional circumstances (e.g. a change in a supplier's financial standing). For contracts at or above the EU thresholds you must take advice from Legal Services or Strategic Procurement.
- 11.9 A minimum number of short-listed suppliers are then invited to submit tenders. (See paragraph 13 below)
- 11.10 Where a tenderer fails the PQQ stage you must notify them following evaluation of the PQQs and the letter needs to give reasons why the tenderer was unsuccessful.

Standard letters are available in the Procurement Code of Practice.

12. Evaluation / Award

- 12.1 **Before you ask for prices** (whether by quotation or invitation to tender) **you must decide and record how you will assess the quotations or tenders that you receive.** Your criteria must be designed to ensure that the Council gets best value for money.
- 12.2 You must finalise any tender scoring system or similar tender evaluation model to be used prior to the issue of the invitation to tender and this information must be set out in full in your invitation to tender. This must include any sub-criteria. At the same time, you must also notify suppliers of any weightings to be used (including weightings for any sub-criteria). Evaluation methodology should also be disclosed. If a maximum score on any given question can only be obtained by a response which exceeds the specified requirement, tenderers should be advised of this. These rules apply to all contracts regardless of whether or not they are subject to the EU procurement rules. For further guidance on this contact Strategic Procurement or Corporate Legal Services [[link to PcoP](#)]
- 12.4 In deciding on your evaluation criteria you must follow any guidance contained in the Procurement Code of Practice in relation to service user/stakeholder engagement where this is relevant to the contract you are letting.

- 12.5 Strategic Directors must make sure that the evaluation criteria
- Do not prevent fair competition
 - Do not illegally discriminate between tenderers
 - Meet any relevant UK and EU laws
- 12.6 The basic evaluation criteria can be:
- Most economically advantageous tender (MEAT), where considerations other than price apply. This will be the most suitable criterion in most cases as it provides the Council with the greatest flexibility; or
 - Lowest price where the Council is the buyer;
 - Highest price where the Council is the seller
- 12.7 Where your evaluation criteria are based on the most economically advantageous offer, you may take into account relevant considerations such as quality, price, technical standards, aesthetic and functional characteristics, social and environmental considerations, practical considerations, after sales service, technical assistance, financial proposals, contract management, quality management proposals and delivery proposals. You cannot include as evaluation criteria any of the areas that should have been covered by the PQQ.

13. Inviting Tenders

- 13.1 Where you are advertising for tenderers, you must invite at least 3 tenderers to tender, (or 5 tenders if the EU Restricted Procedure rules apply).
- 13.2 You must send them an invitation to tender together with the contract documents and a tender form. Your invitation to tender must include information on the Council's policies and requirements on;
- Equalities
 - Sustainable Procurement policies
 - Public Interest Reporting Code (Whistle blowing)
 - Business continuity
 - Risk
 - Special contract arrangements following the OGC guidance where contracts are awarded to sheltered workshops

You must also include instructions on how and when they must return their tenders. A standard invitation to tender is available through the Procurement Code of Practice.

- 13.3 Subject to any timeframes set out in the EU procurement rules you must give tenderers a reasonable amount of time to properly complete the tender and you must factor a reasonable response time into your procurement timetable. What is 'reasonable' will depend upon a number of factors, e.g. the amount/complexity of the information that you require.

- 13.4 Invitations to tender can only be sent electronically if in accordance with guidance given by the Strategic Director of Customers Workforce and Governance and the Strategic Director of Resources.
- 13.5 During the period allowed for preparing tenders, you must record all your communications with tenderers. If a tenderer raises a query during this period, you must pass it on to all tenders together with your reply. Remember not to give the identity of the tenderer who has raised the query.
- 13.6 You must not pass on the names or details of suppliers to anyone at any time during the tendering process.

14. Returning Tenders

- 14.1 Tenders can be returned by hand or by post. Tell your tenderers to use postal services that provide them with proof of postage and the time of sending. For contracts with a total value of £10,000 or above tenders can only be received electronically if in accordance with guidance given by the Strategic Director of Customers Workforce and Governance and the Strategic Director of Resources.
- 14.2 For contracts with a total value of £10,000 or above you must not accept tenders sent by fax.
- 14.3 When you receive a written tender, stamp or write the date and time on the packaging. Do not open any of the tenders (whether received by hand, by post or electronically) until the final deadline for receiving them. Keep them in a safe place.
- 14.4 If you open a tender by mistake before the deadline, write down how this has happened. In the case of tenders received by post or hand, attach this to the packaging and re-seal the tender immediately. In the case of electronic tenders, keep a copy on the contract file. In all cases, do not tell anyone about the contents of the tender.
- 14.5 If you receive fewer tenders than expected, do not contact tenderers to ask whether they have sent one in.

15. Late tenders and PQQs

- 15.1 You should normally reject tenders and PQQs which you receive after the deadline.
- 15.2 In exceptional circumstances a Strategic Director can accept a late tender or PQQ. This only applies if:

* you have not opened any tenders or any PQQ; **and**

- * you have proof that the tender or PQQ was posted in enough time to meet the deadline. If the tender or PQQ is delivered by hand, the person delivering it must explain why it is late. Your Strategic Director or his/her authorised officer must be satisfied with the reason. You must record this reason; **and**
- * in the case of major contracts you must have the agreement of the Strategic Director of Customers Workforce and Governance.

15.3 If you decide to accept a late tender or PQQ, you must treat that tender or PQQ in the same way as all others. You must record full details of your decision to accept the late tender or PQQ on file.

15.4 If you decide to reject the late tender or PQQ, you should leave it on file, unopened at least until you have awarded the contract and the successful tenderer has accepted. At this stage, you can open the tender or PQQ and inform the tenderer that his bid was not considered because it arrived late.

16. Opening tenders

16.1 Before the deadline for return of tenders, you must agree a time for opening the tenders. Try to open the tenders as soon as possible after the deadline for returning them. If a delay becomes necessary, the Authorised Officer must agree to this and the reason must be recorded. Never extend the deadline for returning tenders or delay the time for opening them to allow for late tenders.

16.2 The Authorised Officer must make sure that the procedures for opening tenders are followed and that the correct records and documents are completed.

16.3 The opening requirements as set out in the table below must be followed

Type of contract	Opening requirements
Ordinary	Tenders opened in front of at least 2 officers from contracting directorate
Major or EU which has a total contract value above the EU threshold for goods and services including any call-off contract under a framework agreement	Tenders opened in front of at least 1 officer from the contracting directorate and 1 officer from Law and Governance authorised by the Strategic Director of Customers Workforce and Governance

- 16.4 You must open all tenders at the same session. Open them one at a time. Then each officer must sign and date them. Record the details of each tender on a tender return form. Each officer must sign and date the form.
- 16.5 The officers opening the tenders must sign the total price page. Where the prices are not contained in a single page or where other pages contain relevant pricing information (e.g. hourly or discounted rates), all relevant pages containing pricing information must be signed.
- 16.6 Once the tenders have been opened, store them again in a safe place.

17. Evaluating Tenders

- 17.1 Before assessing the tenders, you must check that each one meets your submission requirements (i.e. it is a compliant bid). You must also make sure that there are no major mistakes and that nothing is missing.
- 17.2 You must also check the accuracy of the figures in each tender. If you find minor mistakes which do not affect the overall price or the specification, contact the tenderer and ask them to confirm the correct figures in writing. Keep a record of all mistakes and attach it to the tender documents together with any corrections you have agreed with the tenderer.
- 17.3 Whichever contract award criteria you decided on (see paragraph 12), this is how you must evaluate. You must not change your evaluation criteria during the procurement process.
- 17.4 The Authorised Officer should accept the tender which offers the Council best value for money having assessed all the tenders against your chosen award criteria (see paragraph 12). This applies whether you get prices by quotes under the Minor Contract Procedures (see Appendix 1) or by more formal tendering processes.
- 17.5 The results of your assessment are strictly confidential, so you must not pass them on to anyone who is not involved in the evaluation process.
- 17.6 Subject to any more specific EU requirements, your assessment documentation must clearly show;
 - * the result of your assessment of each tender;
 - * a comparison of assessment results; and
 - * your recommendation for who should be awarded the contract.
- 17.7 The information referred to at paragraph 17.6 above, should be sent to the person with sufficient delegated authority to award the contract as set out in the Council's Contract Scheme of Delegation (contained at Appendix 2). You should always consider whether your recommendation for awarding the contract should be put before elected members (whether the Cabinet or the portfolio holders for Resources and Customers, Workforce and Partnerships acting jointly) **before** contacting the successful tenderer.

18. Notifying tenderers after evaluation

Contracts below the EU procurement thresholds

18.1 Notification -

- You must write and tell the successful tenderer your decision as soon as possible **after you have received all necessary approvals** (see paragraphs 3, 4 and 27).
- You must tell unsuccessful tenderers after you have told the successful tenderer and the successful tenderer **has accepted**.

Standard letters are available in the Procurement Code of Practice.

- 18.2 **Debriefings**- If unsuccessful tenderers ask why their tender was not successful, you can tell them in general terms about the areas of their tender which scored well and poorly in your assessment. You should do this within 15 working days of the request. Do not give them details of the other tenders. The name of the successful tenderer and the value of their bid will be made available to the public (see paragraph 20).

Contracts subject to the EU procurement rules (including contracts for Part B Services)

18.3 Notification –

- You must write and tell ALL tenderers, both successful and unsuccessful, of your decision as soon as possible **after you have received all necessary approvals** (see paragraphs 3, 4 and 27). Tenderers who are unsuccessful at PQQ stage must be told following evaluation of the PQQs (see paragraph 11.10).
- You must not enter into the contract with the successful tenderer until the end of the standstill period. **This period ends at midnight at the end of the 15th day after the day on which you send the decision letter referred to above. Where the last day of the standstill period is not a working day the standstill period is extended to midnight at the end of the next working day.**

- 18.4 Where you notify a tenderer who failed at ITT stage the letter must set out:
- * the award criteria;
 - * where scores are being used, the score the tenderer obtained (including any sub-criteria scores);
 - * where scores are being used, the score the winning tenderer obtained (including any sub-criteria scores);
 - * the name of the winning tenderer;
 - * the reasons for the decision, including the characteristics and relative advantages of the successful tender;
 - * a precise statement of the standstill period (including an explanation of the standstill period and the specific date and time it will come to an end)

* [if relevant, a statement about why the technical specifications were not met.]

Standard letters are available in the Procurement Code of Practice and they must be used.

- 18.5 **Debriefings** - You must provide a debriefing to any unsuccessful tenderer who requests one. The debrief must be provided within 15 days of the date on which the request is received in writing.
- 18.8 The debrief must inform the tenderer of the reasons why he was unsuccessful and, if the tenderer submitted an admissible tender, you must inform him of the characteristics and relative advantages of the successful tender and the name of the successful tenderer.

19. Clarification and Post-Tender Negotiations

- 19.1 Providing clarification to tenderers or seeking clarification from tenderers, whether in writing or during a meeting, is permitted.
- 19.2 However discussions with tenderers after submission of a tender and before contract award with a view to obtaining adjustments in price, delivery or content (post-tender negotiation) whether as part of a value engineering process or otherwise must be the exception rather than the rule. In particular such negotiations must not be conducted in an EU procurement where this might distort competition, especially with regard to price (NOTE - negotiation is permitted if using the EU Negotiated and Competitive Dialogue procedures. If you want to use one of these procedures advice must be obtained from Legal Services and Strategic Procurement).
- 19.3 In all cases, the Council's Guidance on Clarification and Negotiation must be followed.

20. Disclosure of tender information

- 20.1 You must not give tenderers or suppliers or anyone who has a financial interest in the contract any information about the bids or affairs of any other tenderer or contractor unless the law says you must do this. The information you receive is confidential.
- 20.2 Subject to paragraph 18 above, the only information you should make public is the name of the successful tenderer and the value of their bid. You must not release this information until the contract has been awarded and accepted.

20.3 Strategic Directors may decide to make public the value of the other bids received. This information should **not** include the names of the unsuccessful tenderers. However, it is good practice to let tenderers know how they performed in the competition and you may want to give them more information. If this information includes the names of unsuccessful firms, then it must be done in a way that does not link a firm to its bid. Strategic Directors should make sure that if they are planning to release any information, tenderers know this at the start of the process.

21. Keeping Written Records

21.1 Each directorate **must keep proper written records** of:

- * the different stages of the tendering process including all the quotes and letters you have received, and notes of phone calls and meetings about selecting suppliers;
- * the awarding of the contract;
- * any information provided to tenderers or contractors; and
- * any decisions made, together with the reasons for those decisions.

21.2 You must keep these records for the periods set out in paragraph 23.

22. Contracts Management System

22.1 Each Directorate must record in the Contracts Management System:

- complete details of all contracts with a total value of £10,000 or above it has agreed; and
- details of all contracts it has agreed where we are the supplier (see paragraph 26 below for further details).

22.2 In addition, each Directorate must make sure that all major contracts (contracts above the EU threshold for goods and services) are recorded in the Central Contracts Register maintained by Law and Governance.

23. Storing Documents

23.1 You must consider confidentiality when storing contracts and other information relating to tenders and agreements.

23.2 Subject to paragraph 23.3 you must store all contracts as set out in the table below.

	Successful Tenders	Un-successful or Late tenders
Minor	Keep the contract at least 6 years after Contract comes to an end. If made as a deed / under seal they must be kept forever.	At least 2 years from the date contract starts.
Ordinary and Major contracts	Keep the contract and any relevant correspondence and records (e.g. any documents which might have a bearing on the way the contract is interpreted) at least 6 years after contract comes to an end. <u>If</u> made as a deed / under seal they must be kept forever.	At least 2 years from the date the contract starts

23.3 Contracts made as a deed or under seal must never be thrown away.

23.4 You must not throw away contract documentation without the Strategic Director of Customer Workforce and Governance's permission if you are aware that a legal action or claim for personal injury or death either has been made or there is a possibility that such an action or claim will be made.

Section 4 Specific Types of Contract

24. Approved Supplier Lists

24.1 A Strategic Director may use approved supplier lists to:

- * choose tenderers to bid for a contract; or
- * buy one-off items.

You must not use approved supplier lists for contracts governed by the EU Procurement rules. These contracts must be advertised.

24.2 You must follow the Council's Contract Scheme of Delegation (Appendix 2) when setting up supplier lists.

24.3 Before drawing up an approved supplier list you should advertise and invite people to apply to become approved suppliers for the particular type of contract. You must also advertise on the Council's web-site (Tenders Available page). When considering whether to include someone on the list you must consider:

- * their past performance on similar contracts (quality and costs);
- * their technical capacity;
- * their specialist experience and skills in the type of products and services you are looking for;
- * their financial situation;
- * their other commitments; and
- * any other qualifications which are relevant, do not prevent fair competition and do not illegally discriminate between suppliers and are not evaluation criteria (see paragraph 12.7 above).

24.4 If you use an approved supplier list, you will need a system for selecting suppliers from the list. Your system must make sure that all suppliers on the list have the same opportunity over time to tender for work and must be approved by the Strategic Director of Customers Workforce and Governance (Corporate Legal Services Manager) and the Strategic Director of Resources (Strategic Procurement Manager).

24.5 Review your approved supplier lists every two years against the requirements set out above to assess whether a supplier should remain on or be added to the list. You should also consider whether there are any new suppliers to add to the list.

- 24.6 You should start new approved supplier lists after **advertising** at least every five years or earlier if the number of approved suppliers remaining on the list means there is little competition.

25. Framework Agreements

- 25.1 Framework agreements ('call-off contracts') allow the Council to fix terms and conditions in advance and to award contracts as and when they arise without needing to re-advertise or re-tender.
- 25.2 Framework agreements must be for a **maximum of four years (including any extensions)**. If you are in any doubt about their duration you should seek advice from the Strategic Director of Customers Workforce and Governance and the Strategic Director of Resources.
- 25.3 A Framework agreement needs to determine the price/pricing structure that will apply to "call off" contracts made under it. A framework arrangement is therefore much more than a pre-selection list.
- 25.4 The distinction between selection and evaluation criteria must also be maintained in cases where there is a "mini competition" amongst those suppliers on the framework who could potentially undertake the contract. You must ensure that the "evaluation criteria" for any mini-competition are the same as those used when setting up the initial framework and do not include "selection criteria".
- 25.5 You must follow the Council's Contract Scheme of Delegation (Appendix 2) when setting up framework agreements and call-off contracts.
- 25.6 Framework agreements are subject to all UK and EU procurement legislation and must also follow these Contract Standing Orders (including the Procurement Code of Practice). Framework guidance can be obtained through the Procurement Code of Practice

26. Contracts where the Council is the supplier

- 26.1 CSOs apply if we are supplying goods, work or services. Procedures will be different and will probably depend mostly on the person or organisation who is letting the contract.
- 26.2 The Strategic Director must keep a list of supply contracts and a list of the directorate's unsuccessful bids. He or she must record the details of all individual contracts with a total value of £10,000 or above and a global entry for all contracts below £10,000 in the Contracts Management System (see paragraph 22).

26.3 In addition, where the Council is the supplier:

- You must secure the appropriate approvals as set out in the Council's Contract Scheme of Delegation (Appendix 2)
- For contracts over £30,000, the Strategic Director of Resources must be satisfied that our bid is financially practical
- For contracts over £30,000, the Strategic Director of Customers Workforce and Governance must confirm that we can legally enter into the contract before we submit a tender. This includes considering the legality of the charging arrangements under the contract. Legal advice must be taken on this point.
- For contracts over £30,000, the Strategic Director of Customers Workforce and Governance must approve the terms and conditions
- For all value contracts, there must be enough insurance to cover any liability we may have under the proposed contract. You must seek advice from the Council's Insurance Manager.
- You must follow the rules in CSOs on non disclosure of tender information (paragraph 20), keeping written records (paragraph 21) storing documents (paragraph 23) and signing contracts (paragraph 31)

27. Loans and Leasing Arrangements

You must not make loans or leasing arrangements (e.g.. a contract for a photocopier), other than those purchased through centrally approved arrangements, **without approval** from the Strategic Director of Resources. You can apply to the Strategic Director of Resources through your financial services manager. Where you are unsure about the contract terms you should seek advice from the Strategic Director of Customers Workforce and Governance.

28. Appointing experts and consultants

28.1 **You need to be clear about the** status of people we use as experts or consultants. Employment status is not a matter of choice. You cannot simply decide to treat working arrangements as employment or self-employment. It depends on the work to be done and how much control we have over them.

28.2 Where individuals operate under a '**contract for services**' (as an independent contractor), these CSOs apply. Such individuals are self-employed and paid through Order and Payments. You must ensure that there is appropriate Professional Indemnity Insurance to cover the work of the consultant. Further advice on this can be obtained from the Council's Insurance Manager.

- 28.3 Where a person is taken on under a ‘**contract of service**’, the Council’s HR (recruitment) policies apply. Such individuals are employees of the Council and must be paid through Payroll.
- 28.4 There may be financial consequences where we get a person’s status wrong. Further guidance on appointing consultants can be found in the Procurement Code of Practice. Any penalties and backdated tax imposed by the HM Revenue and Customs will be charged to the Directorate concerned where it is clear that they have not followed guidance.

29. Collaborative and Partnership Arrangements

- 29.1 Collaborative and partnership arrangements are subject to all UK and EU procurement legislation and must also follow these Contract Standing Orders.
- 29.2 Collaborative and partnership arrangements include joint working where one partner takes the lead and awards contracts on behalf of the other partners, long term collaborative partnerships, pooled budgets and joint commissioning.
- 29.3 Further guidance can be obtained from the Strategic Director of Customers Workforce and Governance. Partnership Guidance is also available through the Procurement Code of Practice and a Partnership Toolkit is available on the intranet.

30. Asset Disposal

- 30.1 You must obtain value for money where you wish to dispose of surplus or obsolete stocks/stores or assets.
- 30.2 Unless you can demonstrate that you are disposing of assets for local community benefit (e.g. a transfer of redundant computers to a voluntary or community sector organisation) you must demonstrate value for money. This could be by;
- Disposing via a public auction, or
 - Advertising in appropriate media, including the Council’s website and inviting interested parties to tender
- 30.3 When disposing of the Council’s assets you must
- Follow Council’s Contract Scheme of Delegation (Appendix 2)
 - Treat all tenderers equally & fairly
 - Seek legal advice if there are health & safety implications or if tenderers are seeking warranties
 - Keep all documentation relating to the process for at least 2 years from the date of the disposal
 - Keep proper written records of all disposals for at least 2 years from the date of the disposal

31. TUPE

TUPE means the Transfer of Undertakings (Protection of Employment) Regulations 2006. This law applies to service contracts and protects employees, whether ours or another's, and ensures that they transfer to the new provider..

TUPE can apply;

- *when the Council lets a service contract for the first time (i.e.. Where in-house service provision is outsourced)*
- *when the Council re-lets a service contract which has previously been let to another contractor;*
- *when the Council takes a service back "in house".*

Whenever you are letting a service contract, you must:

- take legal advice on the application of TUPE in good time;
- collect information about the staff who could transfer (the so-called "employee liability information") and, stating that the Council is not responsible for its accuracy, make this available to tenderers in the tender documents (having anonymised the staff concerned) – this will ensure that tenderers price properly for the work if the tenderers decide that TUPE will apply;
- consider the pensions implications of letting the contract, particularly where it involves employees who have worked for local government. This must be clearly understood before you go out to tender. The contract and tender documents must be properly drafted so that tenders can be properly priced. Legal advice must be obtained at the outset.

32. Grants

Where the Council wishes to spend grant money that it has received then the requirements of these CSOs will apply unless the grant terms and conditions state otherwise, in which case legal advice should be sought.

33. Sponsorship

Occasionally the question arises whether the Council can accept sponsorship from a third party in return for advertising. For example, advertising of a third party on roundabouts, bus shelters, benches etc.

You must seek legal advice where you are considering accepting sponsorship of any kind.

Any money received from a third party which is going to be spent by the Council on goods, services or works, must be spent in accordance with these CSOs.

Section 5 Written Contract and Other Formalities

34. Ordering and entering into a written contract

- 34.1 Once you have selected a supplier, you need to complete the contractual arrangements.
- 34.2 You must check whether there is an approved form of contract which has been approved by the Strategic Director of Customers Workforce and Governance.
- 34.3 For ordinary and major contracts, if you need to make changes to the terms and conditions of an approved form of contract, send your draft or details of the changes to the Strategic Director of Customers Workforce and Governance for approval.
- 34.4 All ordinary and major contracts must be in writing, must be entered on the Contract Management System and must meet the contract requirements set out in the Procurement Code of Practice. These contracts must be signed by all parties before the contract start date.
- 34.5 Minor contracts can use the Council's Purchase Order terms and conditions provided that the contract is not for:
- the services of a consultant;
 - software;
 - works,
- in which case specific advice must be sought from the legal or procurement teams.
- 34.6 Each Strategic Director must make sure that the contracts with his or her Directorate are;
- legal;
 - in line with financial regulations;
 - drafted properly;
 - appropriate; and
 - are able to protect our interests fully.

35. Signing Contracts

35.1 You must make sure that the contract is signed by a properly authorised officer as set out in the Council's Contract Scheme of Delegation (Appendix 2).

Contracts must be signed by all parties before the contract start date unless;

- for contracts below £1 million you have the prior written approval of your Strategic Director; and
- for contracts above £1 million you have the prior written approval of the Strategic Director of Customers Workforce and Governance and the Strategic Director of Resources

35.2 All major contracts must be either;

- sealed by the Council and witnessed (signed) by a designated officer; **or**
- signed by **two** designated officers.

Designated officer means the Chief Executive, the Strategic Director of Customers Workforce and Governance and any other officer authorised by either or both of them.

36. Certified Contracts

If a supplier asks us to certify that the contract is legal, you must pass the contract to the Strategic Director of Customers Workforce and Governance before signing it. You must also send details of the approval for the contract and any other relevant documents.

37. Parent Company Guarantees and Performance Bonds

You must seek the advice of the Strategic Director of Resources on whether a parent company guarantee or performance bond is needed in cases where;

- there is doubt about the suppliers financial standing
- the contract poses a high risk to the Council

38. Contract Management

38.1 During the life of the contract, the Authorised Officer must manage the contract in respect of the following;

- Performance;
- Compliance with specification and contract;
- Cost;
- Any Best Value requirements;

- User satisfaction; and
- Risk management

38.2 Where the contract is to be re-let this information should be available early enough to inform the approach to re-letting the subsequent contract.

38.3 Where there is an intention to terminate the contract legal advice must be sought before this is done.

39. Declarations of interest

39.1 Officers must declare to their line manager any interest which could influence their judgement in contracting matters. Officers must also record their interest any interest held by a close family member in the Staff Register of Interests which is updated annually.

39.2 Where an officer has an interest which could influence their judgment in contracting matters, he/she must not take part in the contracting process.

39.3 All officers involved in contracting matters must have regard to the Employee Code of Conduct which can be found in Managing People.

40. Interpretation

Any generic reference to 'Strategic Directors' in these Contract Standing (as opposed to the Strategic Director of a specific Directorate) is to be interpreted as including the Chief Executive of the Council.

APPENDIX 1

MINOR CONTRACTS PROCEDURE WARWICKSHIRE COUNTY COUNCIL - MINOR CONTRACT PROCEDURES

These procedures apply to all contracts with a total aggregate value below £30,000

You should decide on your requirements for the goods, services or works (the specification) before you ask for quotations. You need to consider: -

- What you want
- When you want it
- Where you want it
- How many
- To what quality

A detailed specification should be included with the letter of invitation to quote for any requirement over £10,000.

Requirements for Minor Contracts which Officers MUST comply with: -

- These Minor Contract Procedures only apply to contracts with external organisations (i.e. not WCC schools)
- These Minor Contract Procedures apply to the employment of any external expert or consultant
- All officers of the Council must comply with the Council's code of conduct for employees (found in Managing People) when carrying out any procurement activity
- Where there is a recognised WCC, ESPO or OGC contract, you should use it - WCC, ESPO & OGC contracts are deemed to comply with these Minor Contract Procedures
- You must get proper value for money and consider the need for competition, efficiencies and savings at all times
- You must follow the Council's Scheme of Delegation for letting contracts
- Contracts with a total value expected to exceed £2,000 must be awarded under competitive conditions
- Where there is insufficient competition to allow the required number of quotes to be obtained, you may seek an exemption from Minor Contract Procedures, following the process set out in Contract Standing Orders. Exemption from Minor Contract Procedures will only be permitted in unusual circumstances.
- The Cost Centre Manager (CCM) must ensure that there is sufficient budget (in the current and future financial years) to cover the commitment being made.
- All bidders must be treated equally and fairly
- All written quotations must be opened at the designated time by at least 2 WCC officers
- Quotes must be assessed against your chosen award criteria. Your criteria should be determined before you ask for quotes
- Information received from suppliers is confidential and must not be disclosed to a third party
- Where it is recommended to accept a bid which is not the lowest then the reasons must be documented
- Purchase Order terms and conditions can be used unless the contract is for consultancy services, software or works when contract specific terms and conditions are required.
- WCC Officers MUST keep proper written records of all Minor Contracts
- Minor contracts should be kept for 6 years after the contract comes to an end, and documents relating to unsuccessful or late tenders for at least 2 years from the date the contract starts.
- The European Procurement Rules may still apply to minor contracts It is the responsibility of the officer undertaking the procurement to check whether the European Procurement Rules apply and if so, that they are complied with

Minor Contract Procedures – Decision Tree

This document should be read in conjunction with the Procurement Code of Practice and Contract Standing Orders. Cost Centre Managers must be familiar with both documents.

1.	Is the total contract value greater than £30,000	Yes	These procedures do not apply – refer to Contract Standing Orders for details of how to proceed
		No	Continue to step 2
2.	Is there a WCC mandatory contract	Yes	Use the mandatory contract – WCC’s Purchase Order terms and conditions can be used except for contracts for consultancy services, software or works
		No	Continue to step 3
3.	Is there an ESPO contract available for WCC use	Yes	Use the ESPO contract
		No	Continue to step 4
4.	Is there an OGC or other Authority contract available for WCC use	Yes	Use that contract
		No	Continue to step 5
5.	Is the total contract value < than £2,000	Yes	Obtain a verbal quotation from at least 1 supplier (confirmed in writing if > £500) and place an order through WCC financial systems
		No	Continue to step 6
6.	Is the total contract value £2,000 or above but < £10,000	Yes	Obtain verbal quotations from at least 2 suppliers (confirmed by the suppliers in writing). Place an order through WCC financial systems.
		No	Proceed to step 7
7.	Is the total contract value £10,000 or above but < £30,000	Yes	Obtain at least 3 written quotations using the WCC standard quotations template and place an order through WCC financial systems. Enter details in Contracts Management System
		No	Go back to step 1

Summary of Requirements if steps 5 – 7 apply

Value	Requirements
< than £2,000	A single oral quotation is acceptable (confirmed in writing if greater than £500) however a second quotation should be considered
£2,000 or above but < £10,000	At least 2 written quotations must be obtained before an order is placed through WCC financial systems. Fax / e-mail quotes are permissible
£10,000 or above but < £30,000	At least 3 written quotations must be obtained using the WCC standard quotations template before an order is placed through WCC financial systems – CMS Entry Required
£30,000 or above	These minor contract procedures do not apply and you should refer to Contract Standing orders

APPENDIX 2

CONTRACT SCHEME OF DELEGATION

WCC as Customer or Partner

	DELEGATION			
Total Contract Value	Column 1 Authority to start process	Column 2 Contract Terms	Column 3 Authority to award contract	Column 4 Contract Signing
Major Contracts (Including contracts awarded from framework arrangements and select lists) exceeding £3,000,000	Cabinet. This will be a key decision. This authority will also generally give the Strategic Director delegated authority to award the contract (i.e. Column 3 authority)	Strategic Director of Customers Workforce and Governance, unless standard terms and conditions have already been approved by the Strategic Director of Customers Workforce and Governance,	Generally N/a as covered by Column 1. Cabinet authority to award the contract may need to be sought in exceptional circumstances	Send to Strategic Director of Customers Workforce and Governance to arrange signing / sealing. The relevant authority must be provided at the same time
Major Contracts (Including contracts awarded from framework arrangements and select lists) £1,000,000 and above but not exceeding £3,000,000.	The Portfolio Holders for Resources and Customers, Workforce and Partnerships (acting jointly). This will be a key decision. This authority will also generally give the Strategic Director delegated authority to award the contract (i.e. Column 3 authority)	Strategic Director of Customers Workforce and Governance, unless standard terms and conditions have already been approved by the Strategic Director of Customers Workforce and Governance	Generally N/a as covered by Column 1. Portfolio Holders authority to award the contract may need to be sought in exceptional circumstances	Send to Strategic Director of Customers Workforce and Governance to arrange signing / sealing. The relevant authority must be provided at the same time
Major Contracts (Including contracts awarded from framework arrangements and select lists) £500,000 and above but below £1,000,000	Strategic Director (or in exceptional circumstances such as his/her absence on leave a Head of Service who has had the prior written approval of that Strategic Director). This will be a key decision	Strategic Director of Customers Workforce and Governance, unless standard terms and conditions have already been approved by the Strategic Director of Customers Workforce and Governance	Strategic Director (or in exceptional circumstances such as his/her absence on leave a Head of Service who has had the prior written approval of that Strategic Director).	Send to Strategic Director of Customers Workforce and Governance to arrange signing / sealing. The relevant key decision record must be provided at the same time

	DELEGATION			
Total Contract Value	Column 1 Authority to start process	Column 2 Contract Terms	Column 3 Authority to award contract	Column 4 Contract Signing
Major Contracts (Including contracts awarded from framework arrangements and select lists) EU threshold for goods and services and above but below £500,000	Head of Service or above	Strategic Director of Customers Workforce and Governance, unless standard terms and conditions have already been approved by the Strategic Director of Customers Workforce and Governance	Head of Service or above	Send to Strategic Director of Customers Workforce and Governance to arrange for signing and sealing
Ordinary Contracts £30,000 and above but below EU threshold for goods and services	Third Tier Manager (i.e. officer who reports directly to a Head of Service) or above	Strategic Director of Customers Workforce and Governance unless standards terms and conditions have already been approved by the Strategic Director of Customers Workforce and Governance	Line Manager or above of person who starts the process (column 1)	Third Tier Manager or above
Minor Contracts Below £30,000	Cost Centre Manager or above	Cost Centre Manager or above – Purchase Order terms can be used unless the contract is for works, software or the services of a consultant, in which case legal or procurement advice must be taken.	Line Manager or above of person who starts the process (column 1)	Cost Centre Manager or above

WCC as Supplier/ WCC Disposing of Assets

Total Contract Value	Delegation			
	Authority to start process	Contract Terms	Authority to award contract	Contract Signing
Above the EU threshold for goods and services	Strategic Director provided Strategic Director of Customers Workforce and Governance is satisfied on the legality of the bid and the Insurance Team Leader is satisfied that the activity is covered by the Council's insurance	Strategic Director of Customers Workforce and Governance unless standards terms and conditions have already been approved by the Strategic Director of Customers Workforce and Governance	Strategic Director provided Strategic Director of Resources is satisfied that the bid is financially practicable	Send to Strategic Director of Customers Workforce and Governance to arrange signing / sealing
£30,000 and above but below EU threshold for goods and services	Head of Service provided Strategic Director of Customers Workforce and Governance is satisfied on the legality of the bid and the Insurance Team Leader is satisfied that the activity is covered by the Council's insurance	Strategic Director of Customers Workforce and Governance, unless standard terms and conditions have already been approved by the Strategic Director of Customers Workforce and Governance	Head of Service or above provided Strategic Director of Resources is satisfied that the bid is financially practicable	Head of Service or above
Under £30,000	CCM or above provided Insurance Team Leader is satisfied that the activity is covered by the Council's insurance	CCM or above Insurance Team Leader	CCM or above	CCM or above

Exemptions from CSOs

Total Contract Value	Authority to apply for exemption	Authority to Approve Applications for exemptions
£10,000 and above	Strategic Director or Head of Service	Strategic Director of Customers Workforce and Governance and Strategic Director of Resources (or his/her nominee)
Under £10,000	Cost Centre Manager or above	Directorate Financial Services Manager and Directorate Contracts Coordinator

Notes

- Other responsibilities are detailed separately in the Contract Standing Orders. These must be followed as applicable in addition to the stipulations of this Scheme of Delegation
- The Strategic Director of Customers Workforce and Governance and the Strategic Director of Resources may reduce the value of minor, ordinary and major contracts as detailed above if they conclude that a Directorate's arrangements for agreeing contracts have not met the requirements of the Councils CSOs.

APPENDIX 3

EU THRESHOLDS – 1st January 2010 to 31st December 2011

Type of Contract	EU Threshold (Aggregate value – see point 6.1)
Goods	£156,442
Services	£156,442
Works	£3,927,260

AGENDA MANAGEMENT SHEET

Name of Committee **Audit & Standards Committee**

Date of Committee **3rd February 2010**

Report Title **Annual Audit Letter 2008/09**

Summary To consider the Annual Audit Letter 2008/09

**For further information
please contact:** Oliver Winters
Head of Finance
Tel: 01926 412441
oliverwinters@warwickshire.gov.uk

**Would the recommended
decision be contrary to the
Budget and Policy
Framework?** No.

Background papers None

CONSULTATION ALREADY UNDERTAKEN:- Details to be specified

- Other Committees
- Local Member(s) N/A
- Other Elected Members
- Cabinet Member
- Chief Executive
- Legal
- Finance
- Other Chief Officers
- District Councils
- Health Authority
- Police
- Other Bodies/Individuals

FINAL DECISION YES

SUGGESTED NEXT STEPS:

Details to be specified

- Further consideration by this Committee
- To Council
- To Cabinet
- To an O & S Committee
- To an Area Committee
- Further Consultation

Audit & Standards Committee - 3rd February 2010.

Annual Audit Letter 2008/09

Report of the Strategic Director, Resources

Recommendation

That the Committee considers the Audit Commission's Annual Audit Letter 2008/09.

1. Introduction

- 1.1 Following the completion of their annual audit, the Audit Commission produce a report summarising their findings. Attached is the Audit Commission's report highlighting their findings from the 2008/09 audit and the findings from the Comprehensive Area Assessment.
- 1.2 The key messages from the report are that an unqualified audit opinion on the Council's Statement of Accounts was given and we achieved Level 3 for the Use of Resources.
- 1.3 Representatives from the Audit Commission will be at the meeting to answer any questions that members of the Committee may have on the details of the report.

DAVID CLARKE
Strategic Director, Resources

Shire Hall
Warwick

07 January 2010

Annual Audit Letter

Warwickshire County Council

Audit 2008/09

December 2009



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Status of our reports

The Statement of Responsibilities of Auditors and Audited Bodies issued by the Audit Commission explains the respective responsibilities of auditors and of the audited body. Reports prepared by appointed auditors are addressed to non-executive directors/ members or officers. They are prepared for the sole use of the audited body. Auditors accept no responsibility to:

- any director/member or officer in their individual capacity; or
- any third party.

Key messages

This report summarises the findings from our 2008/09 audit and the findings from Comprehensive Area Assessment. It includes messages arising from the audit of your financial statements and the results of the work I have undertaken to assess your arrangements to secure value for money in your use of resources.

Audit Opinion and Financial Statements

- 1 I gave an unqualified audit opinion on the Council's statement of accounts on 30th September 2009. The draft financial statements were changed to correct a few errors, and we have agreed with officers actions for further improving the process in future.

Use of Resources and Value for money

- 2 This is the first year of the Audit Commission's new process for assessing Use of Resources. The new methodology sets higher standards and assesses a number of new areas. Warwickshire County Council has done well in achieving a score of 3 out of 4 under the new assessment and demonstrates it has adequate processes in place to manage its use of resources and deliver value for money. Consequently I have given an unqualified value for money conclusion.

Comprehensive Area Assessment - Organisational Assessment

- 3 This new assessment process brings together the judgements of a number of inspectorates and has concluded that Warwickshire County Council is performing well overall and services have improved in all areas that are important for local communities. As a result the Council has scored 3 out of 4 in this new assessment process.

Independence

- 4 I can confirm that the audit has been carried out in accordance with the Audit Commission's policies on integrity, objectivity and independence.

Financial statements and annual governance statement

The financial statements and annual governance statement are an important means by which the Council accounts for its stewardship of public funds.

Significant issues arising from the audit

- 5 I gave an unqualified audit opinion on the 30th September 2009. The draft financial statements were changed to correct a few errors which were reported through to the Audit Committee in our Annual Governance Report.

Material weaknesses in internal control

- 6 As reported last year we have reviewed the payroll system in two parts, central processing and those elements relating to the HR service centre. Walkthrough testing for central processing has confirmed that the system and controls are operating as expected. Walkthrough of the HR service centre transactions confirms that controls in relation to starters, leavers and variations are still not operating as expected or designed. An action plan is in place to address these issues, however we are unable to rely on controls testing in this area and have gained assurance using substantive testing.

Accounting Practice and financial reporting

- 7 I considered the qualitative aspects of your financial reporting. I reported on two issues in my Annual Governance Report. Officers have agreed to review the following for 2009/10.
- The working papers for fixed assets and specifically the audit trail for the note supporting the fixed asset numbers; and
 - Supporting working papers that are provided for all notes to the accounts.

Audit fees

- 8 We were able to deliver the audit within the fee agreed at the start of the year as summarised below.

Table 1 Audit fees

	Actual	Proposed	Variance
Financial statements and annual governance statement	£126,629	£126,629	0
Value for money	£92,027	£92,027	0
Total audit fees	£218,656	£218,656	0
Non-audit work - (Certification of claims and returns)	£10,469	£24,700	(£14,231)
Total	£229,125	£243,356	(£14,231)

- 9 We are required to report on your performance in relation to the certification work that we undertake. Appendix 1 contains the details of the returns we have audited on your behalf. We have not identified any actions that the authority needs to undertake to improve its performance in this area.

Value for money and use of resources

I considered how well Warwickshire County Council is managing and using its resources to deliver value for money and better and sustainable outcomes for local people, and gave a scored use of resources judgement.

I also assessed whether the Council has put in place adequate corporate arrangements for securing economy, efficiency and effectiveness in its use of resources. This is known as the value for money (VFM) conclusion.

Use of resources judgements

- 10** In forming my scored use of resources judgements, I have used the methodology set out in the [use of resources framework](#). Judgements have been made for each key line of enquiry (KLOE) using the Audit Commission's current four point scale from 1 to 4, with 4 being the highest. Level 1 represents a failure to meet the minimum requirements at level 2.
- 11** I have also taken into account, where appropriate, findings from previous use of resources assessments (updating these for any changes or improvements) and any other relevant audit work.
- 12** The Council's use of resources theme scores are shown in Table 2 below. Use of resources theme scores

Table 2

Use of resources theme	Scored judgement
Managing finances	3
Governing the business	3
Managing resources	2

- 13** This is the first year of the Audit Commission's new process for assessing Use of Resources. The new methodology sets higher standards and assesses a number of new areas. These include how the Authority manages environmental sustainability and how effectively it uses natural resources such as water and energy.

- 14** Warwickshire County Council has done well in achieving a score of 3 out of 4. It has good financial plans and manages its spending well. It is able to make difficult decisions that will enable it to improve. It is making sure that money is moved in areas that are top priorities. Although its finances are being hit hard by the recession, it has shown that it is good at improving efficiency and saving money. The Council has a good handle on costs and knows how its services compare so that it can improve where needed.
- 15** The Council has sound arrangements in place to manage its assets and is making good progress in managing the environment, but there is still room for improvement. A climate change strategy was developed in 2006 which includes information about its total energy use and resultant CO2 emissions and the amount of CO2 from staff travel. However, the strategy does not include data about the Council's use of water or other natural resources. It is working with partners and staff to gain their commitment to more sustainable ways of working but is not yet able to produce baseline data for a number of targets.

VFM Conclusion

- 16** I assessed your arrangements to secure economy, efficiency and effectiveness in your use of resources against criteria specified by the Audit Commission. From 2008/09, the Audit Commission will specify each year, which of the use of resources KLOE are the relevant criteria for the VFM conclusion at each type of audited body.
- 17** I issued an unqualified conclusion stating that Warwickshire County Council had adequate arrangements to secure economy, efficiency and effectiveness in its use of resources.

Financial Performance and Treasury Management

- 18** The last year has seen the country enter a significant economic recession. The consequence locally, is an increasing demand for public services and the likelihood of reduced levels of central government funding. Together, these provide a significant challenge for local councils as they seek to continue to provide services to local residents, whilst maintaining a sound financial position.
- 19** Despite the unprecedented set of circumstances which impacted upon the Council, spending was kept within budget. The Council showed it has a good understanding of its financial position and the challenges that it faces now and in the next three years.
- 20** The impacts of the recession will continue to present a challenge to the Council in the coming financial year. I will continue to monitor the Council's response and actions in this key area.
- 21** During the year the Audit Commission asked us to undertake some work on your treasury management practices to support this area within use of resources. We completed the work as required and did not identify any weaknesses with your current arrangements.

Comprehensive area assessment - Oneplace

The Comprehensive Area Assessment Lead has used my use of resources assessment along with an assessment of how well the Council manages its performance to come to an overall assessment for the Council. This is known as the organisational assessment.

- 22** Comprehensive Area Assessment, or Oneplace, is a new way of assessing local public services in England. It examines how well councils are working together with other public bodies to meet the needs of the people they serve. It is a joint assessment made by a group of independent watchdogs and will provide an annual snapshot of quality of life in the area. There is also an organisational assessment for each council with the CAA framework.
- 23** The organisational assessment brings together the use of resources judgement with the Council's managing performance assessment. Warwickshire County Council scores 3 out of 4 for managing its performance (the scoring system is the same as for Use of Resources).
- 24** Warwickshire County Council is performing well overall and services have improved in all areas that are important for local communities. It is continuing to develop its understanding of inequality across the county and is using this knowledge to narrowing the gaps. Most people like living in Warwickshire although the quality of life is generally better for people living in the south of the county than the north. Most of the Council's services perform well, are improving and provide value for money.
- 25** Overall, educational attainment continues to be above the national average. Good progress is being made to lift schools out of special measures and there are better exam results at schools that do not perform as well. Children from some ethnic backgrounds are doing much better because of increased support. Children in the care of the local authority are also showing signs of doing better in their exams. Progress with increasing the number of older people living independently with support from the Council is particularly good. And the county's first extra care housing schemes opening in 2009 signals the first step towards better choices for older people who do not need more intensive residential care.
- 26** This year has seen recycling levels rise faster than anywhere else in the country. Warwickshire's homes are better protected from flooding. The Council is providing more help to Warwickshire's businesses although this is an area where the impact is small so far. Warwickshire is a safe place to live. Crime, anti-social behaviour is low and going down and roads are safer. More work is needed to help reduce the fear of crime, but work is underway to help with this.

- 27** As part of the new process the Council's Fire Service is assessed separately and was judged as performing adequately and achieved an overall score of 2 out of 4. The Authority has been slow to make the changes expected by the government's modernisation agenda for Fire Authorities. These changes are projected to provide a more efficient, modern fire service that balances emergency response with good prevention and protection work. The Authority understands the need for change and has recently proposed a major improvement plan which has the potential to deliver much greater value for money by driving efficiency savings alongside really improving services. To achieve this, the Authority is consulting with its communities to determine the way forward.
- 28** The Council's assessments are being reported separately by the Audit Commission's Comprehensive Area Lead for Warwickshire - Mary -Ann Bruce.

Closing remarks

- 29** I have discussed and agreed this letter with the Strategic Director, Resources. I will present this letter at the Audit and Standards Committee on 3rd February 2009.
- 30** Further detailed findings, conclusions and recommendations in the areas covered by our audit are included in the reports issued to the Warwickshire County Council during the year.

Table 3

Report	Date issued
Audit Plan	April 2008
Opinion Audit Plan	May 2009
Annual Governance Report	September 2009
Use of Resources Report	November 2009
CAA and Organisational Assessment Reporting	December 2009
Annual Audit Letter	December 2009

- 31** The Council has taken a positive and constructive approach to our audit. I wish to thank the Council staff for their support and co-operation during the audit.

Dave Rigg
District Auditor
December 2009

Appendix 1 – Results of Certification of Grant Claims and Returns

- 1 In September 2009 the Audit Commission published its report: Review of Arrangements for Certifying Claims and Returns. The review included a number of recommendations aimed at raising the importance and profile of certification work with authorities and encouraging authorities to improve standards of claims and returns preparation. As a result of the national report, auditors are required to report annually on the results of certification work to those charged with governance.
- 2 For Warwickshire County Council during 2008/09 we were required to certify four returns. These are included in the table below, along with the number of claims that were amended or qualified and the certification fees charged.

Table 4 Certification returns for Warwickshire County Council

Name of Return	Value of Return	Fee Charged £	Amendment Required	Qualification Required
General Sure Start (EYC02)	£11,877,269	2,785	No	No
Teachers' Pension Return (PEN05)	£146,899,244	4,018	Yes	No
S31 - Nuneaton Development Scheme (TRA11)	£615,000	1,450	No	No
S31 - Rugby Western Relief Road (TRA 11)	£11,957,749	2,216	No	No

- 3 The table demonstrates that there was only one claim where an amendment was required. The amendment was for £4,105 and was required to ensure that the figures on the return agreed to the payroll records. The fact that we were only required to make one minor amendment to these claims is a reflection of the high quality working papers produced to support the claims that we certify. We have not identified any actions that the authority needs to undertake to improve its performance in this area.

The Audit Commission

The Audit Commission is an independent watchdog, driving economy, efficiency and effectiveness in local public services to deliver better outcomes for everyone.

Our work across local government, health, housing, community safety and fire and rescue services means that we have a unique perspective. We promote value for money for taxpayers, auditing the £200 billion spent by 11,000 local public bodies.

As a force for improvement, we work in partnership to assess local public services and make practical recommendations for promoting a better quality of life for local people.

Copies of this report

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www.audit-commission.gov.uk

Other Bodies/Individuals

FINAL DECISION YES

SUGGESTED NEXT STEPS: Details to be specified

Further consideration by this Committee

To Council

To Cabinet

To an O & S Committee

To an Area Committee

Further Consultation

**ITEMS FOR FUTURE MEETINGS
RELEVANT TO THE WORK OF AUDIT AND STANDARDS COMMITTEE**

MEETING DATE	ITEM AND RESPONSIBLE OFFICER	Minute Reference	REPORT TYPE				CORPORATE PRIORITIES/LAA			
			Member Requested Item	Performance Management	Policy Review/Development	Overview	Raising Levels of Educational Attainment	Caring for Older People	Pursuing a Stable Environment and	Protecting the Community and
11/5/10	Internal Audit Report for the period 1 January 2010 to 31 March 2010 EXEMPT (Garry Rollason)			X						
	Corporate Governance Audit (results of the 2009/10 Corporate Governance Audit) (Garry Rollason)			X						
	Annual Governance Statement (Garry Rollason)			X						
	Standards Board Bulletin (Jane Pollard)(subject availability)									
23/09/10	Standards Board Bulletin (Jane Pollard)(subject to availability)			X						
				X						

MEETING DATE	ITEM AND RESPONSIBLE OFFICER	Minute Reference	REPORT TYPE				CORPORATE PRIORITIES/LAA			
			Member Requested	Performance Management	Policy Review/ Development	Overview	Raising Levels of Educational	Caring for Older People	Pursuing a Stable	Protecting the
23/11/10										
	Internal Audit Report for the period 1/4/2010 to 30/06/2010 EXEMPT (Garry Rollason)			X	X					
	Use of Resources and Feedback 2009/2010 (Audit Commission)			X	X					
				X						
24/02/11 (provisional)	Standards Board Bulletin (Jane Pollard) (Subject to availability)									
	Annual Audit Letter (Audit Commission)			X	X					
Dates not set										
On going Issues to be monitored	Arrangement of training for members on the Comprehensive Area Assessment			X	X					