



CAPITAL INVESTMENT PROGRAMME

GUIDANCE DOCUMENT

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**CABINET
JULY 2008**

CAPITAL INVESTMENT PROGRAMME

1. Executive Summary

- 1.1 To ensure that Members and officers are aware of the Council procedures and rules relating to capital expenditure this Guidance Document consolidates information that is otherwise contained in a series of documents and is subject to an annual review.

2. Introduction

- 2.1 The Council plans to spend £80 million in 2008/09 on the capital programme with this funded through a variety of sources including grants, borrowing and capital receipts. All impact upon the revenue budget and authorities are not limited in spending on capital investment as long as any plans can be funded.
- 2.2 Capital expenditure involves acquiring or enhancing fixed assets with a long term value to the Authority, and includes land, buildings, major items of plant, equipment or vehicles and IT equipment. Capital assets shape the way services are delivered in the long term and create financial commitments for the future in the form of financing costs and revenue running costs.
- 2.3 The investment is based upon the Capital Strategy which identifies the links with the Corporate Plan and with insufficient resources to meet all aspirations the Strategy is aimed at meeting the Council priorities. The Asset Management Plan then identifies the cost of maintaining existing assets. Both the Capital Strategy and Asset Management Plan are reviewed each year.

3. Responsibilities under the Council constitution

- 3.1 The Director of Finance is responsible for:
- The production of the Council's capital programme,
 - The development of corporate prioritisation methodologies to assist the Council in determining the capital programme within defined resource limitations.
- 3.2 The Deputy Chief Executive/Director of Corporate Services is responsible for:
- The production of the Council's Asset Management Plan and the overall management and control of the Council's assets.
- 3.3 Chief Officers are responsible for:
- The development, implementation and monitoring of the capital programme;
 - Ensuring that the Cabinet is advised of the financial implications of all proposals and that these implications have been agreed by the Director of Finance,
 - Ensuring that all capital proposals have undergone a project appraisal such that projects have been properly costed, are robust and deliverable within the proposed budget. They should be presented in the form of a Business Case showing how the project meets Council objectives, details

of how it will be managed, including resource implications and the expected outcomes.

4. Identification of schemes for inclusion

- 4.1 Suggestions for schemes can come from Members and officers of the Council and from public consultation. Each Chief Officer should identify those schemes that they regard as priorities.
- 4.2 The Capital Investment Programme is for projects over £100,000. The Property Maintenance allocation is for all asset related works between £10,000 and £100,000. Any projects costing less than £10,000 are to be met from departmental revenue budgets.
- 4.3 All schemes require a project appraisal if they are to be considered for inclusion in the capital programme. This takes the form of a Business Case setting out the justification for the project, the resource implications and expected outcomes. Produced by the nominating department this requires input from the Directors of Corporate Services, Technical Services and Finance.
- 4.4 Business Cases for projects in excess of £100,000 which include Invest-To-Save related projects have to be submitted, in the prescribed form, by 30 September to the Director of Finance.

Appendix A - Business Case form.

Appendix B - Guidance for the completion of the Business Case.

5. Prioritisation of scheme submissions

- 5.1 With insufficient resources available to meet all submissions they are evaluated against the prioritisation criteria that reflect the Council priorities. These criteria are reviewed annually to ensure that they reflect the latest Corporate Plan.
- 5.2 The submitted Business Cases are reviewed and scored by the Directors of Corporate Services, Technical Services and Finance to produce a list in priority order that will be referred to the Capital Strategy Group in November.
- 5.3 The scoring is based on whether the submissions meet the criteria with an appropriate weighting given to each criteria. Those submissions scoring in excess of 50% of the total are deemed to be the priority schemes.
- 5.4 Submissions for the Property Maintenance programme will be reviewed by the Directors of Corporate Services and Technical Services and be subject to prioritisation against the Asset Management Plan.

Appendix C - Prioritisation evaluation criteria and weightings.

6. Approval of the Capital Programme

- 6.1 A capital programme report is produced for Cabinet in December that provides an update on existing projects, a prioritised list of new schemes and includes comments on the resource implications having regard to the opportunities presented by the Prudential Code.
- 6.2 Cabinet make a recommendation to Council and it is Council which approves the capital programme.

7. Implementation of Capital Projects

- 7.1 After Council approval Chief Officers issue instructions to commence work on approved schemes. There should be no expenditure incurred that is outside the scope of the approved programme and no expenditure can be incurred before the programme is approved.
- 7.2 Chief Officers are responsible for ensuring that all contracts are properly procured in accordance with the Contract Procedure Rules. For projects in excess of £50,000 this requires the full tendering procedure to be followed and for those between £10,000 and £50,000 three written quotations are required. If the returned quotations exceed this threshold then subsequent formal tendering procedures should be adopted.

8. Monitoring of the programme

- 8.1 Departmental Chief Officers have processes in place to regularly review the performance of projects, to identify progress compared to key dates and targets. Any financial issues should be referred to the Director of Finance.
- 8.2 Each department has monthly meetings to review the progress of schemes against the approved capital programme and the financial position/projections.
- 8.3 The Director of Finance provides a summary of the programme to Cabinet and Finance & Best Value Overview & Scrutiny Committee each quarter. The links to the need to borrow are also covered in the General Financial Matters report to Finance Committee. Additionally there is a year-end out-turn report to Cabinet.
- 8.4 The summary is based on the submissions from each Departmental Director that includes an overview highlighting progress being made on the schemes approved as part of the programme. This includes references to:-
- The original approved programme;
 - Approved variations to the programme;
 - Details of actual and forecast expenditure for each project;
 - Comments on any variations (actual and forecast);
 - Comments on future years;
 - Identification of funding.

8.5 Responsibility for financial management within the Council, including the capital programme, is with the Director of Finance. All officers involved have a responsibility to ensure that monitoring reports are comprehensive and reflect all current spend and commitments. This would include any exceptional cases of schemes not explicitly in the agreed programmes.

9. Virements and Variations

9.1 Chief Officers, in consultation with the Director of Finance, are responsible for reporting all variations on capital schemes to Cabinet. Overspends will form the first call on the budget whilst underspends will enable Cabinet the opportunity to include the next priority scheme.

9.2 The Council Constitution - Contract Procedure Rules states that the responsible Chief Officer shall record every Variation Order or extra works order immediately it is raised. If the issue of Variation Order(s) would at the date of the order cause the final contract price to exceed the original contract sum by more than £50,000 or 10%, whichever is the lower, the Chief Officer must immediately inform the Director of Finance. The issue of the variation must subsequently be reported to Cabinet or regulatory committee as appropriate for noting within the following three months. This rule applies to all contracts as defined in Contract Procedure Rule 4.1, including those based on an 'Agreed Maximum Price'. The report must adequately explain the reasons for the variation.

10. Asset Register

10.1 An accurate and up-to-date Corporate Asset Register is a legal requirement and ensures that assets are properly purchased, identified and safeguarded.

10.2 Under the Council constitution the Director of Finance is responsible for ensuring that an asset register is maintained in accordance with current professional practice for all fixed assets in excess of a cost of £5,000.

10.3 The Deputy Chief Executive/Director of Corporate Services is responsible for:

- Ensuring that an appropriate register is maintained of all land and buildings owned by the Authority to ensure that they are
 - (a) safeguarded;
 - (b) used efficiently and effectively;
 - (c) adequately maintained;
- The valuation of all land and buildings owned by the Authority on a rolling programme at appropriate intervals. This should be carried out in accordance with the relevant Codes of Practice for Local Authority Accounting, and best professional practice.

10.4 Chief Officers must maintain a property database for all properties, plant and machinery and moveable assets currently owned or used by the Council and, in terms of the asset register, are responsible for:

- ensuring the proper security of all buildings and other assets under their control;

- identifying land or buildings which are surplus to requirements;
- arranging for the valuation of assets for accounting purposes to meet requirements specified by the Director of Finance.

11. Sources of further information

- 11.1 Capital Strategy and Asset Management Plan - Cabinet 23 July 2008.
Financial and performance management - Cabinet 3 April 2008.
Constitution (including Contract Procedure Rules) - Cabinet 9 July 2008.

CAPITAL INVESTMENT PROGRAMME

BUSINESS CASE FORM

SECTION 1: PROJECT DETAILS	
1a. Name of Project:	
Name of Project Manager: Department: Contact details:	
1b. A brief description of the project.	
1c. Project Objectives - What is it to achieve and links to other projects?	
1d. What alternatives were considered to this proposed project?	
SECTION 2: CORPORATE OBJECTIVES	
2a. Which of the corporate objectives does the project address? And how?	
2b. How does the project fit with other Council plans and strategies?	
2c. Does the project address national initiatives? (e.g. shared services, etc)	
2d. Is the project in response to a statutory need? (e.g. Health & Safety)	

SECTION 3: RESOURCES

3a. Show the capital cost of your project, estimated timescales and sources of funding - this should involve liaison with Technical Services

Total cost of the project :
Timescales and timing of spend :
Funding for the Project: :
This should include grants, other contributions and bid for capital programme

3b. Are there conditions attached to any grants or other funding?

3c. Are there any revenue implications from the project? (e.g. increase or decrease in running costs)

3d. Are there any other resource implications from the project? (e.g. staff, IT)

3e. Detail how this project demonstrates value-for-money. Focus upon the longer-term benefits of the project e.g Invest-To-Save.

3f. What are the risks associated with this project?

Identified Risk to Project
Likelihood of Occurrence
Impact
Prevention Strategy
Management Strategy

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SECTION 4: OUTCOMES

4a. What measurable outputs will your project generate? (e.g. jobs created, assets created future savings, etc)

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4b. How does the project address wider community issues such as healthy lifestyle, training and learning, vulnerable people, etc?

--

4c. You will be required to evaluate the project when it is complete. What will be the benefits, measurable and unmeasurable, that will show success?

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SECTION 5: AUTHORISATION

I confirm this project is a departmental priority, that all legislation and corporate guidance will be followed, that consultation has taken place with regards to technical, asset management and information technology and that there are the necessary resources to manage it successfully within the budget and timescales shown in the business case.

Signed:
Chief Officer

Date:

For Use by Corporate Monitoring Group

Appraised by (please initial):
Finance
Corporate Services
Technical Services

Project Score:

CAPITAL INVESTMENT PROGRAMME

GUIDANCE FOR THE COMPLETION OF THE BUSINESS CASE

Introduction

Wirral Council invests around £80 million each year in its assets. It is important that this investment reflects Wirral's objectives and projects are robust and deliverable. The process that projects go through and guidance on how to complete the Business Case are shown in this document.

Completion of Business Case form

The Business Case is an opportunity to bid for resources from the capital programme and demonstrate that the project is achievable. All projects above £100,000 need a completed Business Case that is scored against a set of criteria.

The capital programme never has enough resources to fund all projects so this involves comparing projects and only the best will be accepted. These notes will assist in the production of the Business Case which is in five parts:-

Section 1 enables us to be clear what the project is about and who is managing it.

Section 2 allows you to demonstrate how it fits in with corporate and national objectives and whether the project is a statutory requirement.

Section 3 asks for details of how the project will be resourced.

Section 4 allows you to demonstrate the wider impact of your project.

Section 5 ensures that it is properly authorised by your department.

The examples shown in this guidance give an idea of the sort of issues to consider although the actual application should give greater detail where necessary. The application should be completed electronically and whilst an electronic version may be submitted a signed paper copy is required.

SECTION 1: PROJECT DETAILS

1a/b. This should clearly state who has responsibility for the project and enable someone with no background knowledge to understand what the project will do.

1c. The objectives should be clearly stated so an independent person can see if the project has achieved what it set out to do:

Example:

Repair or replace defective lighting columns

- This is not an objective, as it cannot be measured.

Repair or replace all lighting columns on Cleveland Street by 31 March 2009

- This is an objective as it is clear what can be measured.

1d. The application must show how it was decided to do this project as it may not be the only solution. State what other approaches were considered and why were they rejected in favour of this one and include the option of not taking any action.

Example:

Option 1: Do nothing. Costs: £nil capital, but revenue costs would increase, likely to breach Health & Safety and fire regulations. Benefits: none

Rejected on Health & Safety grounds

Option 2: Refurbish total building. Costs: Additional £0.5m Benefits: Excellent facility that would be very popular locally.

Rejected as too costly and full refurbishment would add little additional value.

Option 3: Sell building and replace it with a new facility. Cost: likely £2m+ Benefit: purpose built modern facility.

Rejected as little capital value in current site, lack of suitable local sites to build on.

SECTION 2: CORPORATE OBJECTIVES

2a. The Council has 5 corporate objectives:

To create more jobs, achieve a prosperous economy and regenerate Wirral.

To create a clean, pleasant, safe and sustainable environment.

To improve health and well-being for all, ensuring people who require support are full participants in mainstream society.

To raise the aspirations of young people.

To create an excellent Council.

The application should demonstrate how the project links to one or more of the objectives. This should be a clear statement that includes how it contributes to improving service in that area and should only include clear attributable links and not secondary or vague links.

Example:

The project will enable the Council to better meet the housing needs of the people of Wirral as it will be removing 10 houses that are unfit, renovating 10 others to a Decent Homes standard and carrying out environmental works that will improve the appearance of the area.

The project will also contribute to making Wirral safer as the houses to be demolished have been the subject of arson attacks and numerous complaints from local residents about illegal activity such as drug taking.

2b. The Council has other plans and strategies, including the Asset Management Plan that determines the use of buildings and land it owns. Any proposal to carry out significant works should involve consultation with the Asset Manager who will give you appropriate advice.

2c. There are a significant number of national initiatives that the Council considers to be important and is working towards. As with the corporate objectives, state clearly links to national initiatives and how the project contributes to achieving them.

Example:

The project will provide new facilities for waste recycling enabling the Council to reduce its percentage of landfill to XX% in line with government targets and reduce the amount of landfill tax paid by the Council by £XXX.

2d. There are a number of requirements that are governed by law. If this project prevents us from contravening any legislation or will ensure we are able to meet upcoming legislative changes they should be detailed clearly.

Example:

The building no longer meets fire regulations or complies with the Disability Discrimination Act. The Council's Health, Safety and Hazards Manager has also reported that the toilet facilities are inadequate. The refurbishment will ensure that all of these requirements are met.

SECTION 3: PROJECT RESOURCES

3a. The cost of the project should be shown in this section. Where the exact costs are not known, as tenders are required, the best estimate should be entered and this will require assistance from the Technical Services Department.

All known funding should be included. If funding is not known or there is not enough to fund the whole of the project then any balance should be shown in the 'Programme' row as this is what is being requested from the capital programme.

Example:

After liaising with Technical Services the cost of the project has been assessed at £2 million. It will be completed in 30 weeks and this should be commenced during the summer so will cover two financial years. It is to be partially funded by a £1m grant that is payable on completion and £1m from the capital programme.

3b. Any grants or other contributions that will be used should be listed, together with their conditions e.g. time limited, restricted to certain types of expenditure, claw-back conditions etc. If capital receipts are to be used, state what the assets are, whether they have already been sold and the receipt previously earmarked for this project.

Example (Continued from example above):

There is a Regional Development Agency grant of £1m available but this can only be paid after we have spent at least £1m, it will become repayable should we sell the building within 3 years.

The balance is required from the capital programme over two years to fund initial fees and retention payments.

3c. If the project will generate revenue savings or additional costs they should be detailed here along with an explanation of how these will be dealt with in the budget.

Example:

During the refurbishment, the building will be closed with the following effects:
There will be a net cost to the department of £4,500 during the refurbishment which will be contained within departmental budgets. Once the building has been refurbished, it is estimated that running costs will reduce by £4,000 per year and £16,000 per year more income will be generated due to better facilities. This has been built into future years budgets.

3d. This section is asking if your project requires any other resources to ensure that it is successfully delivered. The relevant areas of within the Council should be considered.

Examples

This would includes schemes which have an impact on another department or area of service or where information technology is involved.

3e The project costs having been identified this section should identify how value for money can be demonstrated. For this reference may be needed to looking at the financial issues over the longer term period known as 'whole-life costing'.

Examples

Examples of where this could be applied are Invest-To-Save projects which produce future revenue savings that follow from an initial capital investment. These would be similar to those undertaken in respect of the Oval Sports Centre football facilities and the Energy Efficiency Programme.

3f. Any project will be subject to a number of risks. The key risks should be identified including an assessment of the likelihood that they will happen and what the impact would be. State what is being done to prevent this happening action if it did happen.
Example:

Example:				
Identified Risk	Likelihood	Impact	Prevention	Action if risk occurred
Tenders received are substantially higher than the estimate	Low	High	Scheme has been properly surveyed and costed	Scheme would be revised to exclude some elements
The ground conditions are unsuitable	Low	Very High	Full ground survey done, project to start in summer	Reschedule some elements, calculate new end dates and costs, revise the scheme if needed

SECTION 4: OUTCOMES

4a. The project will generate outputs being the visible results of the project that should be identifiable and quantifiable. They should be listed and state how they will be measured.

Example:

The scheme should result in:
 a reduction in the number of accidents involving pedestrians in the area.
 a reduction in the number of minor vehicle accidents.
 a reduction in the number of vehicle related crimes.
 If the project will reduce the number of accidents etc, ensure that this information is available so that this can be measured now and in the future..

4b. The project may have an impact on the wider community. State here whether it will help partners, customer access, joint working or develop service provision.

Example:

The refurbished community centre will be available to all local residents. The neighbourhood newsletter will encourage residents to make use of the new facilities and we will offer discounts to them. Discussions are taking place with the police and health services to hold advice sessions there and the CAB has agreed to hold regular sessions. A number of adult learning sessions and club events currently take place and these are likely to expand as a result of this investment.

4c. What factors will demonstrate that the project was worthwhile and represented a good investment by the Council? These may be indirect or quality of life factors that may not be easy to measure, and may not be the direct responsibility of the council.

Example:

The criteria used will be:-

Whether the project finished on time, specification and budget.

Stakeholders have accepted it as an appropriate investment

(State how this would be measured)

It has or will achieve the desired outputs and outcomes.

(State how this would be measured)

SECTION 5: AUTHORISATION

Ensure that the application is signed by the Chief Officer as they are ultimately responsible for the project. Once authorised the application should be sent to the Director of Finance.

The project will then be appraised and scored with all scored projects then ranked. Those scoring in excess of 50% will be recommended to Cabinet for inclusion in the Capital Programme. No project should start until members have agreed the programme.

CAPITAL INVESTMENT PROGRAMME

PRIORITISATION EVALUATION CRITERIA AND WEIGHTINGS

PRIORITISATION CRITERIA	%	CORPORATE OBJECTIVE
1 Will the scheme create employment opportunities or assist in attracting private sector investment?	15	To create more jobs, achieve a prosperous economy and regenerate Wirral.
2 Will the scheme have environmental or streetscene benefits or impact on crime or health and safety?	15	To create a clean, pleasant, safe and sustainable environment.
3 Will the scheme cater for vulnerable people or address health inequality or contribute towards healthy lifestyle?	15	To improve health and well-being for all, ensuring people who require support are full participants in mainstream society.
4 Will the scheme have any educational attainment or learning opportunities or training benefits?	15	To raise the aspirations of young people.
5 Will it impact on revenue or attract significant external funding and build upon partnership working?	15	To create an excellent Council.
6 Does the scheme contribute towards more than one Corporate Strategy or the achievement of cross-cutting aims?	10	Partnership working is seen as integral to the future of the Council
7 Does the scheme provide value for money for the Council in terms of the use of its resources?	10	Value for money is desired in the delivery of all services
8 Are the outcomes clear and result in improvements in performance?	5	Performance, and improved performance, is recognised as a priority

NOTES

- 1 Schemes, as per the Business Cases, will be scored against the criteria on the basis of not meeting to fully meeting the objectives on a 0-2 basis.
- 2 The % shown are the weightings that apply to each of the criteria.
- 3 Schemes which score in excess of 50% will be recommended for inclusion in the Capital Programme.

CAPITAL INVESTMENT PROGRAMME

SUMMARY OF THE GENERAL TASKS AND RESPONSIBILITIES

Task	Responsibility	Time / Date
Identify departmental priority schemes	Chief Officers	On-going
Ensure that approved projects are procured and delivered	Chief Officers	On-going
Oversee the financial management of the capital programme	Director of Finance	On-going
Report variations to schemes within the approved programme	Chief Officers	As required
Authorise increases in the budgeted levels of expenditure for schemes	Cabinet / Council	As required
Produce monitoring reports for Director of Finance	Chief Officers	Quarterly
Produce monitoring reports to Cabinet / Finance & Best Value Overview & Scrutiny Committee	Director of Finance	Quarterly
Review Capital Strategy and Guidance Document and report to Cabinet	Director of Finance	July
Consider the annual review of the Capital and other Strategies and Guidance Document	Cabinet	July
Prepare Business Case submissions for schemes to be included in the programme	Chief Officers	September
Consider and prioritise Business Case submissions	Capital Group	October/November
Produce the annual Capital Programme report to Cabinet / Council	Director of Finance	December
Approve the Capital Programme – including the new schemes	Cabinet / Council	December
Produce year-end reports to Cabinet / Finance & Best Value Overview & Scrutiny Committee	Director of Finance	June

CONTRACT PROCEDURE RULES

(EXTRACT FROM COUNCIL CONSTITUTION – SECTION 4 – JULY 2008)

1 General

1.1 Legislative Compliance

- 1.1.1 Every procurement contract made by the Council, the Cabinet, a regulatory committee (including the Pensions Committee on behalf of the Merseyside Pension Fund) or Officer acting for the Council, shall comply with any relevant Directives of the European Community in force in the United Kingdom, and with UK Statutes and Statutory Instruments.
- 1.1.2 In the event of a conflict arising between European Union Directives, UK Statutes and Statutory Instruments and the remainder of these Rules, the Directive, Statute or Statutory Instrument will prevail.
- 1.1.3 Within the framework of these requirements the Council has adopted the recommendations of the Egan Report and where appropriate will apply a partnering approach to its procurement arrangements, and seek to conclude arrangements which accord with the principles of best value.

1.2 Compliance with Contract Procedure Rules

- 1.2.1 Article 14.2 of the of the Council Constitution 'Contracts' states 'Every contract made by the Council will comply with the Contract Procedure Rules set out in Part 4 of this constitution', unless it conflicts with Statutory provisions.
- 1.2.2 The Contract Procedure Rules do not apply to:
 - (i) Contracts of employment (see Employment Procedure Rules).
 - (ii) The acquisition or disposal of land.
- 1.2.3 No exception from any of the provisions in these Contract Procedure Rules shall be made unless directed by the Council, Cabinet or regulatory committee, or permitted under powers delegated by them.
- 1.2.4 Every exception made shall be reported to the Council, Cabinet or regulatory committee. This should detail the circumstances that justify the exception.

1.3 Procurement on Behalf of the Merseyside Pension Fund

- 1.3.1 Procurement of work, goods and services on behalf of the Merseyside Pension Fund shall comply with these Contract Procedure Rules.
- 1.3.2 Contracts valued at less than £500,000 will be awarded by the Director of Finance. Contracts above this amount will be awarded by the Pensions Committee.

2 Role of the Corporate Procurement Unit

- 2.1 The Corporate Procurement Unit (CPU) is the Authority's specialist section for procurement, and is comprised of procurement professionals. The unit is available to give expert advice on procurement matters and shall be consulted on all occasions where Authority employees are involved in the procurement process. On line procurement advice is available on the Procurement Services webpage on the Authority's intranet.

3 Prerequisite for Entering a Contract

- 3.1 Before entering into any contract a Chief Officer shall be satisfied that budgetary provision exists before any expenditure is incurred.
- 3.2 Before entering into any contract where the value is likely to exceed the relevant threshold under the European regulatory regime for 'works', 'supplies' or 'services', an advertisement will be placed in the Official Journal of the European Union.

4 Procurement Procedures and Thresholds

- 4.1 The procurement of works, supplies or services valued at more than £50,000 (excluding VAT) must be made in accordance with Rules 5 to 17 below.
- 4.2 The procurement of works, supplies or services valued at less than £50,000 (excluding VAT), if not carried out in accordance with Rules 5 to 17, must be made by Official Order in accordance with Rule 18 and 19 below.
- 4.3 In calculating the values in 4.1 and 4.2, contracts must not be divided to avoid the competitive procurement requirements as above.

5 Exceptions to Procurement Procedure

- 5.1 The procurement of works, supplies and services valued at greater than £50,000, but less than any applicable thresholds under European Regulations, may be made by Official Order in accordance with Rules 18 and 19 in the following circumstances (but only after consultation with the Chief Executive):
- 5.1.1 Where there is only one viable supplier and there would be no genuine competition. This action must be reported to Cabinet or the appropriate regulatory committee.
- 5.1.2 Where the supply is an extension of an existing contract. This must be approved by Cabinet or the appropriate regulatory committee and provide value for money for the Council.

- 5.1.3 Where the supply is required so urgently that it is not possible to invite tenders. This must be reported to the next Cabinet or appropriate regulatory committee.
- 5.1.4 Where tenders have already been invited by a Local Government consortium or other public body e.g. the Office of Government Commerce, in accordance with the procurement procedures of that organisation, being subject to the provisions of any European or UK procurement legislation.
- 5.2 Where in the opinion of the Cabinet or appropriate regulatory committee it is in the Council's interests to do so, a single tender may be invited from a contractor or supplier, or negotiated with a supplier already engaged by the Council. The justification for this must be reported to the Council.

6 Obtaining Expressions of Interest

- 6.1 With the exception of the Standing List procedure in Rule 10, before entering into any contract a Chief Officer shall invite potential contractors to express their interest in tendering for the supply of works, supplies or services by:
- 6.1.1 Where the extent of the supply is valued at more than the threshold sum determined by the European Community the appropriate advert shall be placed in the Official Journal of the European Union: or
- 6.1.2 By advertisement in one or more local newspaper and in at least one newspaper or trade journal as considered suitable by the Chief Officer, giving at least four weeks for contractors to reply.
- 6.1.3 By any other means that the Chief Officer deems equally effective or appropriate providing that 6.1.1 does not apply.
- 6.2 All advertisements shall state:
- (i) the nature and purpose of the works, goods and services to be supplied;
 - (ii) the criteria by which contractors will be assessed. This will include their technical ability and financial standing.

7 Assessment of Technical Ability and Financial Standing

- 7.1 On receipt of expressions of interest in tendering for a contract, and prior to dispatching invitations to tender, the relevant Chief Officer shall make appropriate enquiries as to the contractor's technical ability and financial standing.
- 7.2 No invitation to tender documentation shall be sent to a contractor who does not meet any pre-qualification criteria either under restricted procurement arrangements of the European Community or as set out in the original advertisement.

- 7.3 The relevant Chief Officer shall record the reasons for disqualifying any contractor from tendering.

8 Invitation to Tender

- 8.1 If open procurement rules are followed the relevant Chief Officer shall dispatch identical tender documentation to each contractor who has expressed an interest in the contract.
- 8.2 In cases other than the above, the relevant Chief Officer shall select wherever possible no fewer than four potential contractors from the list and dispatch identical tender documentation to them.
- 8.3 A record should be made of those contractors who have been invited to tender. A copy shall be sent to the Head of Legal and Member Services.

9 Corporate Contracts

- 9.1 Corporate Contracts are to be used for the supply of goods and services. The responsibility for negotiating Corporate Contracts is vested in the Corporate Procurement Unit. Once negotiated the contract must be approved by the Cabinet. (See Definition in 20.6).
- 9.2 The award of a Corporate Contract is subject to the normal tendering procedures as detailed in CPR's 6, 7, 8 and 10. The contract will be retendered at appropriate intervals.
- 9.3 Where Corporate Contracts are in existence, they must be used by a Chief Officer wishing to purchase goods within the scope of the contract. Any requirement to purchase such goods from suppliers other than the Corporate Contract must be approved by the Director of Finance through the Corporate Procurement Unit. (See definition 20.6).

10 Standing Lists of Contractors

- 10.1 With the agreement of the Cabinet, Executive Board or appropriate regulatory committee that a series of contracts of a similar nature are to be awarded, the relevant Chief Officer may invite expressions of interest from contractors to be entered onto a standing list for the supply of specified works, supplies and services.
- 10.2 In reaching a decision in 10.1 above, Cabinet, Executive Board or appropriate regulatory committee shall be satisfied that the standing list shall be subject to continuous review by the relevant Chief Officer.
- 10.3 Any contractor, who requests inclusion on a standing list shall, subject to assessments of technical ability and financial standing, be added to the standing list.
- 10.4 Any standing list of contractors shall be compiled and maintained by the responsible Chief Officer. This list should give details as to which type and

value of contracts a contractor is approved to tender for. On the completion of a contract the responsible Chief Officer shall review the performance of the contractor and their continuing entry on the standing list.

- 10.5 Any standing list of contractors shall be reviewed and amended as required from time to time, following advertisement or such arrangements that the Chief Officer considers appropriate. The results shall be reported to the relevant select committee.
- 10.6 For the purpose of construction related projects, only those contractors who are Constructionline registered and CHAS accredited are to be used when compiling a list of tenderers.
Constructionline is owned by the Department of Trade and Industry and is the UK's largest register of pre-qualified construction contractors.
CHAS is the Contractor's Health & Safety Assessment Scheme.

11 Receipt and Opening of Tenders

- 11.1 No tender will be considered unless it is returned in a pre-printed tender envelope, or in a plain sealed envelope addressed to the Head of Legal and Member Services, marked tender for....." (specifying the contract), to the specified Council office by the closing date and time for receipt. These requirements shall be stated in the invitation to tender. On receipt the Head of Legal and Member Services shall keep the tenders in safe custody until the nominated time for opening them.
- 11.2 Tenders received within the time limit shall be opened at the same time and only in the presence of two of the following:
- (i) the Head of Legal and Member Services or his/her nominated representative;
 - (ii) any member of the Council;
 - (iii) the responsible Chief Officer or his/her nominated representative;
 - (iv) the Director of Finance or his/her internal audit representative if he/she so requires.
- 11.3 The Head of Legal and Member Services or his/her nominated representative shall record the names of the persons who submitted tenders and the amounts submitted. A copy of this list should be supplied to the responsible Chief Officer who shall check it for accuracy and report the amounts but not the names of unsuccessful tenderers, to the person/body authorised to accept the tender, if the contract is to be awarded by reference to price alone. The original record shall be kept by the Head of Legal and Member Services.

12 Late, Improper or Alternative Tenders

- 12.1 Subject to rule 12.2, no tender shall be considered or accepted if it is received after the specified closing date and time specified in the invitation to tender, or is in contradiction of Rule 11.1.

- 12.2 Tenders received at the specified location after the specified close, may be considered at the discretion of the Head of Legal and Member Services in consultation with the Director of Finance, and opened in accordance with the procedures in Rule 11. The Head of Legal and Member Services must be satisfied that any such tender was secure, and whilst in transit, out of control or access of the tenderer.
- 12.3 Any unacceptable tenders shall be opened by the responsible Chief Officer only to ascertain where the documents should be returned.
- 12.4 Responsible Chief Officers may permit contractors to submit a modified tender. This should not be considered unless a tender is also submitted based strictly on the invitation to tender documents.
- 12.5 Any tenderer who improperly canvasses members or employees of the Authority with regard to the tender process, may at the discretion of the Head of Legal and Member Services, be disqualified.

13 Errors in Tenders

- 13.1 Subject to rule 14.10, no tender shall be amended after it has been received except to correct bona fide errors. This shall be endorsed by the Director of Finance.

14 Acceptance of Tenders

- 14.1 The responsible Chief Officer is authorised to accept tenders on one of the two following bases:
- (i) Subject to the thresholds below, the lowest tender (or highest if the payment is to be received by the Authority): or
 - (ii) The most economically advantageous tender should be accepted using as a basis an appropriate evaluation model. The evaluation model should be approved by the evaluation panel established under 14.3 (below) which should have regard to guidance issued by the CPU.
 - (iii) When the evaluation model has been approved by the evaluation panel, it shall be lodged with the Corporate Procurement Unit, prior to tenders being received.
- 14.2
- (i) The Chief Officer when determining the evaluation model shall decide upon the appropriate balance between quality and price, having due regard to the nature of the services and the complexity of each contract.
 - (ii) The scoring methodology must be included within any invitation to tender, and set to achieve the optimum combination of whole life costs and benefits to meet the Council's requirements.
- 14.3 The responsible Chief Officer, after consultation with the CPU, shall decide whether the importance of a contract justifies the formation of an evaluation panel. The composition of the panel will depend on the nature of the contract. Consideration should be given to the inclusion of the following:

The Project Manager
Operational Manager(s)
Finance
Human Resources
Legal Services
Procurement
Specialist Consultant (where appropriate)

- 14.4 Subject to paragraph 14.6, the responsible Chief Officer, under delegated powers, may accept tenders and quotations below £500,000 provided that:
- (i) the appropriate provision in the budget has not been reserved for further consideration by the Council, and the tender does not exceed that provision by more than 10% and
 - (ii) in the case of tenders or quotations between £50,000 and £500,000 the acceptance is reported to the next meeting of the appropriate Overview and Scrutiny committee.
- 14.5 If the responsible Chief Officer wishes to accept a tender other than the lowest/most economically advantageous, the matter shall be referred to Cabinet for decision, or urgent cases to the Leader and /or Deputy Leader of the Council unless:
- (i) the tender or quotation does not exceed £20,000 and
 - (ii) the Chief Officer considers that it would be in the best interests of the Council to accept it.
- 14.6 In cases where the tender recommended for acceptance is in excess of £500,000 the matter shall be reported to the Cabinet, Executive Board or appropriate regulatory committee for decision.
- 14.7 Where the Cabinet, Executive Board or appropriate regulatory committee resolves to accept a tender other than the lowest, the reason for its decision shall be recorded in the minutes of that meeting.
- 14.8 Where it is proposed to accept a tender exceeding the budget provision by more than 10%, or where the Director of Finance reports that difficulties in financing the project would result from any excess, acceptance of the tender shall be reported to the appropriate select committee and then to Cabinet, Executive Board or appropriate regulatory committee for approval.
- 14.9 Acceptance of the tender is subject to the completion of a formal contract.
- 14.10 Post tender negotiations shall be carried out where the Chief Officer considers that post tender negotiations with tenderers would be of advantage. The following provisions will apply:
- (i) all negotiations must be carried out by at least two officers from a list of those specially nominated by the Chief Officer as suitable. They must be approved by the Director of Finance and the Head of Legal and Member Services;

- (ii) all negotiations must take place only with the two lowest tenderers. This shall be in accordance with procedures approved by the Director of Finance;
- (iii) a suitable record should be maintained of the negotiations.

15 Contract Conditions

- 15.1 The Head of Legal and Member Services or a nominated representative shall sign all contracts and agreements made by or with the Council, with a value above £50,000. Contracts greater than £100,000 in value shall be sealed with the Common Seal of the Council.
- 15.2 All contracts greater than £50,000 shall be in writing in a form approved by the Head of Legal and Member Services. This shall incorporate such plans, drawings, specifications and other documents as may be necessary.
- 15.3 Where appropriate contracts shall specify:
- (i) the goods or services to be supplied or the works to be done;
 - (ii) the time or times within which the contract is to be performed;
 - (iii) the price to be paid with a statement of discount and other deduction;
 - (iv) where the Chief Officer considers necessary the liquidated and ascertained damages to be paid by the contractor if the contract is not completed at the specified date, or the deduction in payments where defined service levels are not met. The amount payable shall be determined in consultation with the Director of Finance.
 - (v) Compliance with other relevant legislation such as the Race Relations (Amendment) Act 2000, Health and Safety at Work legislation.
 - (vi) Require all workmanship, goods and services to be supplied in accordance with any appropriate standard, specification or code of practice in force at the date of the invitation to tender;
 - (vii) state that the contractor shall not assign the contract without the approval of the Council;
 - (viii) state that except where otherwise provided, the contractor will not sub-let any part of the works without the approval of the responsible Chief Officer. The contractor shall be responsible for the acts, defaults and neglect of any sub-contractor, his agents, tenants or employees as fully as if they were his own acts, unless the contract provides otherwise;
 - (ix) require all tenderers to provide for a bond or sufficient security for due performance of any contract valued at £500,000 or more, and also where the Director of Finance considers it appropriate. 'Sufficient security' shall be at least 10% of the value of the contract. These requirements may be waived with the consent of the Director of Finance;
 - (x) empower the Council to terminate the employment of a contractor if the contractor has offered, given or agreed to give any person any gift or consideration as an inducement to obtain the contract where an offence under the Prevention of Corruption Acts 1889 to 1916 or any amendment to them has been committed or given any fee or reward the receipt of which is an offence under the Local Government Act 1972;

- (xi) require the contractor to hold appropriate public liability and other insurance. Proof of this is to be supplied to the Council throughout the life of the contract.

16 Variation Orders and Extra Work Orders

- 16.1 The responsible Chief Officer shall record every Variation Order or extra works order immediately it is raised. If the issue of Variation Order(s) would at the date of the order cause the final contract price to exceed the original contract sum by more than £50,000 or 10%, whichever is the lower, the Chief Officer must immediately inform the Director of Finance. This rule applies to all contracts as defined in Contract Procedure Rule 4.1, including those based on an 'Agreed Maximum Price'.
- 16.2 If the supervising officer considers in that officer's professional opinion that it is necessary for the works specified in a contract to be varied, the officer shall be authorised to consent in writing to the necessary variations to the contract. He shall subsequently submit a written report to the next meeting of the Cabinet in order to explain the reasons for the action taken if the agreed variations are likely either singly or cumulatively to result in the contract price exceeding the tender total by a sum calculated as 10% of the tender total excluding contingencies or £20,000 whichever is lower. All other variations to a contract shall be in writing and shall require the prior consent of the relevant Cabinet portfolio holder after he or she has considered a written report but only if the supervising officer estimates that the variations are likely either singly or cumulatively with previous variations to result in an increase of expenditure of not less than £5,000. The relevant Cabinet portfolio holder shall report his or her decision to the next meeting of the Cabinet.
- 16.3 Where the contract sum fluctuates in accordance with an index linked to measure of inflation, the £50,000 or 10% relates to the original tender sum as adjusted under the terms of the contract.
- 16.4 Where the contract price includes a sum for contingencies, the limits in paragraph 16.1 shall relate to the total contract price inclusive of contingencies.

17 Interim Payments and Final Certificate

- 17.1 Where contracts provide for payment to be made by instalments, the responsible Chief Officer shall arrange for the keeping of a Contract Register to show the state of the account between the Council and the Contractor, together with any other payments and related fees.
- 17.2 Payments to contractors on account of contracts shall be made only on a certificate signed by the responsible Chief Officer or other authorised departmental officer, or by a consultant responsible to the authority for the supervision of the contract, showing the total value of the contract, the value of the work executed to date, retention money, amount paid to date, and the amount now certified.

- 17.3 The responsible Chief Officer shall not issue a certificate for the final payment due to the contractor under a contract until he/she is satisfied as to the accuracy of the detailed statement of account. This should show how the amount of the final payment is calculated, and the completeness of supporting vouchers and documents that verify the statement. The final statement shall be supplied to the Director of Finance for examination.
- 17.4 The Director of Finance shall, to the extent he/she considers necessary, examine interim and final accounts for contracts and shall be entitled to make such enquiries and receive information and explanations necessary to be satisfied as to the accuracy of the accounts.

18 Orders for Goods, Works and Services

- 18.1 All official orders shall be in recorded in a manner approved by the Director of Finance. The order shall clearly state the quantity and description of the goods, materials or services ordered. The contract price or price quoted shall be specified on the order issued to the supplier. Telephone or verbal orders shall be confirmed by a written order as soon as practicable. Copies of all orders shall be retained and, in addition to that sent to the supplier, should show the relevant expenditure code.
- 18.2 Official orders shall be issued by the Chief Officer responsible for the budget to which the expenditure is to be charged, subject to any Corporate Procurement Unit arrangements or other exceptions approved by the Council. Orders shall be authorised by the Chief Officer or by a nominated officer within the department.
- 18.3 Where orders are required for a period in excess of a financial year, a new official order shall be raised at 1st April each year.

19 Procurement Valued at Less Than £50,000

- 19.1 Procurement of goods, works and services where the contract value does not exceed £50,000 shall be carried out as follows:
- (i) where the estimated value is less than £10,000, by three verbal or written quotations, provided a note of such quotations is made on the relevant copy orders;
 - (ii) between £10,000 and £50,000, following consideration by the responsible officer of three written, faxed or e-mailed quotations.

In both the above cases, the Department should be able to demonstrate that genuine attempts have been made to obtain three quotes. If for any reason less than three quotes have been obtained the Chief Officer can accept the lowest quote providing that he is satisfied that the reasons for this are acceptable.

20 Definitions

In these Contract Procedure Rules:

- 20.1 'Contract' means an agreement constituting;
- (i) an offer to do or forbear from doing anything by one party;
 - (ii) an acceptance of that offer by the other party, turning the offer into a promise.

A party suing on a promise must show that he has given consideration for the promise unless the promise was given under seal. Contracts are not restricted to capital expenditure or large transactions. They are more commonly entered into for small revenue items.

- 20.2 'The Council' or 'Authority' shall be deemed to include reference to the Cabinet or the appropriate regulatory committee, or person acting in accordance with delegated authority on behalf of the Council.
- 20.3 'The responsible Chief Officer' shall mean the Chief Executive and/or a Chief Officer or person nominated by them, responsible to the council for supervising the execution by the contractor; or who issues an official order.
- 20.4 'A Consultant' means any person other than an employee, engaged by the Council under a contract for services, to provide professional advice to, and on behalf of, the Council.
- 20.5 'Assign' means the transfer to a third party of the Contractor's interest in the contract.
- 20.6 A Corporate Contract is one for the supply of goods and/or services which can most economically be procured by one central contract and not by Chief Officers acting independently of each other in relation to their department's requirements.
- 20.7 'Competitive Tendering' means the obtaining of more than one tender.
- 20.8 'Invitation to Tender' means the sending of documents to a contractor asking him/her to make an offer to the Council.
- 20.9 'Tender' means an offer made by a contractor or supplier to the Council to execute works, provide goods, materials or services on terms specified by the Council.
- 20.10 'Sub-let' means the allocation of the whole or part of the works to a third party. However:
- (i) the contractor retains the right of control over the performance of the contract;
 - (ii) the contractor is ultimately responsible to the Council for the execution of the contract.
- 20.11 'Serial Tender' means a procedure for dealing with a series of tenders.

20.12 'Goods' includes materials, vehicles, plant and equipment.

20.13 'Procurement' means arrangements with a view to completing a contractual agreement for the supply of work, goods and services.

20.14 'Quotation' means a tender submitted in respect of works, goods or services below £50,000