

CORPORATE GOVERNANCE COMMITTEE - WEDNESDAY, 17 JANUARY 2018

Please find attached background paper(s) for the above meeting.

**Agenda Item
No.**

7. REVIEW OF CODE OF FINANCIAL MANAGEMENT AND CODE OF PROCUREMENT (Pages 3 - 40)

To consider a report by the Head of Resources on the outcome of the annual review of the Code of Financial Management and the Code of Procurement.

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Public
Key Decision - No

HUNTINGDONSHIRE DISTRICT COUNCIL

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| Title/Subject Matter: | Review of the Code of Financial Management and Code of Procurement |
| Meeting/Date: | Corporate Governance Committee – 17 January 2018 |
| Executive Portfolio: | Executive Councillor for Strategic Resources Councillor Jonathan Gray |
| Report by: | Head of Resources |
| Ward(s) affected: | All |

Executive Summary:

The Code of Financial Management and the Code of Procurement are regularly reviewed to ensure that they reflect current legislation and the changing needs of the Council. Both Codes provide the necessary regulatory framework as well as basic guidance on “Best Practice”. The changes are proposed to accommodate the formation of the Local Authority Trading Company (LATC) “Huntingdon Ventures”, policies for the disposal of small land parcels, disposal and acquisition of Land and Buildings and Debt Management.

This policy underpins governance of procurement in the Council and is an annex to the Council’s constitution.

RECOMMENDATION

It is recommended that the Committee agrees the report and recommends to Council the approval of:

- The Code of Financial management **Appendix 1**
- The Code of Procurement **Appendix 3**

1. PURPOSE OF THE REPORT

- 1.1 To approve the updated Codes of Financial Management and Procurement.

2. BACKGROUND

- 2.1 The roles and responsibilities of Members and Officers are set out within the Council's Constitution. The purpose of the Code of Financial Management is to provide an overview of the respective financial roles and responsibilities of Members and Officers within the Council. Specific financial responsibilities are set out in more detail throughout the subsequent sections of the Code.

3. CODE OF FINANCIAL MANAGEMENT

The Code has been reviewed and updated for the following:

- HDC Trading Company and Joint Venture Company
- Disposals of Small Land Parcels Policy
- Disposals and Acquisitions of Land and Buildings Policy
- Debt Management Policy
- Fees and Charges Guidance for Managers

- 3.1 **HDC Trading Company and Joint Venture Company** – the Council has set up a new company HDC Ventures and potentially in the future a Joint Venture Company. It will be a requirement that these will need to be included within the Council's Statement of Accounts. The Code of Financial Management has been updated to reflect this under Section 5. Accounting Requirements, paragraph 5.12.

- 3.2 **Disposals of Small Land Parcels Policy** – this new Policy was approved by Cabinet in October 2017 and endorsed by Council in December 2017. The financial thresholds of the sale or transfer of small land parcels have been included in Section 5.

- 3.3 **Disposals and Acquisitions of Land and Buildings Policy** – this Policy has been updated and was approved by Cabinet in October 2017 and the Council in December 2017 approved the specific updates to the Council's constitution.

- 3.4 **Debt Management Policy** - the new Policy was approved by Cabinet in June 2017 and reference to this is made under Section 4. Cash and Credit Management, paragraph 4.6 where all Budget Managers are required to comply with this Policy.

- 3.5 **Fees and Charges Guidance for Managers** – This guidance has been produced for Budget Managers in reviewing their Fees and Charges for 2018/19 onwards. This guidance is referenced in the Code and extracts from it included in Section 1. Financial Responsibilities, paragraph 1.19.

4. THE CODE OF PROCUREMENT

- 4.1 The Code has been revised to ensure the recently formed Local Authority Trading Company (LATC) "Huntingdon Ventures" can legitimately access HDC contracts and frameworks. The LATC is a wholly publicly owned "Legal Person" and as such is entitled to use contracts and frameworks created by its owning

and controlling public bodies. The Public Contracts Regulations 2015 state that a public body has to be named in the advert calling the competition in order that the public body identified can legitimately use the framework to procure goods and/or services. The proposed change requires Service Managers to name "Huntingdon Ventures" so that the company can access our contracts and frameworks.

5. KEY IMPACTS

- 5.1 Not including measures to support the LATC would result in their having to independently undertake procurements duplicating the effort required and potentially increasing costs for the LATC.

6. LINK TO THE CORPORATE PLAN, STRATEGIC PRIORITIES AND / OR CORPORATE OBJECTIVES

- 6.1 The Code of Procurement and Code of Financial Management meets the specific aims and objectives of the Corporate Plan of becoming a more efficient and effective Council and become more efficient in the way we deliver services providing value for money services.

7. CONSULTATION

- 7.1 None

8. LEGAL IMPLICATIONS

- 8.1 The Code of Procurement and the Code of Financial Management have been updated to reflect current legislation and regulations, aiding the Council's compliance.

9. RESOURCE IMPLICATIONS

- 9.1 There are no direct cost implications arising from this report, however both of these Codes promote best practice and best value in the management of the Council's resources.

10. REASONS FOR THE RECOMMENDED DECISIONS

- 10.1 The Code of Financial Management and the Code Procurement supports the internal governance framework of the Council, it also forms part of the Council's constitution. This annual review seeks to ensure that it continues to be relevant and up-to-date, reflecting any new statutory regulations of changes in local management and practice.

11. LIST OF APPENDICES INCLUDED

Appendix 1 - Code of Financial Management
Appendix 2 - Proposed changes to the Code of Procurement
Appendix 3 - Code of Procurement

BACKGROUND PAPERS

None

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Code of Financial Management

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1. FINANCIAL RESPONSIBILITIES

General

- 1.1. Before any proposal that affects the Council's financial position is made the body or person(s) responsible for making that decision, or for making a recommendation to that body or person(s), shall consider a written report, approved by the officer accountable for the appropriate budget, detailing the financial implications.

The Council

- 1.2. Will:
- determine the Council's Medium Term Financial Strategy (MTFS), approve the annual budget and set the level of the Council Tax.
 - approve the Council's Treasury Management Strategy (TMS) and prudential indicators.
 - approve changes to this code.

The Corporate Governance Committee

- 1.3. Will:
- ensure that the financial management of the Council is adequate and effective.
 - ensure that the Council has a sound system of internal control including arrangements for the management of risk.
 - consider the Council's code of corporate governance and approve the annual statement.
 - approve the internal audit charter and the annual internal audit plan and comment on the external audit plan.
 - approve the Council's Annual Financial Report (AFR), which includes the statutory accounts.
 - consider reports from the external auditor.
 - recommend changes to this code to the Council.

The Cabinet:

- 1.4. Will propose to the Council:
- the MTFS.
 - the annual budget and Council Tax level.
 - a combined annual report including the TMS, Treasury Management Policy, and the Treasury Management and Commercial Investment Strategy prudential indicators.
 - after considering the views of the appropriate Overview and Scrutiny Panel and representatives of the business community, set financial priorities, allocate and re-allocate resources in accordance with the limits in this code, monitor and review financial performance.
 - approve the Risk Management Strategy.

Overview and Scrutiny Panels

- 1.5. Will contribute to the development of, and review the effectiveness of, the Council's MTFS, Treasury Management and annual Budget.

Cabinet and Committees (and sub-committees)

- 1.6. Will ensure that all decisions within their remit are made within the relevant budgets and are consistent with achieving the Council's corporate plan and adopted policies. If they wish to make proposals that will require additional

resources, these will need to be subject to officers, the Cabinet or the Council making these available through the normal process.

Budget Managers and Executive Councillors

- 1.7 Will own and manage the budgets within their responsibility. Specifically, they will effectively plan and control financial activity to ensure efficient and effective use of resources. Budget Managers should ensure that the full financial implications of all decisions are properly assessed and highlighted to decision makers.
- 1.8 Will take lead responsibility for planning the Budgetary Cycle, including monitoring and forecasting of revenue activity so far as it is related to those budgets.

Members and Employees

- 1.9. Will contribute to the general stewardship, integrity and confidence in the Council's financial affairs and comply with this code and any systems, procedures, or policies relating to the financial management of the Council.
- 1.10. Specifically, they shall bring to the attention of the Responsible Financial Officer (RFO) any act or omission that is contrary to the provisions of this code or the maintenance of high standards of financial probity, and provide information or explanation on matters within their responsibility to him/her, the Monitoring Officer (MO), Internal Audit Service or the Council's external auditors.
- 1.11. Any member or employee who is involved in a transaction with the Council, or who has an *interest* in a transaction between a third party and the Council, shall declare the nature and amount to the MO before any decision on the matter is made by the Council. The MO will advise the member or employee of any actions they should or must take.
- 1.12. For the purpose of this section an interest also includes any interest of a member of your family or a close associate or acquaintance. This shall be interpreted as anyone whom a reasonable member of the public might think you would be prepared to favour or disadvantage.

The Monitoring Officer (MO) or, in their absence, the Deputy Monitoring Officer (DMO).

- 1.13. Will report to the Council on any proposal, decision or omission that in their view is likely to result in a contravention of the law or any code of practice enacted under it, fails to comply with a legal duty, represents maladministration or is unjust, in accordance with section 5 of the Local Government and Housing Act 1989.
- 1.14. For these purposes he/she shall have full and unrestricted access to all Council assets, systems, documents, information, employees and Members.

The Responsible Financial Officer (RFO) or, in their absence, the Deputy Responsible Financial Officer (DRFO).

- 1.15. Will be responsible for the proper administration of the Council's financial affairs, prescribe appropriate financial systems, protocols, procedures and policies, maintain an internal audit service and report to the Council in the event of a decision or action leading to unlawful expenditure, a loss or deficiency or an unlawful accounting entry (in accordance with section 151 of the Local Government Act 1972, section 114 of the Local Government Act 1988 and the Accounts and Audit Regulations).

- 1.16. Will be responsible for ensuring the final accounts are completed and published by the statutory dates and reporting the details of any material amendments specified by the external auditor to the Corporate Governance Committee.
- 1.17. For these purposes they shall have full and unrestricted access to all Council assets, systems, documents, information, employees and Members.
- 1.18. The DRFO officer will be responsible for detailed and operational aspects of the administration of the Council's financial affairs on behalf of the RFO, approving new financial systems and undertaking such duties as are set out in this code.

Budget Managers (Team Managers, Heads of Service, Corporate Directors and Managing Director)

- 1.19. The Council's management structure is based on Team Managers, Heads of Service, Corporate Directors and the Managing Director taking responsibility for a service and its related budget. For the purpose of this Code they are referred to as Budget Managers. Whilst they retain ultimate responsibility they will often delegate appropriate tasks to their members of staff.

The Budget Manager responsible for a budget:

- will be responsible for proper financial and resource management and the prevention of fraud and corruption within the services and functions under their control and will be responsible for informing the Internal Audit & Risk Manager of all suspected or notified cases of fraud, corruption or impropriety.
- will be responsible for preparing and submitting the capital project appraisal form to the Finance Governance Board (FGB) for approval.
- will be responsible for developing and submitting a detailed business case to the FGB if required (following approval of the capital project appraisal form).
- may incur financial commitments and liabilities in accordance with this Code, the Council's scheme of delegation and resources allocated in their budgets. In particular they may make purchases of goods and services, subject to the requirements of the code of procurement, and employ staff, in accordance with HR policies and any CMT requirements.
- will need approval from their Head of Service in consultation with Corporate Director for appointments for vacant posts at Grade D and below.
- will need approval from CMT for the appointment to vacant posts of Grades E and above.
- will be responsible for regular and effective monitoring and forecasting of the financial position relating to their services.
- will, in accordance with the risk management strategy determine the inherent risks within their services, to the achievement of the Council's priorities and establish, maintain and document adequate systems of risk management and internal control, in consultation with the Internal Audit service, and ensure that relevant employees or Members are familiar with such systems.
- will be responsible for providing in a timely manner, the information necessary to ensure that the final accounts can be completed by the statutory deadlines.
- will be responsible for improving the value for money and efficiency of their services and in discussion with their accountant, ensuring that any budget adjustments are included in the following years budget process.

- will be responsible for identifying opportunities and then bidding for grants or contributions from other bodies to support the achievement of the Council objectives through their services.
- annually review their services to identify any aspects that are not currently charged for, but could be and the appropriateness of the current charges.
- annually review their fees and charges in line with the Fees and Charges guidance for managers and in consultation with the Executive Councillors, with any changes being included in and approved with the annual budget. Changes within the financial year will be subject to consultation with the Executive Councillors and approved by the RFO. In doing so:
 - charges should be made for services whenever the Council has a power or duty to do so.
 - however, this presumption may be modified by the application of the charging principles set out at below, which may result in no charge being made or a lesser charge being made or in some cases a charge being made which is greater than that required for cost recovery.
 - no charge will be made in cases where the Council is not permitted to charge by law. Where charges are set by external bodies, those charges will be applied. Where maximum or minimum charges are specified externally, charges will be set in compliance with those requirements.
 - when deciding to set a charge which is not based on cost recovery, general areas of consideration are set out at in the Fees and Charges Guidance for Managers. This provides relevant factors which should be taken in to account.
 - where without prior agreement by the Council, individuals or organisations engage in activities that result in a cost to the Council, the Council will seek to recover this cost, wherever possible.
 - consideration may be given to offering a discount or other reduction, in appropriate cases, where it is felt that this may improve take up of the service or to encourage prompt payment, following consultation with Head of Services and the S151 Officer.
 - activities carried out by the Council will be continually reviewed in order to identify any new areas where it would be appropriate to make a charge to persons or organisations benefiting (actually or potentially) from those activities. The level of the charge will be determined in accordance with these charging principles.
- will be accountable for the delivery of services, projects, contracts within the budgets set by the Council.
- will be accountable for financial performance and ensuring, wherever possible, appropriate comparisons are made against service standards or other organisational comparators.

Internal Audit

- 1.20. Will be responsible for providing an independent and objective opinion on internal control, risk management and governance systems. It will act in accordance with the internal audit charter and undertake reviews that focus on

areas of greatest risk to the Council's control environment as contained within a programme agreed annually by the Corporate Governance Committee after consultation with the RFO and budget managers.

- 1.21. For these purposes internal audit shall have free, full and unrestricted access to services and functions and all Council assets, systems, documents, information, employees and Members. All employees are required to assist internal audit to carry out its role.

2. FINANCIAL AND SERVICE PLANNING

June - Overall review

- 2.2. The Cabinet shall review the financial performance of the Council in the previous year, compared with the annual budget, on the basis of the provisional outturn report prepared by the DRFO in conjunction with budget managers.

August to January – Preparation of the draft budget and MTFS

- 2.3. The RFO in conjunction with budget managers will review and prepare the draft annual budget and the MTFS for review by Cabinet after consultation with the relevant Overview and Scrutiny panel.

February - Annual budget, MTFS and service plans

- 2.4. The Cabinet shall, after consultation with the relevant Overview and Scrutiny Panel, recommend to the Council an annual budget for the next financial year and a MTFS for the succeeding four years, incorporating both capital and revenue expenditure, which is consistent with corporate and service strategies. Following approval of the annual budget each budget manager shall update their service plan(s) to reflect the approved budget and how the resources allocated will be used to meet service objectives in the forthcoming year.

March to July – Annual Financial Report (AFR)

- 2.5. The DRFO in conjunction with the budget managers will prepare the AFR. The AFR includes the statutory annual accounts which subject to external audit will be approved by both the RFO and Corporate Governance Committee.

3. CONTROLLING FINANCIAL PLANS

Financial Monitoring

- 3.1. Budget Managers will be responsible for regular and effective monitoring and forecasting of the financial position relating to their services. Where it is identified that there will be a significant overspend or underspend, this will be promptly reported to the RFO by the budget manager. If it is considered necessary by the RFO in delivering projects or programmes, the same discipline will apply.
- 3.2. On a monthly basis the financial and overall performance of the Council will be reviewed by the budget managers and the relevant Executive Councillors. This will include trend and forecast data and, where available comparative data.
- 3.3. CMT will review, on a monthly basis, the Financial Performance Monitoring Suite (FPMS). The FPMS will be reported to Cabinet on a quarterly basis. The FPMS will be prepared by the DRFO, in consultation with each Head of

Service and budget manager to include comparisons with other service providers and local trend data.

Commitments to Expenditure in Future Years

3.4. No new commitment to expenditure beyond the current budget year may be made unless it:

- is consistent with the achievement of the Council's objectives and other relevant strategies, and
- is compatible with the Council's MTFS.

Grants, Cost Sharing and S106/CIL agreements

3.5. Where a budget manager proposes to take advantage of:

- receipts of grants, contributions and other forms of external funding, or
- enter cost sharing arrangements,

3.6. with other organisations, and where such arrangements will deliver additional or improved services, consistent with their service plan without creating any current or future commitment to net expenditure they may do so subject to:

- the relevant Head of Service being satisfied that the project funding meets with corporate objectives and that the resource required to produce the bidding documents is reasonable.
- the funds being dependent upon a particular project or service being provided but, in the case of S106/CIL agreements, the location or some other aspect is at the Council's discretion.
- informing the DRFO of the details.
- consulting the relevant Executive Councillor(s) if the proposal exceeds £30,000 revenue or £50,000 capital in any one year with any capital having been previously agreed by the FGB or any discretionary element of a S106/CIL agreement.

3.7. A budget manager may utilise sums of money received under S106/CIL, or equivalent agreements where there is no discretion. The DRFO should be informed of the details including:

- A copy of all information that supports the grants received (grant letter etc) so a decision can be made in respect of the correct accounting treatment.
- Documentation confirming how they plan to meet any grant conditions, including suitable monitoring and reporting arrangements.

Approvals for additional spending with a net impact

3.8. The Managing Director, or in their absence, the RFO, may incur expenditure for the immediate alleviation of hardship or suffering in the case of peacetime emergency in the district. Any exercise of this power must be reported to the Cabinet (under £500,000) or the Council (over £500,000) at the first opportunity.

3.9. The Managing Director, or in their absence, the RFO, may incur expenditure of up to £500,000 for any purpose which is urgent and demonstrably in the Council's best interests to do so following consultation with the Executive Leader or Deputy Executive Leader. Any exercise of this power must be reported to the Cabinet at the first opportunity.

Approvals for additional spending with compensating savings

- 3.10. Proposals that require initial funding but will then result in net surpluses or savings that are at least sufficient to produce a break-even position will be supported in principle if they are:
- consistent with increasing the achievement of the Council's objectives and compatible with relevant strategies.
 - achievable within the Council's MTFS.
 - supported by a robust business case which includes a risk assessment.
 - supported by CMT.
- 3.11. The RFO may approve such a scheme following consultation with the relevant Executive Councillor for the service and the Executive Councillor for Resources. The relevant budget(s) and MTFS will be appropriately adjusted.

Budget Virements

- 3.12. The process of moving budget resources between different areas within the budget year is called a virement. The virement of resources within, or between, any of the types of budgets is supported in principle when it will make it more likely that the Council will achieve its service objectives and targets or enhance value for money.
- 3.13. These limitations are:
- The salary budgets (pay, national insurance and pension) represent the Councils approved establishment list. As such the salary budgets cannot be vired to other areas of the budget. A positive salary budget variance may be used to cover the additional temporary staffing costs incurred due to vacant posts.
 - The corporate finance budgets are those budgets that are necessary to the operation of the Council and have limited controllability. Such budgets included with this area are; minimum revenue provision, interest, pension liability and levies. Changes to the corporate budget can only be made by the RFO following consultation with the Head of Paid Service.
 - Not from capital to revenue.
- 3.14. A Budget Manager may approve a budget virement within and between the budgets they are responsible for providing it is:
- Consistent with increasing, or at least maintaining the achievement of service objectives and compatible with the Council's financial and other relevant strategies.
 - Only a movement of establishment posts to another service as part of a service restructure.
 - Notified to the DRFO.
 - Each virement is over £5,000.
 - Within the following limits if between service budgets:
 - Revenue to revenue £75k
 - Revenue to capital £75k
 - Capital to capital £75k
- 3.15. CMT may, subject to the same criteria, except for the enhanced limits shown below, approve budget virements between any budgets:

- Revenue to revenue £250k
- Revenue to capital £250k
- Capital to capital £250k

- 3.16. Cabinet may approve budget virements of up to:
- Revenue to revenue £500k
 - Revenue to capital £500k
 - Capital to capital £500k
- 3.17. In all cases, any previous transfers in the same financial year relating to those budgets shall be aggregated for determining whether the limit has been exceeded. Providing there is no increase in the “budget requirement”, Cabinet can approve the application of reserves to meet additional expenditure in line with the reserves strategy.
- 3.18. In all other cases the approval of the Council will be required.

Price Base Changes

- 3.19. Inflation will be included, if necessary during the budget process as directed by the RFO.

Capital Programme

- 3.20. The Finance Governance Procurement Board (FGPB) will review and recommend to CMT those schemes that should be included in the capital programme, the MTFS and be approved by Cabinet.
- 3.21. FGPB may recommend changes to existing schemes or the introduction of new schemes during the financial year based on the performance of, or delays incurred within the delivery of the approved capital programme plan. Changes to the schemes in the MTFS will be approved by Cabinet.

4. CASH AND CREDIT MANAGEMENT

Banking

- 4.1. The RFO is responsible for all Council banking arrangements and shall maintain an account(s) with an appropriate bank(s) as defined in the Treasury Management Strategy (TMS). All transactions involving income or expenditure shall be dealt with through the Council's bank account(s).

Income

- 4.2. All employees receiving money (including cash, cheques, credit card payments etc.) must comply with the relevant procedures issued by the RFO to ensure that the sums are properly recorded, receipted and banked.
- 4.3. No cash payment in excess of £1,000 will be accepted.
- 4.4. The Head of Customer Services will manage the Council Tax and Non-Domestic Rating collection service on behalf of the Council; including the billing and debt recovery procedures.
- 4.5. The DRFO shall manage a sundry debt collection service on behalf of the Council and all sums due must be registered by raising an invoice on the Council's financial management system.
- 4.6. All budget managers are required to ensure that:
- Invoices and invoice adjustments are raised promptly.
 - Invoice queries are answered promptly.

- The Income Team are informed of any information that may affect the recovery of any invoiced sums.
- All debts are collected in a timely fashion.
- They periodically consider, in liaison with the Income Team, whether there would be a more effective or efficient way of collecting sums due (e.g. cash in advance).
- They comply with the Debt Management Policy.

Treasury Management

- 4.7. All treasury management activities will be undertaken in accordance with the Council's annual Treasury Management Strategy (TMS), which includes the policies, objectives, risk management approach, and the treasury management and commercial investment strategy prudential indicators. The strategy will comply with the Code of Practice for Treasury Management and the Prudential Code for Capital Finance, both published by the Chartered Institute of Public Finance and Accountancy (CIPFA), and reflect any published Government advice. The execution and administration of treasury management is delegated to the DRFO.
- 4.8. The Council shall have overall responsibility for treasury management and will formally approve the annual TMS and receive an annual and mid-year report on treasury management activities.
- 4.9. The Cabinet will be responsible for the implementation and regular monitoring of treasury management activity. The Treasury and Capital Management Group will include:
- the Leader, Deputy Leader and the Executive Councillor for Strategic Resources. Other members can be co-opted onto the group at the discretion of the Executive Leader.
 - the RFO and the DRFO, and as and when necessary the Managing Director and/or Corporate Director (Services). Other officers can be co-opted onto the group at the discretion of the Managing Director or the RFO.
- 4.10. The Overview and Scrutiny (Performance and Customers) Panel will be responsible for the scrutiny of treasury management.

Payments

- 4.11. All payments made by the Council must be made either:
- through the Council's purchase ledger system, with payments being made direct to the supplier's bank account wherever this is practicable.
 - by procurement card.
 - by direct debits or standing orders (after agreement from the DRFO).
 - by some other system specifically approved by the DRFO.
- 4.12. In each case complying fully with the relevant procedures for that system (e.g. appropriate authorisation), particularly the requirement to obtain official VAT receipts, as determined by the DRFO. Advice can be sought from the DRFO.

5. ACCOUNTING REQUIREMENTS

Best Practice

- 5.1. The Council will follow the best practice guidance contained in the Accounting Code of Practice and other relevant publications produced by CIPFA in the preparation and maintenance of its accounts.

Records

- 5.2. Each budget manager is responsible for maintaining records of their financial transactions and commitments, that they are in the appropriate financial period and with the appropriate account codes. Each budget manager is responsible for ensuring that the financial management system is used only by authorised individuals and for proper council purposes.

Retention of Documents

- 5.3. Documents required for the verification of accounts, including invoices, will be retained for six years plus current year.

Contingent Assets and Liabilities

- 5.4. Any officer who is aware of a material and outstanding contingent asset or liability shall notify the DRFO, who shall include details in the Council's accounts or in a Letter of Representation to be presented to the Council's external auditors in respect of those accounts.

Stock

- 5.5. The DRFO shall determine, after consultation with the relevant budget manager, when stock accounts shall be maintained. This will normally be where the value of the items are significant or the items are considered to be vulnerable to loss or theft.
- 5.6. In such cases the relevant budget manager shall ensure that a certified stock-take is carried out at the end of March each year, and that records of receipt and issue of all stock are maintained throughout the year in a manner agreed with the DRFO.

Insurance

- 5.7. The Internal Audit Manager shall obtain insurance to protect the Council or minimise its potential losses from risks including those to employees, property, equipment and cash. Any decision not to insure significant risks must be based on a detailed risk assessment and reported to the Executive Councillor for Resources.

Write-off of Irrecoverable Debts

- 5.8. The Head of Service where the debt originated or the DRFO is authorised to write-off debt with an individual value up to £5,000. Greater than £5,000 requires consultation with the Executive Councillor for Resources. Appropriate steps must be taken to ensure that the debt is irrecoverable or cannot be recovered without incurring disproportionate costs.

Accounts Closure, Accounting Accruals and Estimates

- 5.9. The AFR will be produced in line with both statutory regulations and relevant Codes of Practice.
- 5.10. The DRFO will ensure that there is appropriate liaison with service teams prior to closure, including the hosting of relevant training and the issue of closure guidance and timetables. The accruals de-minimis limits will be adhered to by all services, and where estimated accruals are to be issued they are to be supported by accurate calculation. Other accounting estimates will be calculated by finance staff in line with professional advice.
- 5.11. Provisions, either for bad debts or other purposes will be calculated in line with the guidelines approved by the DRFO. Earmarked reserves will be operated in line with the reserves strategy.

5.12. The accounts of the Local Authority Trading Company, HDC Ventures and possibly the Joint Venture Company will need to be included within the Council's accounts and in particular, any guarantees that the Council gives in respect of the Company should be counted as a liability of the Council under the accounts.

Assets

5.13. An asset is an item of land, building, road or other infrastructure, vehicle or plant, equipment, furniture and fittings or information and communications technology (hardware and software) with a life exceeding one year.

5.14. The acquisition and disposal of assets will be completed in accordance with the Disposal and Acquisition of Land and Buildings Policy. In addition, there is a new Disposal of Small Land Parcels Policy.

5.15. The financial thresholds for both disposals and acquisitions are as shown in the table below:

| | |
|------------------------|--|
| £0 - £500,000 | Managing Director (as Head of Paid Service) & Head of Resources (as Section 151 Officer), following consultation with Executive Councillor for Resources |
| £500,000 to £2,000,000 | Treasury and Capital Management Group |
| £2,000,000 + | Cabinet |

5.16 The financial thresholds of the sale or transfer of small land parcels are shown in the table below:

| Thresholds of the Sale or Transfer of Small Land Parcels | | Table 1 |
|--|--|--|
| All sales and transfers will include the transfer of all associated liabilities. | | Minimum Administration Charge (*) |
| Transfer of Small Land Parcels to Other Public Bodies | | |
| £0 - £10,000 | Head of Resources (as Section 151 Officer), | £500 |
| £10,000 - £50,000 | Managing Director (as Head of Paid Service) & Head of Resources (as Section 151 Officer), | £1,000 |
| £50,000 - £100,000 | Managing Director (as Head of Paid Service) & Head of Resources (as Section 151 Officer), in consultation with the Executive Member for Strategic Resources. | £1,500 |
| £100,000 - £500,000 | Treasury & Capital Management Group. | £2,000 |
| £500,000+ | Cabinet. | £3,000 |
| Sale of Small Parcels of Land | | |
| £0 - £10,000 | Managing Director (as Head of Paid Service) & Head of Resources (as Section 151 Officer). | £1,000 |
| £10,000 - £100,000 | Managing Director (as Head of Paid Service) & Head of Resources (as Section 151 Officer), in consultation with the Executive Member for Strategic Resources. | £1,500 |
| £100,000 - £500,000 | Treasury & Capital Management Group. | £2,000 |
| £500,000+ | Cabinet. | £3,000 |

* This Administration Charge excludes all legal and other ancillary costs. Further it is the minimum charge that any prospective purchaser will pay. If any sale requires additional officer time beyond what would reasonably be expected, the vendor will be required to meet this higher charge.

5.17 Each Budget Manager is responsible for ensuring that the assets relating to their services are properly safeguarded, managed and maintained, and used only to achieve the Council's objectives. This will include establishing and maintaining appropriate security, control systems and records. They will need to consult relevant officers in relation to specialist items and, where vehicles are concerned, the officer holding the Council's operating certificate who has specific statutory responsibilities.

5.18 Heads of Service must keep up to date records so a physical verification of all capital assets, and their condition, is possible.

5.19 Once the asset is disposed of, the relevant budget manager will inform the DRFO within 10 working days of the disposal of any asset included in the asset register.

Capital Expenditure

5.20 The purchase or improvement of any asset will normally be treated as capital expenditure. However, expenditure of less than £10,000 will not normally be treated as capital expenditure unless the DRFO considers it is in the Council's interests to do so.

Leases

5.21 Finance and operating leases are to be used only if they are in the Council's financial interest and with the prior formal approval of the DRFO.

Valuations

5.22 In order to comply with accounting requirements, assets will need to be revalued at regular intervals. A three year "phased" revaluation programme will be followed, other than for:

- those assets that are categorised as "investment" properties (e.g. industrial units), which must be revalued every year, or
- where, following significant capital investment or disinvestment in an asset within an asset group, whereby the whole asset group will be revalued.

5.23 All capital asset revaluations for the AFR will be obtained by the DRFO.

6 Update of the Code of Financial Management

6.1 The Code will be updated in the summer as the Council will be implementing a new Financial Management System (FMS) which will go live in April 2018.

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PROPOSED AMENDMENTS TO THE CODE OF PROCUREMENT

1. This briefing note provides an explanation of the proposed changes to the Code of Procurement.

Enabling Procurement Support for Huntingdon Ventures

2. The Public Contract Regulations 2015 requires that public bodies accessing frameworks and contracts are named in the initial competition advert. The amendment is to ensure that managers identify the local government Trading Company “Huntingdon Ventures” in any relevant competition advert.
3. The recently formed Local Authority Trading Company (LATC) “Huntingdon Ventures” is a wholly publicly owned Legal Person and as such is entitled to access contracts and frameworks created by its owning and controlling public bodies. The Public Contracts Regulations 2015 state that a public body has to be named in the advert calling the competition in order that the public body identified can legitimately use the framework to procure goods and/or services. The proposed change requires Service Managers to name “Huntingdon Ventures” so that the company can access our contracts and frameworks. Note: this doesn’t apply to any LATC with any direct private capital whatsoever, as they are essentially private bodies.
4. A new paragraph 8.3 has been added to require managers to include suitable reference to “Huntingdon Ventures” in all procurement adverts.

Minor Changes

5. Threshold values for the application EU procurement rules are reviewed every 2 years and amended reflecting changes in the value of sterling:

| Effective Date | European Union Threshold | | |
|----------------|--------------------------|-----------------------|-----------------------------|
| | Supplies and Services | Works and Concessions | Light Touch Regime Services |
| 1 January 2016 | £ 164,176 | £ 4,104,394 | £ 597,609 |
| 1 January 2018 | £ 181,302 | £ 4,551,413 | £ 615,278 |

The table at paragraph 2.2 has been amended to reflect the new values.

6. The insertion of “e-tendering” at paragraphs 5.3(b) and 11.1(a) to reflect the introduction of an e-tendering system.
7. Paragraph 6.4(d) allows HOS to extended low-value contracts (<£25k) up to a maximum of 10%. The regulations make a distinction for works contracts with a maximum extension of up to 15%. The change aligns the Code with the regulations.
8. Paragraph 6.5 explains the circumstances that the Monitoring Officer may approve single tender requests and the addition of paragraph 6.5(e) explicitly includes the reasons of interoperability/interchangeability or substantial duplication of costs. This mirrors the Regulations and will increase the options for some technical requirements (IT/software).

9. Deletion of paragraph 9.1(d) as the e-tendering system has negated the need for an email questionnaire/tender returns box.
11. Paragraphs 13.1 and 13.2 have been re-arranged for clarity. The only new words reflect an exemption for purchases made at auction to the requirement to use our standards terms and conditions.

Huntingdonshire District Council

CODE OF PROCUREMENT

January 2018
(Date)

CODE OF PROCUREMENT

1. INTRODUCTION

- 1.1 The Code of Procurement defines the regulatory and legal framework for procurement. It has been adopted in accordance with the requirements of Section 135 (2) of the Local Government Act 1972.
- 1.2 Throughout the Code, reference to Manager shall mean Managing Director, Corporate Director, Head of Service or Budget Manager as appropriate. A Manager shall be responsible for procuring all goods and services that require the quotation or tender procedures as set out in this Code to be followed.
- 1.3 No **Officer** shall procure any goods or services valued at £5,000 or more unless they have attended training provided by the Procurement Manager and consider themselves to have such detailed knowledge and understanding of this Code and how it shall be applied in respect of the total value of the procurement being considered.
- 1.4 This Code applies to the procurement, commissioning, hire, rental or lease of -
 - ◆ land and buildings, roads or other infrastructure;
 - ◆ vehicles or plant;
 - ◆ equipment, furniture and fittings;
 - ◆ construction and engineering works;
 - ◆ information and communication technology - hardware and software;
 - ◆ goods, materials and services;
 - ◆ repairs and maintenance;
 - ◆ consultants, agents and professional services.
- 1.5 This Code does not apply to purchases made from internal management units or 3 Cs partners.
- 1.6 The Code also applies to the disposal of assets and goods by the Council. Where the appropriate Manager estimates that the assets or goods to be worth less than £1,000, then the goods or assets may be donated to a recognised Charity. If disposal to Officers is proposed, then the goods or assets shall be advertised internally to all Officers and sealed bids sought. Where the value is estimated as exceeding £1,000, fair market value must be sought.
- 1.7 The Council includes the Cabinet, Panels, Committees or other body or person(s) acting in accordance with delegated authority on behalf of the Council.
- 1.8 All procurements or sales made by or on behalf of the Council shall comply with this Code, subject to any overriding requirements of the Council's Rules of Procedure or Code of Financial Management or British or European Union law or regulation or Crown Commercial Services' Procurement Policy Notices.
- 1.9 Throughout the Code, reference to contractor(s) or sub-contractor(s) shall mean any person, company or supplier who has -
 - (a) requested to be on an approved or ad-hoc approved list of tenderers; or

- (b) been approached to provide a quotation or tender; or
- (c) provided a quotation or tender; or
- (d) been awarded a contract in accordance with the provisions of this Code.

1.10 The Corporate Director (Services) shall annually review all the financial values contained in the Code to take account of the impact of inflation. The Corporate Director (Services) shall inform all Managers of any amendments to the values prior to the 1st April from which they shall be operative.

2. REPORTING AND ADVERTISING

2.1 Heads of Service shall provide the following information to the Procurement Manager

- (a) No later than the 1 April each year, details of each contract expected to be advertised in the following year; and an estimate of the total value for each discrete procurement area where the spend is likely to exceed £100,000.
- (b) new or additional requirements likely to meet or exceed EU thresholds as they arise.

2.2 The Public Procurement Regulations 2015 (Statutory Instrument no. 102 2015) requires that contracts above EU threshold are advised in the Official Journal of the European Union and that any contract opportunity above £25,000 is advertised in the Cabinet Office's portal "Contracts Finder". For requirements estimated as above £5,000 Managers shall advertise in the Contracts Register where needed to stimulate competition and obtain best value. There is no requirement to advertise competitions run using frameworks or approved lists.

| Media | Threshold | | |
|---|-----------------------|-----------------------|-----------------------------|
| | Supplies and Services | Works and Concessions | Light Touch Regime Services |
| Contracts Register | £5,000 | £5,000 | £5,000 |
| Contracts Finder | £ 25,000 | £ 25,000 | £25,000 |
| Official Journal of the European Union (OJEU) | £ 181,302 | £ 4,551,413 | £615,278 |

(1 January 2018)

3. 'BEST VALUE' AND SOURCING POLICY

3.1 The Council seeks 'Best Value' in all procurement activity. 'Best Value' being:

- ◆ The opportunity to obtain leverage (better prices and) for volume.
- ◆ Transparent and efficient procurement processes.
- ◆ Appropriate social, environmental and equality outcomes
- ◆ Regulatory compliance.

- ◆ Minimum procurement overhead.

3.2 Achieving 'Best Value' needs valid competition and valid competition is dependent on the existence of an 'open' market with the selected contractors having the interest, capability and capacity for the work or business being offered. Wherever possible a minimum of three competitive tenders or quotations shall be sought. In selecting contractors to provide a tender or quotation Managers shall ensure that wherever possible -

- (a) the selection process used is fair and equitable, and that no favouritism is shown to any one contractor (e.g. the requirement is not an extract of a contractor's product specification).
- (b) checks are made to ensure that contractors are interested in this type of business;
- (c) repeat or 'automatic' invitations to the 'same' contractor or group of contractors are avoided, particularly where previously invited to bid and had failed to do so;
- (d) 'new' contractors are sought and invited to tender or quote;
- (e) the geographic area of the search for potential contractors is widened; and
- (f) 'no-bids' are checked for the reasons for a contractor's failure to bid.

3.3 Sourcing policy is determined by the needs of 'Best Value' and in order of preference is:

- (a) Adopted catalogues or framework contracts. An adopted catalogue or framework is the preferred contract for the Council's business within a defined category (a type or group of goods or service). The Procurement Manager shall make available adopted catalogues or framework contracts on the e-marketplace or publish details of the contract or framework in Procurement Protocols & Guidelines. Managers shall ensure that orders for such categories are placed through the e-marketplace using appropriate 'adopted' catalogue or framework contract. The Procurement Manager shall keep under review the continued suitability of any such catalogues, contracts or framework agreements.
- (b) Collaborative procurements with other public bodies or authorities.
- (c) Council let corporate contracts.

3.4 Some categories are managed corporately by specialist areas. The Procurement Manager shall provide a list of specialist categories and Managers shall ensure all requirements for such categories are referred to the relevant specialist.

Market Sounding

3.5 Market engagement is encouraged to help achieve Best Value though trying to understanding the market, the suppliers, their business models and their costs

3.6 Supplier Meetings/Briefings. To avoid the risk of unfair competitive advantage, any such meeting should be structured as an open event; all questions and answers recorded and with a minimum of 2 officers present. If pre-competition a minimum of 3 suppliers shall be invited and during a competition, all participating contractors shall be invited.

4. METHODS OF ORDERING

4.1 All orders shall be placed through one of the following recognised methods:

- ◆ A purchase order raised on the financial management system.
- ◆ An order raised on the e-marketplace.
- ◆ A procurement card order.
- ◆ A manual purchase order.

4.2 Where there is an exception requirement and the relevant Corporate Director or Head of Service considers that the work is of an emergency nature necessary to enable the service to continue and none of the ordering methods are suitable, the relevant Corporate Director or Head of Service shall record the details of the exceptional requirement and the action taken for future audit.

5. CONTRACTS REGISTER

5.1 In compliance with the Local Government Transparency Code 2013, Managers shall keep a record using the Contracts Register, for all tenders and quotes greater than £5,000 (and subsequent contract extensions); of:

- ◆ the reasons (if appropriate) for not advertising on the Council's 'Latest Opportunities' internet site;
- ◆ all those contractors that were requested to quote or tender;
- ◆ the reasons why those particular contractors were selected to quote or tender;
- ◆ if applicable, the reasons why less than three contractors were selected to quote or tender;
- ◆ if the selected contractor is a Small or Medium Enterprise, voluntary or third sector organisation or charity;
- ◆ if the selected contractor is VAT registered;
- ◆ contract renewal date (if appropriate);
- ◆ summary details of a single tender/quote (if appropriate), and
- ◆ file or other reference to the contract and location of the documents and contract.

5.2 Any procurement estimated to exceed £100,000, which is not covered by the exceptions in paragraph 6 below, must be referred to the Procurement Manager before the procurement process is commenced. If a Manager does not wish to accept the Procurement Manager's advice on any significant aspect the matter will be determined by the relevant Corporate Director. The discussion will cover:

- ◆ Scope and objectives of the procurement;
- ◆ Budget and costing;
- ◆ Tender methods;
- ◆ Product and market information;
- ◆ Timescales; and
- ◆ Deliverables.

5.3 Where there is no adopted contract or framework, Managers shall, wherever practicable, seek to maximise contract values with other Managers to secure

lower costs. The Council nevertheless wishes to balance the effort of going to the market with the effort and efficiency of the procurement process. Managers after determining the proposed contract's total value shall then follow one of the procurement procedures detailed below. These procedures shall be used in all procurements or sales bar those exceptions at paragraph 6.

| | Procedure | Estimated Total Value of Procurement | Requirement |
|-----|------------------------------------|---|--|
| (a) | Estimate | Up to £5,000 | At least 1 written estimate or offer (e-marketplace, email, web or paper) shall be sought and recorded. |
| (b) | Request for Price (Informal Quote) | £5,000 up to £25,000 | At least 3 written estimates or offer (e-marketplace, e-tendering, email or headed paperwork) shall be sought. |
| (c) | Request for Quote (Formal Quote) | £25,000 to £100,000 | Formal quotations sought from all contractors expressing interest following advertisement in accordance with paragraph 2.2. A formal written contract prepared in accordance with paragraph 13.1(f) if justified by potential risk or specialist subject matter. |
| (d) | Tender | £100,000 to EU Procurement Threshold | Competitive tenders shall be obtained using one of the tendering options in this Code, and a formal written contract prepared in accordance with paragraph 13.1(f). |
| (e) | EU tender | The EU Threshold and above | The appropriate EU procurement directive shall be complied with. |

5.4 Total value is the cost of all elements of the procurement (e.g. installation, testing, training, maintenance, etc). The Manager shall ensure that a procurement is not split or otherwise disaggregated and may choose to competitively tender requirements less than £100,000.

5.5 A Manager shall not invite quotations or tenders from any contractor or sub-contractor who has participated in the preparation of documentation or were involved in other preparatory work for the contract, unless they have, in writing, explained to the Monitoring Officer why this does not constitute an unfair competitive advantage or a conflict of interest and obtained agreement, in writing, that the contractor/sub-contractor may compete in the quote/tender process.

6. TENDER AND REQUEST FOR QUOTATION PROCEDURES

6.1 **Exceptions.** Nothing in this Code shall require tenders/quotes to be sought: -

- (a) for purchases made from a Public Purchasing Body (ESPO, PRO5, Crown Commercial Service) where:
 - ◆ there is a single supplier 'call-off contract' or catalogue created with fixed prices, or
 - ◆ the contract is created to our requirements;
- (b) for purchases through local authority, government body or agency, police, health or other similar public authority, where the procurement rules of that organisation have been approved by the Procurement Manager and the contract is created in co-operation, agreed joint requirements or partnership;
- (c) for purchases made at public auction.

6.2 Provided that a compliant procurement process is underway a contract may be extended to complete procurement and contract negotiations by up to 3 months subject to agreement of the Procurement Manager.

6.3 **Single Tenders/Quotes.** All single tenders/quotes shall be reported to and recorded by the Procurement Manager in a register kept for that purpose.

6.4 **Head of Service Approval.** A Head of Service can approve a single tender/quote:

- (a) if the Head of Service considers that the work is of an emergency nature or is necessary to enable the service to continue and is reported to the next meeting of Cabinet.
- (b) for ongoing maintenance of propriety IT systems or where work to be executed or goods, services or materials to be supplied consist of repairs to or the supply of parts of existing proprietary machinery, equipment, hardware or plant and the repairs or the supply of parts cannot be carried out practicably by alternative contractors provided:
 - ◆ there is evidence that it is a propriety system;
 - ◆ the initial contract award was compliant with this Code;
 - ◆ the renewal is for a period not greater than 4 years (this is the time interval the EU uses to calculate contract value for ongoing contracts);
 - ◆ the total ongoing value does not exceed the EU threshold.
- (c) where a single expression of interest is received for a competition run in accordance with the quote procedures (paragraphs 5.3 (a) & (b)) provided that:
 - ◆ a clear description of the requirement has been advertised (paragraph 2.2) for an adequate period;
 - ◆ the sole prospective supplier is kept unaware of their status;
 - ◆ the process for seeking the quote is compliant.

- (d) where a new extension is proposed to a contract awarded under quote procedures (paragraphs 5.3 (a) & (b)) provided:
 - ◆ the value of the proposed and all previous extensions to the contract are:
 - a. not greater than 10% of the advertised requirement for goods and services, or
 - b. or not greater than 15% of the advertised requirement for works;
 - ◆ the extension does not materially change the nature of the contract;
 - ◆ the initial contract award was compliant with this Code.
 - ◆ the extension is recorded in the Contracts Register.

- (e) where the HoS considers a single quote is in the Council's best interest and:
 - ◆ the total value is less than £25,000; and
 - ◆ the details and justification are reported to the next quarterly Corporate Governance Committee.

6.5 **Monitoring Officer Approval.** A Head of Service after consulting the Monitoring Officer may obtain a single tender or quotation when no satisfactory alternative is available:

- (a) Prices are wholly controlled by trade organisations or government order and no reasonably satisfactory alternative is available.
- (b) Specialist consultants, agents or professional advisers are required and
 - ◆ there is no satisfactory alternative; or
 - ◆ evidence indicates that there is likely to be no genuine competition; or
 - ◆ it is in the Council's best interest to engage a particular consultant, agent or adviser.
- (c) Products are sold at a fixed price, and market conditions make genuine competition impossible.
- (d) With the Monitoring Officer's agreement, considers that it is in the Council's best interest in negotiating a further contract for works, supplies or services of a similar nature with a contractor who is currently undertaking such work and is reported to the next meeting of cabinet.
- (e) For reasons of interoperability/interchangeability or substantial duplication of costs.

6.6 If the single quote/tender option is used, the Manager shall:

- (a) seek approval of the Monitoring Officer; and
- (b) retain records that demonstrate that the best price or value for money has been obtained from the negotiations with the contractor.

7. LIST OF APPROVED TENDERERS

7.1 Tenders shall be invited from at least three contractors selected from an approved list established in accordance with this paragraph of the Code. Vetting is not normally required as the contractor was vetted to join the list.

7.2 The Council uses 2 types of list of approved contractors:

(a) Third party vetted lists of contractors that are compiled and maintained by an external organisation. Only external organisations approved by the Procurement Manager, after consultation with other relevant Manager(s) shall be adopted. The Procurement Manager shall ensure that the external organisation and approved list of contractors is detailed in Procurement Protocols & Guidelines.

(b) Ad-hoc list of approved tenderers. If a Manager believes that the approved list of tenders does not allow him to obtain sufficient competition for 'Best Value', the Manager shall write to the Procurement Manager seeking approval to source additional contractors or create an ad-hoc list of approved tenderers.

7.3 Subject to approval as required in paragraph 7.2(b) the Manager shall:

(a) issue a public notice inviting applications for inclusion on a specific approved list for the supply of goods, services or materials.

(b) vet (as detailed at paragraph 9.1) all contractors replying to the public notice or who have requested within the previous 12 months to be considered for work of a similar nature;

(c) only include contractors satisfactorily completing the checks;

(d) tell all potential suppliers how the approved list operates

(e) ensure the ad-hoc list shall only be used for seeking tenders for the supply of goods, services or materials specifically detailed within the original public notice;

7.4 The Procurement Manager in conjunction with the relevant Managers shall review the continued suitability of any List of Approved Tenderers periodically and at least prior to the third anniversary of its initial or further adoption.

8. FRAMEWORKS

8.1 All contractors on the framework (or lot if split into lots) shall be invited to submit a tender or quotation unless:

(a) the framework explicitly permits direct award;

(b) the proposed award is less than the tender threshold (£100,000); and

(c) the Head of Service can show both objective reasons for the selection of a supplier and evidence of best value.

8.2 No public notice is required and general Terms & Conditions are set in the original framework contract but additional Terms & Conditions specific to the requirement may be permitted. Vetting is not normally required as the contractor was vetted as part of the original framework competition.

- 8.3 When advertising any contract or framework, Managers shall name any wholly publicly owned Local Authority Trading Company (LATC) (eg: "Huntingdonshire Ventures").

9. COMPETITION

9.1 Shortlisting and Restricted Tenders

- (a) Restricted (shortlisting) tenders are not permitted for competitions below the EU threshold.
- (b) Where allowed, the Manager shall undertake sufficient vetting to ensure that all contractors:
- ◆ comply with minimum standards of Insurance;
 - ◆ have the necessary Health & Safety policy and performance and (where applicable) membership of the Contractor's Health and Safety Scheme or equivalent health and safety standard;
 - ◆ are financially viable based on a risk based assessment;
 - ◆ have an appropriate environmental policy;
 - ◆ comply with equalities legislation and policy; and
 - ◆ possess the experience and capacity required.
- (c) The Procurement Manager shall provide an appropriate questionnaire for the purpose of vetting contractors.
- ~~(d) Managers wishing to have a Pre-Qualification Questionnaire returned in electronic format (eg: Excel) must tell suppliers to use the designated email address "procsupport@huntingdonshire.gov.uk" and inform the Procurement Manager of the closing date. The Procurement Manager shall forward the Pre-Qualification Questionnaires to the Manager after the closing date.~~

9.2 Open Tenders/Quotes

- (a) Provided the Manager complies with paragraph 2.2 and is satisfied that Expressions of Interest received represent contractors with genuine interest and capacity, then no further public notice is required. Otherwise public notice may be given in one or more newspapers and/or in an appropriate trade journal. The notice shall state the nature and purpose of the contract, where further information and documentation can be obtained, and state the closing date for the process.
- (b) An Invitation to Tender (ITT) or Request to Quote (RFQ) shall be sent to all contractors expressing an interest. ITTs and RFQs may include an appropriate suitability questionnaire. The Procurement Manager shall provide a suitable questionnaire.

9.3 Invitations to Tenders (ITT) and Requests for Quotations (RFQ)

Managers shall ensure that all ITTs and RFQs include;

- (a) approved contract terms in accordance with paragraph 13.1 of this Code;

- (b) a clear statement that explains if the bid is to be evaluated on the basis of the most economically advantageous tender (best value).

9.4 Evaluation Criteria

Except where the Cabinet decides otherwise, all formal quotations or tenders that are being sought shall:

- (a) be based on a definite written specification, which shall include consideration (where relevant to the requirement) of:
 - ◆ environmental performance including low energy and water consumption and the elimination of substances hazardous to health and the environment.
 - ◆ delivery of social benefit (for services only)
 - ◆ inclusion of Small & Medium sized Enterprises
- (b) include award criteria,
- (c) include specific weightings applied to individual award criteria, and
- (d) if appropriate, include a requirement for a performance bond and liquidated damages

9.5 Non-Traditional Procurement

If a Manager believes that by following one of the procurement procedures detailed in paragraph 9 above that the procurement process will not provide him with the most appropriate method of delivery, the most competitive prices, allow for continuous improvements in delivery, or stifle innovation, then they may suggest alternative procurement strategies.

The Manager shall produce in accordance with guidance issued by the Procurement Manager and prior to proceeding with the procurement, a written acquisition strategy that shall be approved by the Monitoring Officer and the Cabinet.

10. SUB-CONTRACTS AND NOMINATED SUPPLIERS

10.1 Quotations or tenders for sub-contracts to be performed or for goods, services or materials to be supplied by nominated sub-contractors shall be invited in accordance with this Code.

10.2 The relevant Manager is authorised to nominate to a main contractor a sub-contractor whose quotation or tender has been obtained in full accordance with this Code.

11. RECEIPT AND OPENING OF TENDERS AND QUOTATIONS

11.1 Contractors shall be notified that tenders or formal quotations are invited in accordance with this Code. No tender or formal quotation will be considered unless -

- (a) it has been received via the [e-tendering](#) or e-marketplace 'sealed quote' facility; or
- (b) it is contained in a plain envelope/packet which shall be securely sealed and shall bear the word "Tender" or "Quotation", the Unique Reference Number (URN) from the Contracts Register; and the envelope shall not

bear any distinguishing matter or mark intended to indicate the identity of the sender. Such envelope shall be addressed

- ◆ impersonally to the 3Cs Head of Legal Practice if it contains a “Tender”, or
- ◆ the appropriate Manager if it contains a “Quotation”; or

(c) RFQs (Formal Quotations) may be sent electronically to a specific e-mail address, which the appropriate Manager shall obtain from the IMD Service Manager. The IMD Service Manager shall ensure that the e-mail address is secure.

11.2 All Officers shall comply with the procedure note ‘Procedure for the Receipt of Tenders and Formal Quotations’ which can be found on the Procurement internet pages.

11.3 All tenders or quotations upon opening shall be recorded in writing on either a tender or quotation opening record unless the Contracts Register is being completed contemporaneously. The format of the opening record shall have been previously agreed with the Monitoring Officer and 3Cs Head of Legal Practice.

11.4 Any tenders or quotations received after the specified time may in exceptional circumstances be accepted by 3Cs Head of Legal Practice, otherwise they shall be returned promptly to the contractor by the 3Cs Head of Legal Practice or his nominated officer in respect of tenders, or by the appropriate Manager or his nominated officer in respect of a formal quotation.

11.5 Late tenders shall be rejected once any other tender/quotation has been opened. The tender or quotation may be opened to ascertain the name of the contractor but no details of the tender or quotation shall be disclosed.

12. ACCEPTANCE OF TENDERS AND QUOTATIONS

12.1 The appropriate Manager shall evaluate all the tenders or quotations received in accordance with the award criteria set out in the bid documentation and shall accept, subject to the provisos set out in this paragraph, the most economically advantageous tender or quotation, as evaluated against the award criteria.

12.2 Tenders or quotations exceeding the approved estimate may only be accepted once approval to further expenditure is obtained.

12.3 If the most economically advantageous quotation exceeds £100,000 but -

- (a) is within 15% of the original estimate and budget, the appropriate Head of Service may accept the quotation without seeking further competition; or
- (b) is in excess of 15% of the original estimate then the Head of Service shall consult the Procurement Manager and obtain the approval of the Monitoring Officer that the quotation can be accepted otherwise a competitive tender exercise in accordance with paragraph 9.1 above shall be carried out.

12.4 A tender or quotation shall not be accepted -

- (a) where payment is to be made by the Council and it is not the most economically advantageous tender or quotation in accordance with the award criteria set out in the tender or quotation documentation; or

- (b) if payment is to be received by the Council and the tender or quotation is not the highest price or value;
- (c) unless –
 - ◆ the Cabinet have considered a written report from the appropriate Head of Service/Service Manager, or
 - ◆ in cases of urgency, the Monitoring Officer has consulted and obtained the approval of the relevant executive councillor. Tenders or quotations accepted in this way shall be reported by the appropriate Manager to the next meeting of the Cabinet.

12.6 Arithmetical Errors and Post-Tender Negotiations

- (a) Contractors can alter their tenders or quotations after the date specified for their receipt but before the acceptance of the tender or quotation, where examination of the tender or quotation documents reveals arithmetical errors or discrepancies which affect the tender or quotation figure. The contractor shall be given details of all such errors or discrepancies and afforded an opportunity of confirming, amending or withdrawing his offer.
- (b) Post-tender negotiations shall not be used to degrade the original specification unless:
 - ◆ the capital or revenue budget is exceeded; or
 - ◆ other special circumstances exist;
 - ◆ in which case the Monitoring Officer and Procurement Manager shall decide which of those contractors who originally submitted a tender or quotation shall be given the opportunity to submit a further bid based upon a degraded specification. This decision shall be recorded in writing.
- (c) In evaluating tenders, the appropriate Manager may invite one or more contractors who have submitted a tender to submit a revised offer following post-tender negotiations.
- (d) All post-tender negotiations shall:
 - ◆ only be undertaken where permitted by law and where the appropriate Manager and Monitoring Officer and 3Cs Head of Legal Practice consider additional financial or other benefits may be obtained which over the period of the contract shall exceed the cost of the post-tender negotiation process;
 - ◆ be conducted by a team of officers approved in writing by the Monitoring Officer and 3Cs Head of Legal Practice;
 - ◆ be conducted in accordance with guidance issued by the 3Cs Head of Legal Practice; and
 - ◆ not disclose commercially sensitive information supplied by other bidders for the contract.

- (e) The appropriate Manager shall ensure that all post-tender negotiation meetings are properly minuted with all savings and benefits offered clearly costed. Following negotiations but before the letting of the contract, amendments to the original tender submitted shall be put in writing by the contractor(s) and shall be signed by him.

13. TERMS OF BUSINESS AND THE FORM OF CONTRACTS

13.1 All orders placed by the Council shall be on the Council's Standard Terms and Conditions (T&Cs) except for:-

- (a) [Any purchase at a public auction.](#)
- (b) Any framework or contract formally adopted by the Council.
- (c) Purchasing Agency (e.g. ESPO, Crown Commercial Service) arranged contracts and orders.
- (d) Orders of a total value of less than £ 25,000 where the goods or service are purchased on a 'retail' basis on terms available to the general public.
- (e) Orders for software where the licence is for a 'standard' product but not where any form of modification, customisation, development or on-site service is required for the 'standard' product.
- (f) Any contract where
 - ◆ the estimated total value is likely to exceed £100,000; or
 - ◆ significant risk to performance, cost or delivery is identified; or
 - ◆ if a specialist category (eg: works, IT, professional services, concessions),

then the contract shall be in writing in a form approved by the 3Cs Head of Legal Practice. Managers shall ensure that advice of the 3Cs Head of Legal Practice is sought at a stage as early as practicable (normally before the issue of an Invitation to Tender).

13.2 Managers shall not use Contractor's documentation to order, acknowledge, instruct to proceed or make any other commitment where the documentation makes any reference to the Contractor's T&Cs. Except where permitted at paragraph 13.1, if a contractor formally insists on trading on T&Cs other than the Council's T&Cs, the Procurement Manager shall be informed.

13.3 In the case of any contract likely to exceed £100,000 for the execution of works or for the supply of goods, services or materials, the Manager after consulting with the Procurement Manager and the Monitoring Officer shall consider whether the Council should require security for its due performance and shall either certify that no such security is necessary or shall specify in the specification of tender the nature and amount of the security to be given. In the latter event, the Council shall require and take a bond or other sufficient security for the due performance of the contract.

13.4 Managers shall produce the final version of all contracts in 2 copies. Where the total value of a contract exceeds £100,000 both copies shall be presented to the Head of Resources for signature. Once signed by the contractor, the signed contract, all original documents, including specifications, drawings, tender documents and correspondence relating to shall be forwarded by the 3Cs Head of Legal Practice. Where the total value of the contract is less than £100,000 the

relevant Manager shall make arrangements for the retention of all the original documentation.

13.5 Managers shall maintain a record (in the form detailed in the Procurement Protocols & Guidance) for their area of each contract or agreement (both written and verbal agreements).

13.6 Managers shall include one of the specific T&Cs listed in the Procurement Home Page in all contracts. Where a Manager considers a term or condition inappropriate they shall seek advice of the 3Cs Head of Legal Practice on the modification or deletion of the term or condition.

14. LETTERS OF INTENT

14.1 Letters of intent provide a contractor with the authority to proceed prior to the award of a contract. However, letters of intent have two main disadvantages:-

- (a) if the contract is not awarded the contractor is entitled to payment regardless as to whether the work was actually needed;
- (b) the Council's negotiating position is weakened as the contractor may believe actual award of contract is a formality and therefore, the contractor may refuse to accept conditions that are seen as disadvantageous.

14.2 Managers shall ensure that:-

- (a) all letters of intent are in a form approved by the 3Cs Head of Legal Practice; and
- (b) all letters of intent are signed by the appropriate Budget Manger with sufficient authority for either the value of the intended contract or the estimated value of any 'extension' period defined in the letter of intent if below £100,000 , otherwise by the Head of Resources.

15. POST-COMPETITION DEBRIEFS

15.1 For all contracts greater than £25,000, Managers shall maintain records of selection and evaluation scoring and where requested by participating suppliers, provide a suitable post-tender debrief in writing. For contracts greater than £100,000 , unsuccessful tenderers shall be advised in writing of the winning supplier, the value of the contract awarded and the strengths and weaknesses of their tender and the advice of the Procurement Manager shall be sought on the format and scope of the debrief.

16. PUBLISHING CONTRACT AWARDS

16.1 Contract Award Notices shall be published within 90 days of contract award in the appropriate online system:

- ◆ Contracts Register if greater than £5,000, and.
- ◆ Contracts Finder if greater than £25,000 (including awards under mini-competition using a framework) or if advertised in Contracts Finder, and
- ◆ The Official Journal of the European Union if greater than the promulgated EU threshold.

17. LOCAL GOVERNMENT ACT – COMMUNITY RIGHT TO CHALLENGE

The Local Government Act permits relevant bodies (charities, community bodies, town & parish councils and staff) to submit Expressions of Interest to provide Council services. The Procurement Manager shall maintain and publish a timetable for the submission of Expressions of Interest. All Expressions of Interest received from relevant bodies should be forwarded to the Policy, Performance and Transformation Manager (Scrutiny).

18. RETENTION OF DOCUMENTS

18.1 Managers shall ensure that every contract or quotation is assigned the Unique Reference Number (URN) from the Contract Register, which is to be used in all correspondence. Any Division or reference may be included in addition to the URN shall comprise abbreviation for the Division and year. Formal amendments to a contract or order should also be given unique numbers showing the order in which the amendments were made.

18.2 Documentation retention periods are dictated by the Statute of Limitations and (where applicable) EU requirements. The following rules apply:-

- (a) retention for 12 years from the date of completion of the contract for contracts made under deed;
- (b) retention for 6 years from the date of completion of the contract:-
 - ◆ Contract Documents
 - ◆ Hire/Rental Agreements
 - ◆ Successful Tenders
 - ◆ Summary of Tender Opening
 - ◆ Disposal Board papers
 - ◆ All selection and evaluation scoring and reports
 - ◆ Goods Received Notes
 - ◆ HM Customs and Excise Import documentation
 - ◆ Invitations to Tender/Quotation Requests
 - ◆ Maintenance/Software licence agreements
 - ◆ Specifications
 - ◆ Successful Quotations
 - ◆ Suppliers' Advice Notes;
- (c) retention for 3 years after the last entry:-
 - ◆ Stock and Purchase Record Cards or Registers
- (d) retention for 2 years after the financial year to which the document relates:-
 - ◆ Unsuccessful Quotations.
 - ◆ Unsuccessful Tenders.

19. FREEDOM OF INFORMATION ACT 2000 (FOIA)

Managers shall ensure that the handling of requests for procurement information complies with the detailed guidance published as Procurement Protocols & Procedures and the general FOIA guidance published by the Council's Freedom of Information Officer.

20. CONFLICTS OF INTEREST

20.1 Where a potential conflict is declared by an officer or otherwise recognised, the HoS shall ensure the relevant company and businesses areas are identified. Other business areas are exempt from the procedure.

20.2 The following procedure is applied according to value:

(a) Low value (less than £100,000)

- ◆ HoS shall arrange for specifications/evaluation criteria written by the affected officer to be independently vetted;
- ◆ HoS shall appoint 2 independent officers to evaluations were the relevant company participates; and
- ◆ HoS shall ensure independent vetting of evaluations were the relevant company becomes the preferred bidder.

(b) High Value (greater than £100,000). Where the relevant company bids or is considered likely to bid the HoS shall ensure participation by the affected officer is limited to providing specialist advice.

20.3 If a conflict of interest becomes apparent once a procurement is underway but before contract award the HoS shall seek the advice of the Procurement Manager and 3Cs Head of Legal Practice on how to proceed. If discovered after contract award, the HoS shall refer the matter to the Monitoring Officer.

21. Interims, Consultants and Contractors

21.1 The Manager responsible for appointing any Interim, Consultant or Contractor (ICC) shall:

- (a) if engaged through an agency, provide the agency with any information requested about the role.
- (b) if engaged directly, use the HMRC's online employment status tool to check the ICC's tax status and record the outcome. If the ICC is deemed an employee then HR shall be provided with the details of the engagement.

22.2 If the ICC will be responsible to the Council for the management or supervision of a contract on its behalf, then the Manager shall provide the ICC with a copy of this Code and ensure that it shall be a condition of the engagement that the ICC shall:

- (a) comply with this Code; and
- (b) at any time during the carrying out of the contract produce to the appropriate Manager, on request, all the records maintained in relation to the contract; and

- (c) on completion of the contract transfer all records produced or received that relate to the contract to the appropriate Manager.

22. PROCUREMENT TRAINING

22.1 The Procurement Manger shall create, maintain and arrange the delivery of training for Officers undertaking procurement duties.

22.2 Managers shall ensure that all Officers routinely undertaking purchasing or procurement duties where the gross value of the procurement is £5,000 or more shall have undertaken appropriate training.