



**NOTTINGHAM CITY COUNCIL**  
**AUDIT COMMITTEE**

**Date:** Friday, 27 September 2019

**Time:** 10.30 am

**Place:** LB 31 - Loxley House, Station Street, Nottingham, NG2 3NG

**Councillors are requested to attend the above meeting to transact the following business**

**Corporate Director for Strategy and Resources**

**Governance Officer:** Mark Leavesley **Direct Dial:** 0115 876 4302

- 1 APOLOGIES FOR ABSENCE**
- 2 DECLARATIONS OF INTERESTS**  
If you need advice on declaring an interest, please contact the Governance Officer above, if possible before the day of the meeting
- 3 MINUTES** 3 - 8  
Last meeting held on 29 July 2019 (for confirmation)
- 4 INDEPENDENT INQUIRY INTO CHILD SEXUAL ABUSE (IICSA) REPORT** 9 - 12
- 5 TREASURY MANAGEMENT TRAINING**  
Presentation by Glyn Daykin
- 6 COMPLAINTS ANNUAL ASSURANCE 2018-19 REPORT** 13 - 26  
Report of Corporate Director, Strategy and Resources
- 7 NON EXECUTIVE AMENDMENTS TO THE CONSTITUTION** 27 - 52  
Report of Director of Legal and Governance
- 8 ACCOUNTS UPDATE**  
Report of Strategic Director of Finance
- 9 AUDIT COMMITTEE TERMS OF REFERENCE AND ANNUAL WORK PROGRAMME** 53 - 62  
Report of Strategic Director of Finance

**10 EXCLUSION OF THE PUBLIC**

**11 EXEMPT MINUTES**

63 - 64

Last meeting held on 29 July 2019 (for confirmation)

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## NOTTINGHAM CITY COUNCIL

### AUDIT COMMITTEE

**MINUTES of the meeting held at Loxley House, Station Street, NG2 3NG, on 29 July 2019 from 1.08 pm - 3.20 pm**

#### **Membership**

##### Present

Councillor Steve Battlemuch (Chair)  
Councillor Audra Wynter (Vice Chair)  
Councillor Leslie Ayoola  
Councillor Graham Chapman  
Councillor Michael Edwards  
Councillor Anne Peach  
Councillor Lauren O`Grady  
Councillor Andrew Rule

##### Absent

Councillor Jane Lakey

#### **Colleagues, partners and others in attendance:**

Theresa Channell	-	Head of Strategic Finance
John Gregory	-	Grant Thornton External Auditors
Kate Morris	-	Governance Officer
Laura Pattman	-	Strategic Director of Finance
Sue Risdall	-	Team Leader, Technical Finance
Shail Shah	-	Head of Audit and Risk
Caroline Stevens	-	Principal Risk Specialist
Thomas Straw	-	Senior Accountant Capital Programmes

#### **14 DECLARATIONS OF INTERESTS**

Although not formally required to declare as interests, in the spirit of transparency, the following member informed the committee of the Council appointments and connections to the bodies/committees listed below mentioned or referred to in the External Auditor's report:

Councillor Ayoola is a Director of the Creative Quarter

Councillor Battlemuch is a member of the Robin Hood Energy Board, the Playhouse Management Board and the Trusts and Charities Committee (Bridge Estate)

Councillor Chapman is a member of the Nottingham City Transport Board

Councillor Edwards is a member of the Enviroenergy Board

Councillor O`Grady is a member of the Robin Hood Energy Board

Councillor Peach is a member of the Trusts and Charities Committee (Bridge Estate) and a Director of Nottingham Ice Arena

Councillor Rule is a member of the Trusts and Charities Committee (Bridge Estate)

Councillor Wynter is a member of the Business Improvement District and the Nottingham City Transport Board

This did not preclude the above from speaking or voting on any items.

## **15 APOLOGIES**

None.

## **16 MINUTES**

Subject to the removal of the 'g' at the end of the word Robin in minute 3, the minutes of the meeting held on 5 July 2019 were confirmed as a correct record and were signed by the Chair.

## **17 NON-EXECUTIVE AMENDMENTS TO THE CONSTITUTION**

Nancy Barnard, Governance and Electoral Services Manager, presented a report outlining proposed changes to non-executive parts of the constitution as a result of legislative changes and feedback received from colleagues.

During discussion, the following suggested amendments were made:

- (a) Delegation 208 within the Scheme of Delegation – The committee suggested that adding the wording “in consultation with the Chair of the Planning Committee” would assure them that the Planning Committee would retain ownership of decisions it had previously taken;
- (b) Overview and Scrutiny Procedure Rules – in point (d) the word ‘less’ be replaced by ‘fewer’;

The Committee also asked that current Portfolio Holders be briefed on the changes to their portfolios.

**RESOLVED to recommend to Council that it approves the following amendments to non-executive aspects of the Council’s Constitutions:**

- **to Part 1 of the constitution as detailed in appendix A of the published report;**
- **to Delegation 155 within the Scheme of Delegation as detailed in appendix B of the published report;**
- **to Delegation 208 within the Scheme of Delegations as detailed in appendix C of the published report and with the additional wording set out in (a) above;**
- **to the Access to Information Procedure Rules as details in appendix D of the published report;**

- **to the Overview and Scrutiny Procedure as detailed in appendix E of the published report along with substituting the word 'less' with 'fewer';**
- **adoption of a revised Standing Orders as detailed in appendix F of the published report;**
- **to the Councillor and Co-Opted Members Code of Conduct as detailed in appendix G of the published report.**

## **18 EXTERNAL AUDIT REPORT**

In a change to the published agenda, the Chair took the External Audit Report item before the Statement of Accounts.

The Draft External Audit report was circulated to members and at 13:27hrs the meeting adjourned to allow them to read the report. The meeting recommenced at 13:40hrs

Grant Thornton introduced the External Audit report as circulated at the meeting. He advised members that the audit was almost complete and that the main issue currently outstanding is the opinion on Group Accounts. He confirmed that as long as the Group accounts were signed off, the audit findings will be brought to the September meeting of this Committee.

He highlighted the following points from the report:

- (a) Draft accounts were prepared to a good standard and despite being a large and complex organisation Nottingham City Council conformed well to the CIPFA guidelines;
- (b) Some suggestions were made regarding the accounts, including taking out some judgements that were not critical or significant. This made the accounts more focused;
- (c) Auditors worked with officers following the McCloud ruling. NCC accounts have been amended as per the auditors' suggestion. The ruling has caused a material change in the Group Accounts but this is being addressed;
- (d) Work around the Value for Money arrangements continues, there is outstanding work in relation to risk on the governance of the Council's subsidiary companies;

Following questions and comments, the following points were made:

- (e) The Statement of Accounts can still be published without the completed External Audit report. Nottingham City Council will still be able to publish the accounts as they currently stand;
- (f) There are a number of councils across the country in a similar position as a result of the altered time frames for Local Government audit;

- (g) The Broadmarsh project has been assessed within the governance in relation to major capital schemes. A full update will be brought to the September meeting of this Committee;
- (h) The IT Security Policy is still dated 2015. The Committee asked for an update on this matter.

**RESOLVED to note the External Audit Report and receive the completed version at the September meeting of this committee.**

## **19 STATEMENT OF ACCOUNTS 2018-19**

Theresa Chanel introduced the Statement of Accounts, which was circulated at the meeting. This Statement of Accounts has been updated following comments from this committee at the meeting on 5 July 2019 and having considered the findings of external audit.

Changes include alteration to the lay out of the report, updates to accounting policies, updates to the section dealing with pensions and alterations to the Group accounts.

**RESOLVED to**

- (1) approve for publication the unaudited Statement of Accounts and authorise the Chair of Audit Committee to sign them on the Committee's behalf;**
- (2) delegate authority jointly to the Chair of the Audit Committee and the Strategic Director of Finance to approve any subsequent necessary amendments to the statement of Accounts.**

## **20 ANNUAL GOVERNANCE STATEMENT 2018/19**

Shail Shah, Head of Audit and Risk, presented the Report on the Annual Governance Statement, an updated version of which was circulated at the meeting (appended to these minutes). He highlighted that the only significant change to the report published with the agenda was the addition of wording in paragraph 4.14 reflecting the current position with the group accounts.

During discussion, the following points were made:

- (a) the Committee would have liked to have seen more made of the success around Local Government Ombudsman complaints and the lower than national average number of complaints being upheld;
- (b) queries were raised by Committee members around report pathways when commissioned by the members and the need for more robust adherence to the democratic process;
- (c) when the Annual Governance Statement is compiled, liaison between partners, Councillors and Project Officers takes place. If a project was raised specifically, it would be mentioned directly in the Statement, however, where robust risk

registers and mitigations are in place, residual risk remains low and no specific mention in the statement is required;

- (d) this AGS is for the 2018/19 financial year, however, when the AGS is next updated, the Committee would like to see the paragraph referring to Brexit expanded to better reflect mitigations in place and planned;
- (e) the Chair informed the committee that he was going to be in touch with members of the committee individually to establish items that they feel need further discussion at future meetings. Items highlighted within this meeting will be considered;
- (f) the committee wanted assurance that all parts of the Council were working to agreed service plans. A report will be submitted to a later meeting of this committee to address this.

## **RESOLVED**

- (1) to approve the updated Annual Governance Statement 2018/19 as appended to these minutes;**
- (2) to note that Paragraph 6.19, relating to Brexit, will be updated when the final AGS is submitted to a future meeting of this committee.**

## **21 AUDIT COMMITTEE ANNUAL REPORT 2018/19**

Councillor Edwards presented the Audit Committee Annual Report 2018/19. He offered thanks to the Committee for the support during his time as Chair, and expressed the importance of maintaining a philosophy of action.

**RESOLVED to note the work undertaken and approve the Audit Committee Annual Report 2018/19.**

## **22 INTERNAL AUDIT ANNUAL REPORT AND OPINION 2018/19**

Shail Shah, Head of Audit and Risk introduced the Internal Audit Annual Report 2018/19. He informed members that this report comes to the Committee regularly through the year and the content of the report is set out to meet legislation and statutory guidelines.

The following points were highlighted:

- (a) the report confirms that nothing has occurred during the year that has impaired the Head of Audit and Risk's personal independence or objectivity and that scope and resources are sufficient;
- (b) the Head of Audit and Risk gives a significant level of assurance that internal control systems are operating within the Council, its significant partners and associated groups;

- (c) in the upcoming year, a number of reports will be coming to the Committee focusing on the areas covered in the Executive Summaries as detailed in Appendix B of the published report. Focus will be given to those with limited assurance;

**RESOLVED to**

**(1) note:**

**(a) the audit work completed during the year, including the use of other sources of assurance and reliance upon those other sources;**

**(b) the Head of Audit and Risk's Annual Opinion;**

**(c) the proposed Audit Plan for 2019/20;**

- (2) approve the Internal Audit Charter as published with the agenda.**

**23 EXCLUSION OF THE PUBLIC**

**RESOLVED to exclude the public from the meeting during consideration of the remaining items in accordance with Section 100A(4) of the Local Government Act 1972 on the basis that, having regard to all the circumstances, the public interest in maintaining the exemption outweighs the public interest in disclosing the information, as defined in Paragraph 3 of Part 1 of Schedule 12A to the Act.**

**24 EXEMPT MINUTES**

The Committee confirmed that the exempt minutes of the meeting held on 5 July 2019 were a correct record and they were signed by the Chair.

**25 EXTERNAL AUDIT REPORT - EXEMPT DISCUSSION**

**RESOLVED to agree the recommendations as detailed in the exempt minutes.**

Nottingham City Council  
Audit Committee – 27 September 2019

Independent Inquiry into Child Sexual Abuse

1. **Background**

- The Independent Inquiry into Child Sexual Abuse (IICSA) was established as a statutory inquiry on 12 March 2015 to consider the growing evidence of historical institutional failures to protect children from child sexual abuse, and to make recommendations to ensure the best possible protection for children in future.
- The inquiry launched 13 investigations into a broad range of institutions identified on the basis of the Panel's criteria for selection of investigations.
- In November 2015, Justice Goddard (the then chair of the Inquiry) announced that the independent investigation into child sexual exploitation would look into the historical failure to protect children in the care of Nottingham and Nottinghamshire Councils.
- A significant number of allegations (including physical and sexual abuse) of historical abuse in children's homes, previously operated by Nottinghamshire County and Nottingham City councils and other organisations, have been made, dating back to the 1940's.
- Currently, there are a significant number of actions, both criminal and civil, that are under way:
  1. *Operation Equinox which is the overarching umbrella for a variety of operations including:*
    - *Operation Daybreak*, which was launched by Nottinghamshire Police in 2011.
    - *Operation Xeres*, investigating similar allegations in north Nottinghamshire, launched in 2015.
  2. *Civil Claims against both the County and City Councils.*

2. **Scope of the Inquiry – The Nottinghamshire Context**

1. Institutional responses to disclosures of allegations of sexual abuse in relation to Beechwood since 1967 to the present and the barriers to disclosure of such allegations.
2. A case study into the institutional responses to disclosure of allegations of child sexual abuse in foster carer and the barriers to disclosure of such allegations.
3. A case study into the institutional responses to disclosures of allegations of sexual abuse carried out by children against other children in the care of the Councils, and the barriers to disclosure of such allegations.

### 3. **Progress**

- The Independent Inquiry into Child Sexual Abuse requested a variety of information from both Councils since January 2016. The requests were in relation to current and historical policies, procedures, guidance, investigation reports, civil claims, allegations against staff and foster carers and case records.
- The Public Hearing ran from 01–26 October (with a one week break).

### 4. **Publication of Findings**

On 31 July 2019, IICSA published its findings into the extent of any institutional failures to protect children in the care of Nottingham City and Nottinghamshire County Councils from sexual abuse.

There were two recommendations for the City Council, for which we will need to publish our response within six months of the publication of this report:

1. Nottingham City Council should assess the potential risk posted by current and former foster carers directly provided by the council in relation to the sexual abuse of children. They should also ensure that current and former foster carers provided by external agencies are assessed by those agencies. Any concerns which arise should be referred to the appropriate body or process, including the Disclosure and Barring Service, the local authority designated officer (LADO) or equivalent, the fostering panel and the police.
2. Nottingham City Council and its child protection partners should commission an independent, external evaluation of their practice concerning harmful sexual behaviour, including responses, prevention, assessment intervention and workforce development. An action plan should be set up to ensure that any recommendations are responded to in a timely manner and progress should be reported to City's Safeguarding Children Partnership.

As part of the wider cross-cutting learning from the 14 strands of the Inquiry, they will return to a number of issues that have emerged during this investigation, including but not limited to:

- Harmful sexual behaviour.
- The barriers to disclosure of sexual abuse by children, including those in care, and proactive steps to reduce those barriers.
- The approach to civil litigation, including the role of insurers.

The full report can be found [here](#).

### 5. **Next Steps**

- An action plan has been developed in response to the findings of the report and this will be shared with our safeguarding partners to ensure that they are committed to delivering the required improvements for Nottingham citizens.

- We continue to work in partnership with Nottinghamshire Police to actively support the ongoing criminal investigations, help to identify perpetrators and whenever possible, bring them to justice. We also work in partnership with Nottinghamshire County Council to progress Civil Claims and with Nottinghamshire CCG to help victims access the support they need.
- We continue to work with survivors of historical child sexual abuse, helping them access appropriate support. To help ensure that all partners are commissioning the right support the OPCC and NHS England have commissioned a comprehensive child sexual abuse/sexual violence economic, health and social needs assessment for Nottinghamshire.

Lime Culture CIC, a national sexual violence training and consultancy organisation with a strong track record of victim and survivor engagement is undertaking this work which includes a series of focus groups with victims and survivors and separately with professionals who are working with survivors. The resultant needs assessment will provide all commissioners in Nottinghamshire, including the City Council, with a solid evidence base for future support services and we shall use this to ensure that we and our partners continue to commission and provide the right support for our survivors.

- The safety and wellbeing of children and young people in the care of the City is and always will be our highest priority.

**Alison Michalska**  
**Corporate Director - Children and Adults**

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**AUDIT COMMITTEE**  
**27 SEPTEMBER 2019**

<b>Title of paper:</b>	Have Your Say Complaints Annual Assurance Report – Including Local Government Ombudsman Annual Letter 2018-19	
<b>Corporate Director:</b>	Candida Brudenell, Strategy and Resources	<b>Wards affected:</b> All
<b>Report author and contact details:</b>	Vanessa Jenkins – Customer Experience Lead <a href="mailto:vanessa.jenkins@nottinghamcity.gov.uk">vanessa.jenkins@nottinghamcity.gov.uk</a> 0115 87 61527	
<b>Other colleagues who have provided input:</b>	Dominic O’Melia, Customer Experience Manager Patrick Skeete, Social Care Complaints & Representations Manager Nancy Barnard, Governance and Electoral Services Manager	
<b>Recommendation:</b>		
<b>1</b>	that the Committee notes the contents of the report.	

## **1. REASONS FOR RECOMMENDATIONS**

1.1 This report provides a reflection of the complaints received:

- under the Have Your Say (HYS) process;
- under the statutory Social Care complaints process;
- under the School Admission complaints process.

and the decisions made on these complaints about Nottingham City Council by:

- Nottingham City Council (NCC);
- the Local Government Ombudsman (LGO).

for the period of 01 April 2018 to 31 March 2019. The information is taken from NCC records and the LGO Annual Letter, which is issued to all Councils and is published on the Ombudsman’s website.

1.2 Capturing customer experience and learning from complaints is important, it enables the council to reflect on feedback about its services and facilitates service improvements and innovation. An outcome of an upheld complaint can be a recommendation for a service improvement, which is welcomed as another source of reflection and learning for the organisation.

1.3 Whilst it is important to capture customer experience, we also need to be mindful that each complaint represents time which the citizen, and the colleague investigating and responding could have used on other activities. This is particularly relevant as the Council’s resources are shrinking. The Customer Experience team therefore aim to support colleagues to achieve lower complaint rates and this report helps to identify the level of success in achieving this aim within Council services.

1.4 We also note that a citizen's opinion of Council services in general can be affected by their experiences with an individual service, so by providing a satisfactory service (and in some cases by effective communication of a well-organised, complete, and timely complaint investigation), colleagues can improve the Council's reputation and future contact with citizens.

1.5 We continue to maintain a good working relationship with the LGO Assessment and Investigation teams. The Customer Experience Lead acts as a Link Officer between the LGO and NCC to liaise with Council services and ensure deadlines are met.

## **2. BACKGROUND**

2.1 To enable Nottingham City Council to deliver high quality services it is important that we record and listen to feedback from people using Council services. Through the Have Your Say (HYS) process, we aim to handle comments, complaints and compliments in a fair and consistent way, maintaining openness and transparency. Complaints can help us identify any trends in service failures and make improvements by learning from root cause analysis.

2.2 There are currently two complaints teams within Nottingham City Council. One team handles the statutory complaints in relation to Children and Adults Social Care Services, and the HYS team handles the complaints and feedback for all other Council services. There are some areas that cannot be dealt with by the HYS complaints process as they are covered by another process or legal procedure. These exemptions include:

- Appeals against refusal of planning permission or against conditions placed on a grant of planning permission;
- A complaint about social care services (children and adults);
- A school admission or exclusion appeal;
- A complaint about a school;
- A complaint from a City Council employee about an employment matter;
- An appeal against the issue of a penalty charge notice by the parking enforcement team and the recovery process which follows;
- Dispute a fixed penalty for environmental crimes (including dog-fouling);
- Dispute a penalty charge notice for Bus Lane Contravention;
- Any appeal against the exercise of a police power;
- A complaint about the refusal of disabled badges for parking exemption;
- A complaint about the independent Rent Officer;
- A complaint about Anti-Social Behaviour;
- A complaint about Nottingham City Homes;
- Appeals regarding Resident Permits/Dispensation Access Permits.

2.3 The LGO oversee some but not all of the HYS exemptions. This includes Social Care complaints and School Admissions appeals. They do not oversee the exemptions that have prescribed appeal routes.

2.4 Implemented in 2016, the HYS service operates a two-stage complaints handling process. At Stage 1, the customer's feedback is triaged to the appropriate service for investigation and response/remedy. If the customer remains dissatisfied once the complaint has completed the first stage of the process, they can request a review of the complaint handling at Stage 2, which is carried out by the Customer Experience Lead.

2.5 The following analysis is reported by volume of complaints so that Councillors can understand better the experience of customers.

### **3. THE LOCAL GOVERNMENT ANNUAL REVIEW**

3.1 On 31 July 2019 the LGO launched their annual review of local government and social care complaints for 2018-19. This year they have provided more data to show how they are helping to improve local services. They now show data for compliance with recommendations they have made, and the number of cases where each authority has provided a satisfactory remedy before the complaint reached the LGO.

3.2 Nationally the LGO received 16,899 complaints and enquiries about councils in England (it does not cover Scotland or Wales). Of those complaints 4,232 had detailed investigations and 58% were upheld. This compares to 17,452 complaints and enquires received in 2017-18, of which 4,020 had detailed investigations and 57% were upheld.

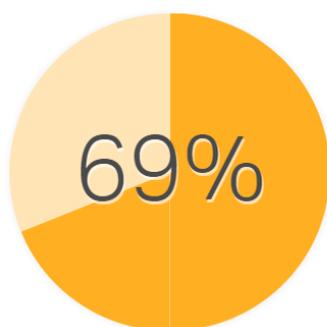
3.3 This year's LGO Annual Review statistics tells us that over a third of the complaints and enquiries they received were about Education and Children's Services or Adult Social Care. The highest proportion of complaints they upheld relate to Benefits and Tax and the fewest were about Planning and Development.

3.4 The LGO is now publishing the information for the Annual Review on a new interactive map, which is called 'Your Council's Performance.' This new tool gives a snapshot of the service improvement recommendations and highlights the key statistics and how they compare to similar authorities.

3.5 The link to the council performance interactive map is as follows:

<https://www.lgo.org.uk/your-councils-performance/nottingham-city-council/statistics>

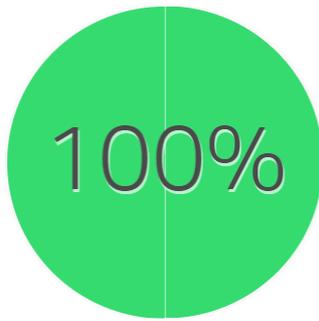
3.6 The snapshot data published on the interactive map for NCC is shown as:



■ 69% of complaints we investigated were upheld.

This compares to an average of 55% in similar authorities.

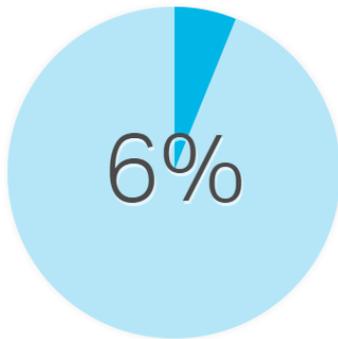
26 cases were investigated



In **100%** of cases we were satisfied the Council had successfully implemented our recommendations.

This compares to an average of **100%** in similar authorities.

18 cases of the 26 were upheld



In **6%** of upheld cases we found the Council had provided a satisfactory remedy before the complaint reached the Ombudsman.

This compares to an average of **11%** in similar authorities.

3.7 The following key facts and figures will provide an in-depth analysis of the LGO's data published for NCC so that Councillors can identify areas that are performing well and areas for improvement considerations as well as see the root causes for these trends.

#### 4. LGO REVIEW LETTER – KEY FACTS AND FIGURES

4.1 The LGO Annual Review Letter shows that they received 104 complaints and enquiries about NCC for the 1<sup>st</sup> April 2018 to 31<sup>st</sup> March 2019 period. Out of the 104 received, 98 were issued with decisions. 27 were treated as premature, 2 were requests for advice and 10 were either incomplete or invalid, leaving 59 cases to be investigated. Of these 59 cases 26 involved detailed investigations by the LGO and 18 of these were upheld.

4.2 This data shows a significant increase in upheld complaints from last year. The table below outlines the results of the LGO Annual Review for 2019 in comparison to the previous three years:

Annual Letter	<u>2016</u>	<u>2017</u>	<u>2018</u>	<u>2019</u>
Received	105	100	103	104
Decided	112	98	98	98
Upheld	13	8	4	18
Not Upheld	14	15	11	8
Closed	85	75	83	72
Uphold Rate	48%	35%	27%	69%

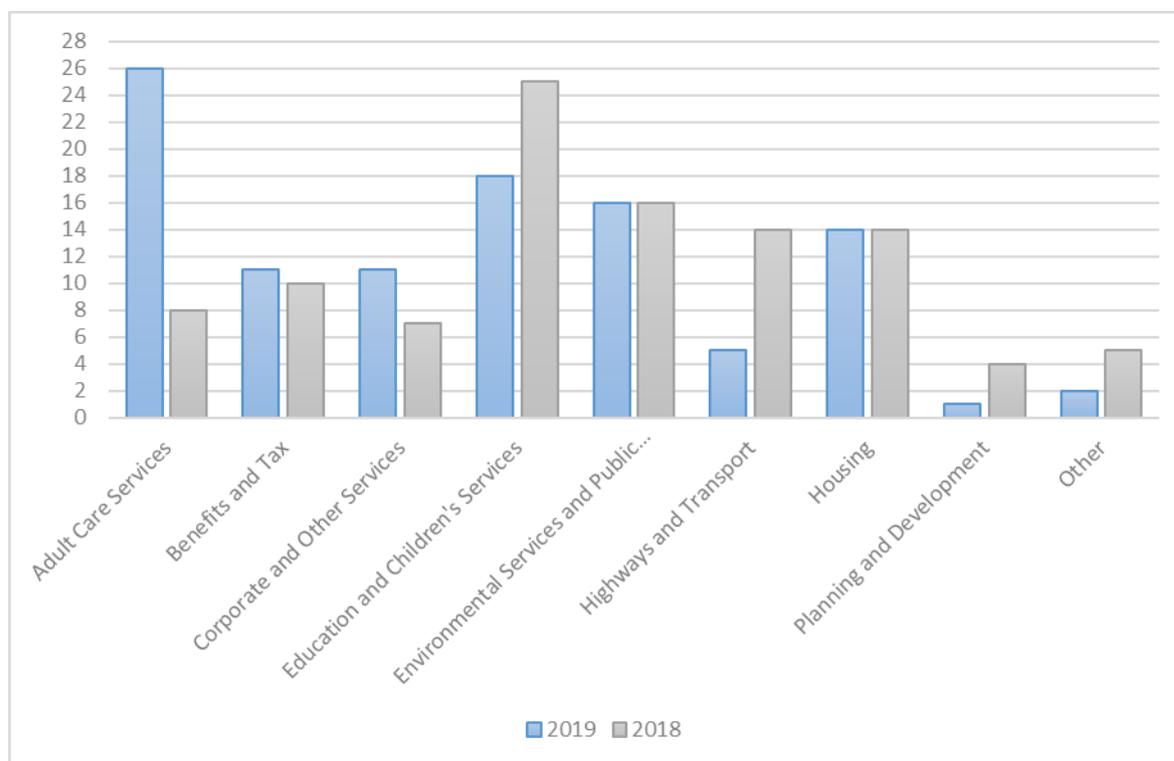
4.3 We recognise that the 26 cases investigated is a very small sample of all complaints dealt with by NCC and that statistically it may not be representative of our complaints process. However we have attempted to identify any learning applicable.

4.4 The LGO categorise the complaints they receive. Looking at the 2019 data in more detail, a breakdown of the information published in by the LGO in their given categories is shown as follows:

Service Category	Rec'd	Decided	Upheld	Not Upheld	Referred back / Closed / Incomplete / Invalid
Adult Care Services	26	23	8	1	14
Benefits and Tax	11	9	0	1	8
Corporate and Other Services	11	9	0	2	7
Education and Children's Services	18	18	8	1	9
Environmental Services and Public Protection and Regulation	16	16	1	2	13
Highways and Transport	5	4	0	0	4
Housing	14*	16*	1	1	14
Planning and Development	1	1	0	0	1
Other	2	2	0	0	2
<b>Total</b>	<b>104</b>	<b>98</b>	<b>18</b>	<b>8</b>	<b>72</b>
Total via HYS Team	60	57	2	6	49

\*Discrepancy in figures for Housing: 14 cases showing as received and a higher number of 16 cases decided, due to decided date crossover into the new financial year.

4.5 This compares to last year's annual review as follows:



4.6 It is important to note that the categories defined in the LGO review data do not accurately reflect the department and service area that the complaint would relate to within NCC. For example, a case that was categorised by the LGO as 'Housing' actually related to a complaint about the Community Protection Service.

4.7 To better understand the areas for focus from the LGO statistics, it is important to look at the complaints decision statements and public reports in more detail in order to define the service area that it falls within at NCC.

4.8 In some cases the LGO will not publish the decision statement for an investigation. We also do not have data on complaints to the LGO that were incomplete/invalid or premature so this report can only reflect in more detail on the data for the 59 decisions that were published. The 39 cases not published were either premature or referred back for local resolution.

4.9 After reviewing each individual case's decisions statements and public report summaries, the complaints have been identified as follows:

<b>NCC Directorate</b>	<b>Decision Statement</b>	<b>Public Report</b>	<b>Upheld</b>	<b>Not Upheld</b>	<b>Closed after initial enquiries</b>
Adult Social Care	14	0	8	1	5
Children's Integrated Service	8	0	4	1	3
Commercial Infrastructure & Energy Services	1	0	0	0	1
Community Protection	12	0	2	2	8
Education Strategy	5	1	4	0	2
HR & Customer	2	0	0	1	1
Legal & Governance	4	0	0	0	4
NCH	3	0	0	0	3
Neighbourhood Services	2	0	0	1	1
Planning	1	0	0	0	1
Property	1	0	0	0	1
Revenue & Benefits	4	0	0	1	3
Traffic & Transport	1	0	0	1	0
<b>Total</b>	<b>58</b>	<b>1</b>	<b>18</b>	<b>8</b>	<b>33</b>

4.10 This breakdown of the data gives a clearer picture about which Council service the LGO complaints and outcomes relate to, and allow us to accurately identify service failures and improvements by carrying out root cause analysis.

4.11 Reflecting on the information breakdown, we can identify that the services with the most upheld cases are with Adult Social Care, with an 89% uphold rate, Children's Integrated Services with an 80% uphold rate and Education Strategy with a 100% uphold rate.

4.12 As this is a relatively small sample of all complaints the % increase is less important than the increase in number of upheld. The increase in number of upheld complaints from the previous three years raises concerns as the overall figures for received and decided complaints have remained on par with those from the previous three years. However from this analysis of the data, the increase in upheld complaints are within Adult Social Care and School Admissions which are not areas covered by the HYS Process.

4.13 Since 01 April 2018 the Council has agreed to make improvements to services following an investigation from the LGO on 8 cases. Of those 8 cases for service improvement, 2 were for Children's Integrated Services, 2 for Adult Social Care, 3

for Schools Admissions and 1 for Community Protection. These are highlighted on the Council's performance page on the LGO website here:

<https://www.lgo.org.uk/your-councils-performance/nottingham-city-council/statistics>

4.14 In the last five years the LGO have published 1 Public Interest Report against Nottingham City Council. This related to a complaint investigation concerning a Schools Admissions Appeal as noted above (should be above in final version). The full report can be viewed here:

<https://www.lgo.org.uk/information-centre/news/2018/jul/city-council-told-to-reconsider-school-admission-appeal-after-ombudsman-investigation>

4.15 A closer look at the complaints data held by NCC will help us to understand the complaints trends and address where things have gone wrong. This will be broken into the HYS complaints, Social Care complaints and School Admissions complaints.

## **5. HYS COMPLAINTS – KEY FACTS AND FIGURES**

5.1 From 01 April 2018 to 31 March 2019 the HYS service have processed 3984 Stage 1 complaints and 69 Stage 2 complaint reviews.

5.2 The top ten areas for complaints dealt with by HYS were:

• Waste	1379
• Council Tax	193
• CPO's/Traffic Wardens	111
• Traffic and Safety	106
• Car Parks (Pay+Display/Barriers/Contracts)	74
• Selective Licensing	66
• Highways	60
• Trees	51
• Housing Benefit	51
• Parks and Open Spaces	31

5.3 The high volume of HYS complaints for waste are primarily residents complaining about issues with their bin collection. It is important to note that these are not missed bin reports (which are logged as a service request not complaints) but are complaints about frequently missed collections and failures to collect missed bin reports.

5.4 Another issue here – next highest or highest in any other service.

5.5 Add paragraph here about generic issues e.g. complaints about communication, not following our own process / policy, and trends for these – if available provide figures / statistics including learning points, completion of learning points and resulting level of complaint– if not consider as point for development (i.e. baseline this year for next year's report, trends in following report)

5.6 Of the 3984 Stage 1 complaints handled through the HYS process, 69 were reviewed by the Customer Experience Lead at Stage 2. With only 2% of the total complaints progressing to Stage 2, this demonstrates that many complaints were resolved at the

early stages and that the HYS quality assurance of complaint responses is an effective process. Any persistent issues here

5.7 Only 3% of the HYS handled complaints investigated by the LGO were upheld.

5.8 Of the 26 complaints investigated in detail by the LGO, 8 cases were for services covered by the HYS process. Only 2 of these complaints were upheld decisions, both of which were about Community Protection services from the same complainant. This is a positive indicator that the HYS two-stage complaint handling process ensures most complaints are remedied at the early stages. Only a very small percentage of the total complaints dealt with have been investigated and upheld by the LGO.

5.9 With only 2% of the total HYS complaints for this period progressing to Stage 2 to be reviewed, this demonstrates that many complaints were resolved at the first stage and that the HYS quality assurance of complaint responses is an effective process.

## **6. SOCIAL CARE COMPLAINTS – KEY FACTS AND FIGURES**

6.1 The Social Care Complaints Service manages the statutory social care complaints procedure for both Children and Adult services. The statutory processes are different for both service areas.

### **Children's integrated Services**

6.2 In 2018/2019 a total of **232** new complaints were received and considered about Children's Integrated Services. This is a decrease of 30% compared with the previous reporting period when 335 complaints were received.

6.3 The children's statutory social care procedure has three distinct stages; local resolution, investigation and independent review.

6.4 At the first stage, (local resolution) the Social Care Complaints Service refers complaints onto operational managers in order for them to consider and respond to the complaint. The Social Care Complaints Service records and monitors these responses. As with previous years, over 90% of complaints were resolved at this stage.

6.5 At stage 2 the Social Care Complaints Service allocates an independent investigator to look into the complaint. There were 11 stage 2 investigation requests received during the last reporting period, compared with 14 in the previous year. Following a gradual improvement over the last few years, this year, for the third year in succession, 100% of the investigations were completed within the timescale, which marks a significant improvement made over the last few years, and one which we hope will be sustained.

6.6 The final stage is an Independent Complaints Review Panel comprising of three Independent People. There were 4 stage 3 panels during the last reporting period. The panels mostly agreed with the Independent Investigators' findings and recommendations, but sometimes added further recommendations.

### **Resolutions offered**

6.7 **Stage 1:** Stage one complaints received a written explanation and where a complaint was upheld or partly upheld an apology was also provided. New or review assessments were undertaken in some instances.

**Stage 2:** Of the 11 stage two investigations where an element of the complaint was fully or partly upheld, all were offered an apology.

**Stage 3:** the 4 panels accepted the investigators' findings, and made no additional recommendations, except in one case where the Panel supported the investigator's findings, but made some additional recommendations and apologies.

### Local Government Ombudsman investigations

- 6.8 Complainants can make a complaint to the Ombudsman at any time but the Ombudsman will usually ask complainants to complete the local authority complaints process before considering complaints himself.
- 6.9 The Ombudsman considered eight complaints. There was no finding of fault against the council in 6 of the complaints reviewed by the Ombudsman. However, the Ombudsman found fault and maladministration leading to injustice in two of the complaints made during 2018/2019.
- 6.10 The Ombudsman made no recommendations in one case as he was satisfied that the stage 2 investigation had already provided sufficient redress; but in the other case he recommended compensatory payments be made to both a foster carer and a foster child in respect of poor communication, and recommended a review of procedures.

### Adult Services

- 6.11 In 2018/2019 a total of **278** complaints were considered about adult social care services, which is the highest ever recorded, compared with 2017/2018 when the Social Care Complaints Team received 193 new complaints about adult social care services.
- 6.12 This is the first year the figure has exceeded 200, but the increase is largely the consequence of the introduction of a new policy, which resulted in a number of complaints during the initial settling in period of the new procedure.
- 6.13 The Adult procedure has a one-stage process, which allows flexibility within the management of a complaint. The Complaints Team usually refers complaints in the first instance to operational managers or commissioned services for their consideration and response. Where the complaint has potentially serious implications for either an individual or the Department or it is complex, it may be necessary to undertake/commission an investigation.
- 6.14 Complaints are often resolved by way of a written response, investigation or mediation, with the exception of **19** that were considered by the Ombudsman, which is a marked increase on the 3 that were considered by the Ombudsman during the previous year.

Category Of Complaint	Number
Unwelcome or disputed decision	151 (61)
Concern about the quality or appropriateness of the service	67 (56)
Delay in Decision Making	4 (2)

Delivery or non-delivery of services including complaints procedures	11 (4)
Quantity, frequency, change or cost of a service	1 (2)
Attitude or behaviour of staff	22 (22)
Application of eligibility and assessment criteria	0 (0)
Impact on an individual of a local authority policy and Assessment, care management and review	4 (3)
Not Recorded	18 (43)

**Note: Previous reporting period's figures in brackets**

6.15 Complaints about unwelcome decisions and the quality and/or appropriateness of a service continue to be the most common complaints.

6.16 The breakdown of complaints was broadly similar to that of the previous reporting period; however, the significant increase in the number of complaints about unwelcome decisions was due to changes brought about by the new transport policy and reductions in care packages. The complaints "not recorded" were mostly out of jurisdiction complaints, including complaints made by professionals; complaints about other agencies e.g. the NHS or county council; complaints where a citizen's consent was not forthcoming; and complaints from citizens about other councils etc.

OUTCOME	Responded to by Department	Investigated	Mediation
Complaint Not Pursued	22 (23)	0 (0)	0 (0)
Mostly not upheld	22 (17)	0 (0)	0 (0)
Mostly upheld	9 (12)	0 (0)	0 (0)
No findings made	27 (13)	0 (0)	0 (1)
Not decided	0 (1)	0 (0)	0 (0)
Not Upheld	117 (62)	0 (1)	0 (0)
Upheld	37 (22)	0 (0)	1 (0)

**Note: Previous year's figures in brackets**

6.17 20% of complaints about Adult Social Care were either fully or mostly upheld, which is similar to 22% during 2017/18. 59% of complaints were not upheld or mostly not upheld; and 21% were either not pursued by the complainant or no findings were made.

**Complaints to the Local Government Ombudsman**

6.18 In 2018/2019, 19 adult social care complaints were considered by the Ombudsman, compared with 3 in the previous year's reporting period. Of the 19 complaints, 10 were upheld, whilst no fault was found in the remaining 9 complaints.

6.19 This substantial increase in Ombudsman's investigations was due, in part, to the number of complaints about transport decisions received after the revised transport policy took effect. Four transport complaints were not upheld by the Ombudsman; but in three other transport complaints, the Ombudsman found maladministration and injustice, and recommended both a change to the policy and a review of a number of decisions.

## **7. SCHOOL ADMISSIONS – PUBLIC INTEREST REPORT**

7.1 School Admissions appeals are heard by Independent Panels and any complaints about the process have to be referred directly to the LGO for maintained schools and to the Education and Schools Funding Agency for academies. These complaints are therefore not covered by HYS or Social Care complaints. However, they are mentioned within this report due to an appeal hearing being subject to a report by the LGO.

7.2 During the period covered by this report three school appeal cases were referred to the LGO out of a total of 290 admission appeals heard and significantly more processed that did not reach the hearing stage. No cases were referred to the Education and Schools Funding Agency.

7.3 On 05 July 2018 the LGO published a Public Report dated 17 May 2018 further to a complaint investigation about a schools admissions appeal. (See paragraph 4.12). The report related to an admission appeal hearing held on 23 January 2017, initially referred to the LGO in June 2017. Prior to its publication, the LGO substantially amended the final report and its findings following concerns raised by colleagues in relation to the process followed during the investigation and the content of earlier versions.

7.4 The School Admissions and School Appeals Teams complied with the recommendations made in the final version of the LGO's report, resolving the case to the LGO's satisfaction. This is reflected in NCC's 100% compliance with LGO recommendations. The LGO report, and the actions taken as a result of the recommendations made within it, were brought to the Audit Committee in July 2018 and considered in public session.

## **8. NATIONAL COMPARISONS**

8.1 Although there are many differences in how local authorities across England will deliver their services, and in the varying demographic of customers they serve, it is still important to consider how we compare to other city councils.

8.2 Comparisons for complaints as whole are currently available. We will continue to seek to source this data.

8.3 Nottingham is 1 of 10 core cities in the UK (8 in England). Due to the low numbers of complaints investigated for each core city, the variation year on year in upheld rate can be significant and a city can go from best to worst performing on this statistic or vice versa in successive years, without the underlying performance of the systems concerned being responsible. The table below shows a comparison of Nottingham City Council's LGO statistics against the other core city authorities of Birmingham, Bristol, Manchester, Liverpool, Leeds, Sheffield and Newcastle:

	<b>Nottm City</b>	<b>Birmingham City</b>	<b>Bristol City</b>	<b>Manchester City</b>	<b>Leeds City</b>	<b>Sheffie Id City</b>	<b>Newcastle upon Tyne City</b>	<b>Liverpool City</b>
<b>Total LGO Investigations</b>	26	100	18	38	47	35	14	30
<b>Total Upheld Decisions</b>	18	77	12	21	21	22	9	22
<b>% Upheld</b>	69%	77%	67%	55%	45%	63%	64%	73%
<b>Total Satisfactory Remedies</b>	1	10	3	6	1	3	4	3
<b>% Remedied</b>	6%	13%	25%	29%	5%	14%	44%	14%
<b>Total Compliance Outcomes</b>	16	48	10	17	23	15	3	20
<b>% Compliance</b>	100%	100%	100%	100%	100%	100%	100%	100%

## **9. SUMMARY AND ACTION**

9.1 The information compiled in this report aims to provide a clearer understanding of the published LGO statistics for Nottingham City Council in 2018/19. It is important to remember, when looking at the figures, that the Annual Review should form the start of the conversation about measuring corporate health, and low/high volumes do not solely indicate good or bad performance.

9.2 On reflection of the key facts and figures, it is clear that actually NCC resolve many of the complaints it receives at the early stages. Although the LGO statistics show a complaint as upheld it may have already been resolved by the Council. The Customer Experience Lead raised this with the LGO who provided comment that:

‘A complaint is upheld where there is evidence of maladministration, this is normally following a detailed investigation. However, there are cases where an authority will have already accepted fault and without needing to carry out a detailed investigation we decide the authority has done all it can to put things right. We still mark these cases as upheld, because fault has been identified in a complaint that has come to us. The decision statement, your annual statistics and our interactive map all reflect these cases in a positive light. While the complaint was upheld, the authority provided a satisfactory remedy before the complainant reached the Ombudsman. If an authority has 10 upheld complaints, but has satisfactorily remedied 8, we see that as a positive message where the authority is putting things right early. By then using the learning from upheld complaints, the authority can continue to improve its local services to prevent the same thing happening again.’

9.3 The Customer Experience Lead has attended the LGO open course on Effective Complaint Handling and is developing a complaint handling training programme for Nottingham City Council. This will aim to increase colleague understanding of the HYS process and to develop a more consistent approach to complaint handling across all council services.

9.4 The Customer Experience Lead and Customer Experience Manager are in the process of reviewing how the HYS service captures data about the comments, compliments and complaints in order to develop more efficient methods to interrogate the data and identify trends earlier.

## **10. PUBLISHED DOCUMENTS**

10.1 Published documents referred to in this report are:

- Local Government & Social Care Ombudsman Annual Review Letter 2019  
*Published 31 July 2019*
- Local Government & Social Care Ombudsman Review of Local Government Complaints 2018-19  
*Published 31<sup>t</sup> July 2019*

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**AUDIT COMMITTEE – 27 SEPTEMBER 2019**

<b>Title of paper:</b>	Non-Executive Amendments to the Constitution	
<b>Director:</b>	Director of Legal and Governance	<b>Wards affected:</b> All
<b>Report author and contact details:</b>	Jane Garrard, Senior Governance Officer <a href="mailto:jane.garrard@nottinghamcity.gov.uk">jane.garrard@nottinghamcity.gov.uk</a> 0115 8764315	
<b>Other colleagues who have provided input:</b>	Jo Pettifor, Category Manager – Strategy and People, Commissioning and Procurement Rosalie Parkin, Category Manager – Products, Commissioning and Procurement Naomi Vass, Senior Solicitor – Commercial, Employment and Education Dionne Screaton, Solicitor – Commercial, Employment and Education	
<b>Recommendation:</b>		
<b>1</b>	To recommend to Council that it approves the following amendments to non-executive aspects of the Council's Constitution:  a) adoption of revised Contract Procedure Rules as detailed in appendix A.	

**1 REASONS FOR RECOMMENDATIONS**

- 1.1 The Local Government Act 2000 requires the Council to keep its Constitution up to date.
- 1.2 The Audit Committee is responsible for overseeing proposed and actual changes to the Council's policies and procedures pertaining to governance, including those relating to non-executive aspects of the Council's Constitution; and making recommendations to Council on non-executive amendments to the Constitution.

**2 BACKGROUND**

- 2.1 The Council's Constitution needs to be updated regularly to ensure that it reflects current legislation and local agreement on governance of the Council and the way it makes decisions and to ensure clarity of rights and duties. It is the responsibility of Council to maintain and amend the Constitution and therefore proposals to amend the Constitution are presented to Council for approval.
- 2.2 Prior to consideration by Council, the Audit Committee has responsibility for considering proposed amendments to non-executive aspects of the Constitution and making recommendations to Council on those proposed amendments.
- 2.3 Amendments are proposed to Contract Procedure Rules contained within Part 5 of the Constitution. A summary of the proposed changes, the reasons for those changes and the proposed revised Contract Procedure Rules is attached as Appendix A.

- 2.4 Councillors may wish to make reference to the current Constitution, which can be viewed online via the following link <https://www.nottinghamcity.gov.uk/your-council/about-the-council/nottingham-city-councils-constitution/>

**3 BACKGROUND PAPERS OTHER THAN PUBLISHED WORKS OR THOSE DISCLOSING EXEMPT OR CONFIDENTIAL INFORMATION**

- 3.1 None

**4 PUBLISHED DOCUMENTS REFERRED TO IN COMPILING THIS REPORT**

- 4.1 Local Government Act 2000
- 4.2 Nottingham City Council Constitution – version 7.27

## Appendix A – Amendments to Contract Procedure Rules

Following a review of the Council’s Contract Procedure Rules, it is proposed to make some minor wording and administrative changes that have no impact on the content of Contract Procedure Rules (CPR) and a number of more substantive changes. The proposed revised version of Contract Procedure Rules is attached, highlighting key changes throughout. In summary the main changes, and the reasons for those changes, are:

Section of CPR, Constitution Version 7.27 (current version)	Key changes proposed	Reasons
Various	'goods, materials or services' amended to 'works, supplies or services'	Reflects current terminology – based on current Procurement Regulations
	Updated Procurement Regulations throughout	To bring up to date with current legislation (Procurement Regulations introduced 2015 and 2016)
	Amended references to various out of date policies/ organisations including NCC Codes of Practice, CIPFA guidance, Office of Government Commerce	To bring up to date/ remove irrelevant references
	Replaced 'Procurement Toolkit' with 'guidance' of the Procurement Team	To cover any form of guidance of the Procurement Team
	'Senior Procurement Manager' amended to Head of Procurement or nominated representative	To reflect current Procurement Team structure and enable delegation to a relevant representative as required
CPR 1.2	Added reference to grants as exempt from CPRs, with definition	To clarify that grant funding arrangements are not subject to the procedural requirements of the CPRs. Definition to clarify the distinction between grants and contracts
CPR 2.7	Added definition of how the value of a scheme (contract or framework) is to be calculated and moved consolidation provisions (4.1.3) to this section	Clarifying how the value of a contract or framework is to be calculated for purposes of decision making and advertising contract. All rules on aggregation/consolidation brought together
CPR 2.7	Added provisions to define concession contracts and how the value is to be calculated	To clarify when an arrangement comprises a concession contract how value is to be calculated to ensure compliance with CPRs

Section of CPR, Constitution Version 7.27 (current version)	Key changes proposed	Reasons
Sections 2.8; 5.2	Added provisions covering arrangements delivered in house and by subsidiary companies (Teckal)	To clarify that in house and Teckal arrangements are not subject to CPRs
Section 3	Removed Section 3 on Partnering/Framework Agreements	Framework agreements covered in Section 4; partnering arrangements no longer applicable
CPRs 5.1/5.2	Increased financial thresholds for quotation or tender process to £25,000 - £100,000 for quotations and above £100,000 for tenders	To bring thresholds in line with the financial approvals process requiring delegated decision above £25,000, the legal obligation to publish award notices on contracts finder above £25,000 and the Contract Purchase Agreement generic value of £25,000 being introduced with Fit for the Future
CPR 4.9	Included limit of £1000 for single transactions, or Procurement approval required	To control purchasing transactions outside of formal contracting and payment procedures via new Oracle system
CPRs 6; 8.2	Removed procedures for tenders not using the E-tendering system	Not applicable – the E-tendering system must be used for all tendering procedures
CPR 8.4	Removed specific provisions on consortium tenders	Specific procedures for consortium tenders are not required as general procedures apply
CPR 8.10	Updated/clarified requirements for information to be provided to unsuccessful tenderers	To ensure compliance with Procurement Regulations requirements for notifications to unsuccessful bidders
CPR 9.7	Added transparency provisions - requiring notification and recording of contracts awarded and publishing in accordance with Procurement Regulations	To ensure compliance with UK Transparency obligations for maintenance of a contracts Register and Procurement Regulations requirements for publishing of contract awards
CPR 9.8	Updated provisions on extensions (variations) to contracts to refer to Procurement Regulations requirements	Grounds for permissible variations to contracts (including extensions) are now explicitly covered in the Procurement Regulations therefore specific procedures are not necessary

## **Contract Procedure Rules**

### **Contents**

<u>Paragraph</u>	<u>Section</u>
1	Compliance
2	Best Value
3	Selection of Suppliers
4	Invitations to Suppliers
5	Procedures for Quotation and Tender Discussion and/or Clarification
6	Acceptance of Quotations and Tenders
7	Orders and Contracts
8	Supplier Performance
9	Payments
10	Performance Security Arrangements
11	Insurances
12	Consultants
13	Records
14	Audit Examination

## **1 Compliance**

- 1.1 The purpose of these Contract Procedure Rules is to safeguard the interests of the City Council, its employees, or any person acting on behalf of the City Council.
- 1.2 These Contract Procedure Rules must be followed by every City Council employee and any person acting on behalf of the City Council every time there is a requirement of the City Council to procure works, supplies or services under a contract. All necessary legal, financial and professional advice must be taken by such employees or by such persons to ensure compliance with these Contract Procedure Rules. These Contract Procedure Rules must be followed in consultation with and in accordance with any guidance provided by the Council's Procurement Team.
- 1.3 Where the Council provides any financial support to an organisation in delivery of their services and does not receive a direct benefit in return, this may be considered a grant rather than a contract for works, supplies or services and may not be subject to these Contract Procedure Rules. Legal Services can advise on the status of grants and advice should be taken if in doubt.
- 1.4 Every City Council employee must ensure that they are aware of and observe the provisions of the City Council's Code of Conduct for Employees.
- 1.5 Corporate Directors and the Director for Public Health shall ensure that the City Council complies with the statutory obligation to secure Best Value and that the City Council complies with other legislation for the time being in force.
- 1.6 These Contract Procedure Rules must be read in conjunction with the City Council's Procurement Strategy and any specific guidance issued by the Procurement Team.
- 1.7 Corporate Directors and the Director for Public Health must use the City Council's e-tendering system to procure works, supplies or services unless a departure from that process is expressly given by the Head of Procurement or nominated representative.

## **2 Best Value**

- 2.1 Best Value requires the City Council to make proper arrangements for securing continuous improvement in the economy, efficiency and effectiveness in the use of its resources and is the optimum combination of whole life costs and benefits to meet customer requirements.
- 2.2 Best Value requires the City Council to identify those quotations and tenders which will secure the best balance of price against quality over the whole life of the scheme.
- 2.3 Corporate Directors and the Director for Public Health must adopt the Quotation/Tender Evaluation Models recommended by the Procurement Team, to ensure compliance with the requirements of these Contract Procedure Rules.
- 2.4 Aggregation of contract and framework value

The value of a contract is the estimated total amount payable (net of VAT) over the life

of the contract (including extensions) as set out explicitly in any procurement documents.

Where framework agreements and/ or dynamic purchasing agreements are created, the value is calculated as the total estimated value of all call off contracts envisaged over the life of the framework or dynamic purchasing agreement (including extensions).

In the case that framework agreements and/ or dynamic purchasing agreements are created for other local authorities or public bodies to use, the value for any procurement documents (including OJEU) should be the total value of estimated usage across all public bodies named. However, for the purposes of internal approval, the value of the contract stated on any delegated decision or executive approval will be the expected expenditure of the Council only and should not include external public bodies.

Requirements must not be artificially sub-divided into two or more separate requirements with the intention of avoiding the application of these Contract Procedure Rules or the obligations of the EU procurement regime.

In the event that multiple departments are procuring the same goods, services or works, the expenditure should be consolidated and procured via the same contract to maximize economies of scale and avoid disaggregation of contracts risking breach of procurement regulations. In this event, Corporate Directors and the Director for Public Health should ensure that the department with the highest proportion of total expenditure is appointed as the lead department and is therefore responsible for obtaining formal approval, signing off the procurement documentation and completing any associated documents such as the Data Protection Impact Assessment.

## 2.5 Concession contracts

Where the Council provides an opportunity to a supplier to exploit the delivery of works, goods or services and the supplier receives benefit or payment for those directly from a third party rather than the Council paying for them directly, this may be a concession contract which requires a procurement process in line with the Concession Contracts Regulations 2016 (CCR).

A concession contract must involve the transfer of an operating risk to the supplier, the risk transferred must involve real exposure to the market and the services must be for the benefit of the Council or its residents.

The value of a concession contract, subject to the CCR, is the estimated total turnover that the supplier can generate in consideration for the works, goods and services over the duration of the contract, net of value added tax, as estimated by the Council. Legal Services, in consultation with Procurement colleagues can advise if a contract is a concession contract which falls within the CCR.

## 2.6 Make or Buy

2.6.1 The Council's Procurement Strategy states: "Procurement is the process of acquiring the goods, services and works an organisation needs....Procurement also involves options appraisal and 'make or buy' decisions, which may result in the provision of services in-house where appropriate." Therefore a joined up, strategic 'Make or Buy' decision for all goods and services should be made as

**part of any procurement options appraisal.**

2.6.2 Where the Council has chosen to develop and sustain internal expertise in an area then it is likely that using the internal provision will secure Best Value. As a minimum, dialogue should be had between the purchasing section and the internal provider before any decision is made to procure externally.

2.6.3 Arrangements for internal provision should be periodically reviewed to ensure that they do not become out-of-date and continue to be the most suitable arrangements, taking into account, for example, that:

- requirements change over time and may no longer be reflected in the agreed service (e.g. in terms of quality, quantity or range of options offered);
- innovations or alternatives may have been developed since the original agreement;
- new entrants to a market could potentially offer greater value than the in-house alternative.

The regularity of these reviews will depend upon the degree of change in the market, the degree of change in the requirements and the flexibility of the existing agreement.

2.6.4 An externally provided solution may provide better value for money for the Council because:

- the extra cost required to provide the service internally is less than the price available externally (including any potential TUPE costs if currently provided externally, and/or break costs in the terms of PFI contracts);
- there is insufficient capacity (including any necessary specialism) to provide the service in-house;
- the quality that can be offered internally does not meet the needs of the internal customer.

2.6.5 Inappropriate reasons for contracting out (or not using internal services) include:

- unsolved management problems (including issues of 'long-standing resentment or mistrust of one group of staff by another');
- ability to transfer risk (as this will be built into prices);
- a legacy of capital starvation (as prudential borrowing can rectify this).

2.6.6 The expectation is that in most cases, the service managers from the customer and provider sections will discuss and agree if any of the criteria in 2.5.4 are met and thus if it is appropriate to externally procure. If the parties cannot agree it should be referred to the Procurement Team who will apply and keep updated a specific process and route of escalation for these types of decisions.

2.6.7 The Chief Financial Officer is responsible for updating and reviewing procedures and processes for resolving any disputes within the 'Make or Buy' process between departments.

2.6.8 Corporate Directors are responsible for checking whether in-house provision is an alternative before commencing purchasing or tendering activities. **This decision should ideally be made six months before the expiry of the existing contract so that adequate time is allowed for the re-tendering process. If a**

robust business case for delivering the service internally has not been approved at that point, the procurement should proceed to ensure a compliant contract is in place at all times.

- 2.6.9 Where the Council chooses to deliver services itself ('in-house') such arrangement will not be subject to these Contract Procedure Rules.

#### Nottingham City Council owned companies – Teckal

2.6.10 When buying services the Council can consider entering into arrangements with one of its subsidiary companies if it meets certain requirements falling under the EU procurement regime (known as the 'Teckal' exemption).

2.6.11 Arrangements falling within the Teckal exemption are excluded from these CPRs. The Council will still be required to enter into a contract with the subsidiary company and approval will be required to enter into such contract and demonstrate best value.

2.6.12 Legal services should be consulted to advise whether the Teckal exemption applies.

### 2.7 Co-operation with other public bodies

2.7.1 In limited circumstances it may be possible for the Council to co-operate with other public bodies without undertaking a procurement process.

2.7.2 As a minimum co-operation between the Council and another public body must have the aim to ensure that public services they have to perform are provided with a view to achieving objectives they have in common and that the co-operation is governed solely by considerations relating to the public interests.

2.7.3 Legal Services should be consulted to advise whether co-operation would be permitted for the proposed arrangement, in which case these CPR's will not apply.

## 3 Selection of Suppliers

3.1 Corporate Directors and the Director for Public Health shall ensure compliance with the City Council's Corporate Contracts currently in force to procure works, supplies or services. These are arrangements established by the City Council's Head of Procurement or nominated representative.

3.1.1 Where a corporate contractual arrangement has not been established, Corporate Directors and the Director for Public Health shall ensure that quotations and tenders are invited in consultation with the Head of Procurement or nominated representative by the use of one of the following approaches:

3.1.1.1 EU public procurement – the EU public procurement regime is mandatory for any scheme which has a procurement requirement falling within the EU procurement regime and, if so, whose value, or (if made up of a series of related schemes), whose aggregate

value is likely to exceed the relevant EU threshold figure for the time being in force;

- 3.1.1.2 Joint procurement arrangements/frameworks/purchasing consortia arrangements established by other contracting authorities;
  - 3.1.1.3 Use of frameworks such as Crown Commercial Services the Eastern Shires Purchasing Organisation (ESPO);
  - 3.1.1.4 Suitable suppliers derived from a competitive selection process as set out in 4.1.1 and 4.1.2 conducted in consultation with the Head of Procurement or nominated representative and where necessary, also with the Head of Legal and Governance.
- 3.1.2 Corporate Directors and the Director for Public Health are encouraged to adopt a collaborative approach to procurement, where appropriate. A partner is obtained through a competitive selection process which can be demonstrated by using any of the arrangements set-out in paragraph 3.1 of these Contract Procedure Rules.

## 3.2 EU Public Procurement including Framework Agreements

- 3.2.1 Corporate Directors and the Director for Public Health shall ensure that the letting of a scheme which has a procurement requirement falling within the EU procurement regime and, if so, whose value, or (if made up of a series of related schemes), whose aggregate value is likely to exceed the relevant EU threshold figure for the time being in force, complies with the requirements of the Public Contracts Regulations 2015, the Utilities Contracts Regulations 2016 and the Concession Contracts Regulations 2016 and any re-enactment(s) of them in respect of technical specifications and procedures covering the seeking of tenders, the selection of the successful supplier(s) and awards.
- 3.2.2 Corporate Directors and the Director for Public Health shall ensure that any scheme which has a procurement requirement falling within the EU procurement regime and, if so, whose value, or (if made up of a series of related schemes), whose aggregate value is likely to exceed the relevant EU threshold figure for the time being in force is referred to the City Council's Head of Procurement or nominated representative to ensure compliance with the Public Contracts Regulations 2016, the Utilities Contracts Regulations 2016 and the Concession Contracts Regulations 2016 and any re-enactment(s) of them.
- 3.2.3 Corporate Directors and the Director for Public Health shall ensure that the appropriate advertisements are placed in the Official Journal of the European Union (OJEU) and other relevant publications in conjunction with the City Council's Procurement Manager. The City Council's Head of Procurement or nominated representative shall maintain a register of such advertisements so placed.
- 3.2.4 Corporate Directors and the Director for Public Health shall ensure compliance with the requirements of the Public Contracts Regulations 2015, the Utilities Contracts Regulations 2016 and the Concessions Contracts Regulations

2016 and any re-enactment(s) of them where it is intended that the City Council should enter into a framework agreement for any scheme which has a procurement requirement falling within the EU procurement regime and, if so, whose value, or (if made up of a series of related schemes), whose aggregate value is likely to exceed the relevant EU threshold figure for the time being in force (refer to paragraph 3.3 of these Contract Procedure Rules for the use of framework agreements established by other contracting authorities).

- 3.2.5 Corporate Directors and the Director for Public Health shall have the discretion, in consultation with the City Council's Head of Procurement or nominated representative, to adopt the requirements of the Public Contracts Regulations 2015, the Utilities Contracts Regulations 2016 and the Concessions Contracts Regulations 2016 and any re-enactment(s) of them where it is intended to enter into a framework agreement for any scheme which does not have a procurement requirement falling within the EU procurement regime or, if it does, whose value, or (if made up of a series of related schemes) whose aggregate value is not likely to exceed the relevant EU threshold figure for the time being in force, otherwise the requirements of these Contract Procedure Rules shall be complied with.
- 3.2.6 Corporate Directors and the Director for Public Health shall ensure that framework agreements are created and maintained whenever it is deemed appropriate in pursuit of securing continuous improvement in the economy, efficiency and effectiveness in the use of City Council's resources to secure Best Value for the City Council.

Note: More information on the Public Contracts Regulations 2015, Utilities Contracts Regulations 2016 and Concessions Contracts Regulations 2016 can be found at <https://www.gov.uk/guidance/public-sector-procurement-policy>.

### 3.3 Joint Procurement Arrangements/ Frameworks/ Purchasing Consortia

- 3.3.1 To fulfil their requirements, Corporate Directors and the Director for Public Health may use a number of arrangements established outside the City Council by other parties, provided that those parties are "contracting authorities" as defined by the Public Contracts Regulations 2015, the Utilities Contracts Regulations 2016 and the Concessions Contracts Regulations 2016 and any re-enactment(s) of them, these arrangements being:
- 3.3.1.1 joint procurement arrangements with other local authorities or other contracting authorities;
  - 3.3.1.2 framework arrangements established by contracting authorities such as the East Midlands Property Alliance (EMPA);
  - 3.3.1.3 purchasing consortia established by contracting authorities such as Crown Commercial Services and the Eastern Shires Purchasing Organisation (ESPO).
- 3.3.2 Any requirement of the City Council involving the procurement of works, supplies or services via joint procurement arrangements with other local authorities, where a competitive process has been followed that complies with

the contract procedure rules of the leading organisation, shall be deemed to comply with the corresponding requirements of these Contract Procedure Rules.

- 3.3.3 Framework arrangements established by contracting authorities must be evaluated and approved by the Head of Procurement or nominated representative and a Legal Services Manager before being used.
- 3.3.4 Any requirement of the City Council involving the procurement of works, supplies or services via the use of purchasing consortia shall be deemed to comply with the requirements of these Contract Procedure Rules covering the seeking of quotations or tenders, the selection of the successful supplier(s) and awards.
- 3.3.5 In all cases where the fulfilment of requirements using arrangements referred to in paragraph 4.4.1 of these Contract Procedure Rules is being considered, Corporate Directors and the Director for Public Health must be satisfied that the Public Contracts Regulations 2015, the Utilities Contracts Regulations 2016 and the Concessions Contracts Regulations 2016 and any re-enactment(s) of them have been complied with by the other contracting authorities, otherwise the requirements of these Contract Procedure Rules shall be followed.
- 3.3.6 Corporate Directors and the Director for Public Health shall ensure that the proposed terms and conditions that are to apply are adequate and appropriate and where necessary shall refer them to the Head of Procurement (or nominated representative) or Head of Legal and Governance for a consideration of the suitability of the arrangement concerned and of the City Council's legal liability before proceeding with or entering into any arrangement referred to in paragraph 3.3.1 of these Contract Procedure Rules.
- 3.3.7 Corporate Directors and the Director for Public Health shall ensure that the terms and conditions entered into are complied with.
- 3.3.8 Corporate Directors and the Director for Public Health shall ensure that where a framework agreement is entered into, the provisions of such agreement regarding the number of suppliers to be invited to provide quotations or to submit tenders in pursuance of that agreement are followed, notwithstanding the requirements of paragraph 4 of these Contract Procedure Rules.

#### 3.4 Vetting of Suppliers

- 3.4.1 Corporate Directors and the Director for Public Health shall ensure that suppliers are vetted in consultation with the Head of Procurement or nominated representative and in accordance with the Public Contracts Regulations 2015, the Utilities Contracts Regulations 2016 and the Concessions Contracts Regulations 2016 for financial stability, technical competence, managerial capability, previous performance and (but only so far as is relevant to a procurement process and is lawful) for the ability to comply with any national legislation and City Council policies and procedures before each scheme is let or before being included into the relevant approved list(s), whichever is the earlier. Where applicable, Corporate Directors and the Director for Public Health shall ensure that suppliers meet adequate and appropriate standards of

health and safety.

- 3.4.2 Corporate Directors and the Director for Public Health shall ensure that all suppliers of construction and engineering related work, have adopted the City Council's Construction Charter or its successor, and have endorsed its principles and agreed to implement its actions, before each scheme is let.

### 3.5 Purchasing Cards

- 3.5.1 Corporate Directors and the Director for Public Health shall:

3.5.1.1 only use the City Council's Purchasing Card Scheme as outlined in The Purchase Card Guidance as part of their procurement regime;

3.5.1.2 ensure that purchasing cards are used:

3.5.1.2.1 in the procurement process for works, supplies services where arrangements for their use has been made in conjunction with the City Council's Head of Procurement or nominated representative.

3.5.1.2.2 only for items below the single transaction limit of £1,000. Any transactions over this amount shall be processed by purchase order or in line with the City Council's Payment Policy. Any officers who require a transaction limit above this value must receive approval from the Head of Procurement or a nominated representative in support of procurement;

3.5.1.2.3 over the internet on secure sites and in accordance with the guidance provided in The Purchase Card Guidance; and

3.5.1.2.4 in other circumstances agreed with the Chief Finance Officer.

## 4 Invitations to Suppliers

- 4.1 Procurement of schemes for works, supplies and services (including schemes involving construction and engineering related work):

4.1.1 Where the estimated value of a scheme over the whole life of the scheme is between £25,000 and £100,000 (between £5,000 and £50,000 for Schools), Corporate Directors and the Director for Public Health shall refer to the Procurement Team and make every effort to obtain at least 3 quotations in writing, except where corporate contracts have been established by the City Council's Head of Procurement or nominated representative or where framework agreements or other arrangements are legally accessible pursuant to paragraph 3 of these Contract Procedure Rules. Corporate Directors and the Director for Public Health, however, may elect to seek tenders in lieu of quotations.

4.1.2 Where the estimated value of a scheme over the whole life of the scheme exceeds £100,000 (£50,000 for Schools), Corporate Directors and the Director

for Public Health shall make every effort to obtain at least 3 tenders in writing, except where corporate contracts have been established by the City Council's Head of Procurement or nominated representative or where framework agreements or other arrangements are legally accessible pursuant to paragraph 4 of these Contract Procedure Rules.

4.2 Quotations and Tenders as detailed in 4.1.1 and 4.1.2 above need not be sought:

4.2.1 if the estimated value of a scheme over the whole life of the scheme is less than £25,000 (£5,000 for Schools);

4.2.2 in the event of an emergency (Financial Regulation 3.29);

4.2.3 when the arrangement is for in-house delivery by Nottingham City Council or a subsidiary company in accordance with the Teckal exemption as per paragraphs 2.6.10 to 2.6.12 above;

4.2.4 when the arrangement is through co-operation with another public body in accordance with paragraphs 2.7.1 to 2.7.3 above.

Corporate Directors and the Director for Public Health, however, shall ensure that the most suitable arrangement is secured for the City Council and the details are recorded in writing and appropriate approval is sought for the Council's financial commitment under any of these arrangements.

4.3 Corporate Directors and the Director for Public Health shall ensure that the City Council's e-tendering system shall be used when inviting and receiving quotations and tenders electronically, unless the express approval of the Head of Procurement or nominated representative is given to dispense with the use of the system.

4.4 In consultation with the Head of Legal and Governance, the Procurement Manager shall ensure that the City Council's e-tendering system complies with the requirements of the Public Contracts Regulations 2015, the Utilities Contracts Regulations 2016 and the Concessions Contracts Regulations 2016 and any re-enactment(s) of them.

4.5 Other methods such as e-auctions and dynamic purchasing systems may be used to invite and receive quotations and tenders electronically, provided there is no conflict with the requirements of the Public Contracts Regulations 2015, the Utilities Contracts Regulations 2015 and the Concessions Contracts Regulations 2015 and any re-enactment(s) of them, otherwise the requirements of these Contract Procedure Rules shall be complied with.

4.6 Corporate Directors and the Director for Public Health shall ensure that any individual scheme is not artificially divided into two or more separate schemes with the intention of avoiding the application of these Contract Procedure Rules.

4.7 Corporate Directors and the Director for Public Health shall ensure that each individual scheme be packaged to secure Best Value for the City Council.

4.8 Corporate Directors and the Director for Public Health shall ensure that suppliers invited to provide quotations or to submit tenders are contacted and (regardless of

the process being used) a record maintained on the City Council's e-tendering system of the requests made and their agreement to provide quotations or submit tenders.

- 4.9 Corporate Directors and the Director for Public Health shall ensure that where there is a multiple stage process for inviting quotations or tenders then any criteria to be used for short-listing suppliers throughout such process is robust and transparent and shall make use of the assistance available from the Procurement Team.
- 4.10 Corporate Directors and the Director for Public Health shall ensure that a realistic period be stipulated in the invitations to suppliers to provide quotations or to submit tenders, with a minimum period of ten working days allowed for a response. This period may be reduced provided the special circumstances are recorded.
- 4.11 Corporate Directors and the Director for Public Health shall ensure that invitations to suppliers to provide quotations or to submit tenders for works, supplies or services, incorporate:
  - 4.11.1 the requirements set-out in these Contract Procedure Rules appropriate to the circumstances of the invitation;
  - 4.11.2 a specification that describes the City Council's requirements in sufficient detail to enable the submission of competitive offers;
  - 4.11.3 the nature and quantity of the works, supplies or services that is required;
  - 4.11.4 the time, or times, within which the works or services are to be performed or the goods and materials are to be delivered;
  - 4.11.5 a notification that assignment or sub-contracting is not permitted without prior written consent from the City Council, unless the circumstances of the particular invitation require a different approach;
  - 4.11.6 a notification that quotations are provided and tenders are submitted to the City Council on the basis that they are compiled and delivered at the supplier's expense and that, in no circumstances, will the City Council contribute to such expenses whatever the outcome of the procurement process;
  - 4.11.7 a notification that the City Council is not bound to accept the lowest or any quotation or tender for a specific scheme;
  - 4.11.8 a Certificate of Bona Fides;
  - 4.11.9 a Form of Tender;
  - 4.11.10 adequate and appropriate provisions regarding insurances, health and safety, equality and diversity, data protection and freedom of information;
  - 4.11.11 adequate and appropriate price adjustment provisions (unless the circumstances of the particular invitation require a different approach), anti-collusion provisions; anti-corruption provisions and anti-fraud provisions

(refer to paragraph 7.5(vi) of these Contract Procedure Rules);

4.11.12 robust and transparent award criteria to be used in evaluating quotations or tenders received to ensure compliance with the requirements of these Contract Procedure Rules; and/or

4.11.13 any other relevant items that are considered necessary.

4.12 Corporate Directors and the Director for Public Health shall ensure that the information contained in any invitation to provide quotations or to tender is issued to each supplier at the same time. Any supplemental information must be given on the same basis.

4.13 Corporate Directors and the Director for Public Health shall ensure that TUPE issues are considered when any employee either of the City Council or of an incumbent provider of work or services may be affected by any transfer arrangement and obtain advice from a Legal Services Manager before proceeding with invitations to suppliers to provide quotations or to submit tenders.

## **5 Procedures for Quotation and Tender Discussion and/or Clarification**

### **5.1 Pre-Quotation and Pre-Tender Discussion**

5.1.1 Discussion with potential suppliers prior to inviting quotations or tenders may be appropriate in special circumstances as part of the competition process and in order to secure Best Value for the City Council, provided there is no conflict with the requirements of the Public Contracts Regulations 2015, the Utilities Contracts Regulations 2016 and the Concessions Contracts Regulations 2016 and any re-enactment(s) of them. The objective of such discussion is to ensure that an effective invitation is prepared. All potential suppliers must be treated equally within this process.

### **5.2 Post-Quotation and Post-Tender Clarification**

5.2.1 Clarification after receipt of quotations or tenders and before the letting of scheme(s) with those supplier(s) who have submitted such quotations or tenders may be appropriate as part of the competition process and in order to secure Best Value for the City Council, provided there is no conflict with the requirements of the Public Contracts Regulations 2015, the Utilities Contracts Regulations 2016 and the Concessions Contracts Regulations 2016 and any re-enactment(s) of them. The objective of such discussion is to obtain an improvement in content of these quotations or tenders in circumstances which do not put the other supplier(s) at a disadvantage, distort competition or affect adversely trust in the competition process. All potential suppliers must be treated equally within this process.

5.2.2 Where post-quotation or post-tender clarification results in a fundamental change to the specification or the proposed terms and conditions that are to apply, an official order must not be issued or a formal contract must not be made and quotations or tenders must be re-invited.

## 5.3 Notification

5.3.1 Corporate Directors and the Director for Public Health may authorise such discussion and/or clarification within a specific scheme, provided the special circumstances are recorded, including a record of the discussion and/or clarification. Corporate Directors and the Director for Public Health shall notify the Head of Procurement (or nominated representative) or the Head of Legal and Governance of the discussion and/or clarification and actions taken, at the earliest opportunity.

## 6 Acceptance of Quotations and Tenders

- 6.1 Whenever the City Council's e-tendering system is not used, Corporate Directors and the Director for Public Health shall ensure that a record of the quotations received be prepared, signed, dated and timed, which record shall include the date and time each quotation is received, together with the main terms of each quotation (e.g. value, price, delivery period, or other significant issues unique to each quotation).
- 6.2 Subject to any legal obligations on the City Council, Corporate Directors and the Director for Public Health shall ensure that the confidentiality of quotations and tenders received and the identity of the corresponding supplier is preserved at all times and that information about one supplier's offer shall not be given to another supplier.
- 6.3 Corporate Directors and the Director for Public Health shall ensure that quotations and tenders received are adequately and appropriately evaluated in accordance with the Quotation/Tender Evaluation Model recommended by the Procurement Team or set out in Procurement Team guidance
- 6.4 Corporate Directors and the Director for Public Health shall ensure that errors or discrepancies found in quotations or tenders be adequately and appropriately dealt with. Where such error or discrepancy cannot be adequately and appropriately dealt with the matter shall be immediately referred to the Head of Contracting and Procurement or nominated representative for a decision.
- 6.5 Corporate Directors and the Director for Public Health shall ensure that the quotation or tender which secures Best Value for the City Council be accepted, provided that there is no conflict with the Public Contracts Regulations 2015, the Utilities Contracts Regulations 2016 and the Concessions Contracts Regulations 2016 and any re-enactment(s) of them.
- 6.6 Corporate Directors and the Director for Public Health shall ensure that a record is kept of the withdrawal of a quotation or tender by a supplier within a specific scheme together with the circumstances of such withdrawal.
- 6.7 Corporate Directors and the Director for Public Health shall ensure that where the accepted quotation or tender is changed following the rectification of errors or discrepancies and/or post-quotation/tender clarification, such amendment(s) be initialled by Corporate Directors or the Director for Public Health or authorised signing officer(s).
- 6.8 **Corporate Directors and the Director for Public Health shall ensure that suppliers**

whose quotation or tender for a specific scheme is not accepted be notified and given the name/s of the successful tenderer/s and reasons for the decision including the characteristics and relative advantages of the successful tender, and the score (if any) obtained by the recipients of the notice and the winner/s. Where a scheme falls within the EU procurement regime and has a value or (if made up of a series of related schemes) an aggregated value likely to exceed the relevant EU threshold figure for the time being in place, the notification of the decision must comply with the requirements of the Public Contracts Regulations 2015, the Utilities Regulations 2015 or the Concession Contracts Regulations 2016 as applicable.

- 6.9 Each scheme shall be let on the authority of a Corporate Director or the Director for Public Health, following a decision having been taken on the acceptance of a quotation or tender by an appropriate decision-maker (i.e. for executive business a Corporate Director or the Director for Public Health (or other specifically delegated officer), Portfolio Holder/Leader or Executive Board) in accordance with the currently prevailing financial limits.
- 6.10 Notwithstanding any current requirements for reporting of decisions, Corporate Directors and the Director for Public Health shall ensure that a quarterly report be forwarded to the Chief Finance Officer which sets out all schemes exceeding £100,000 (£50,000 for Schools) let under the authority of such Corporate Directors and the Director for Public Health in the preceding quarter. Any special circumstances (e.g. emergency and/or operational action) or items of an exceptional nature must be included in the report.
- 6.11 Corporate Directors and the Director for Public Health shall ensure compliance with the relevant provisions of these Contract Procedure Rules where the accepted quotation or tender incorporates provisional, prime cost or non-defined items or other such similar items.

## **7 Orders and Contracts**

- 7.1 All schemes regardless of value must be evidenced by means of an official order or a formal contract. Such official order must be issued or such formal contract must be made to all suppliers for the provision of schemes, before the relevant supply, service or work begins, except in exceptional circumstances as provided for in paragraph 7.2 of these Contract Procedure Rules.

7.1.1 Corporate Directors and the Director for Public Health shall ensure that official orders are raised through the City Council's main financial system, except where the City Council's Purchasing Card Scheme has been used in compliance with the requirements of paragraph 3.5 of these Contract Procedure Rules.

7.1.2 Corporate Directors and the Director for Public Health shall ensure that official orders are also raised through the City Council's main financial system:

- 7.1.2.1 for call-offs, draw-downs or other similar arrangements, where an official order has already been issued or formal contract has already been made, or where a series of official orders have already been issued or formal contracts have already been made with the same external organisation, which relate to the same scheme; and

7.1.2.2 for budgetary purposes, where a formal contract has already been made. However, such budgetary orders shall not be issued to suppliers, but shall be retained by the relevant City Council department.

## **NOTES**

- A. *The law prevents formal contracts being made between City Council Departments. However, any agreement between City Council Departments relating to a scheme must be evidenced by the issue of an official order.*
- B. *Contracts under seal are made to provide a 12 year period within which action can be taken for breach. Under simple contracts (contracts which are only signed), this period is reduced to 6 years. In the determination of which to choose, risk is a factor in addition to value.*
- C. *The Director of Legal and Governance, and Head of Legal and Governance, have authority to make contracts under seal. Simple contracts may only be made in accordance with paragraph 9 of these Contract Procedure Rules.*
- D. *The Chief Finance Officer may authorise specific exceptions to the requirement that all schemes be evidenced by means of an official order or formal contract. The Chief Finance Officer may only provide such authorisation after consultation with the Director for Legal and Governance.*

7.2 In exceptional circumstances, where an official order has been raised electronically, i.e. by telephone or e-mail,, Corporate Directors and the Director for Public Health shall ensure that an official confirmatory order be issued through the City Council's main financial system without undue delay. Such official confirmatory order shall be clearly marked "CONFIRMATION ONLY".

7.3 Where any scheme has a value of £2,000,000 or more:

7.3.1 the Director of Legal and Governance or the Head of Legal and Governance must make a formal contract under seal where the value of any scheme is £2,000,000 or more. The affixing of the seal to such contract must be authorised by hand by the Director of Legal and Governance or the Head of Legal and Governance.

7.3.2 the Head of Legal and Governance (taking into consideration the risks involved) may deem a formal contract under seal to be inappropriate in any particular case (except for schemes involving construction and engineering related work), even where the value of the scheme not involving construction and engineering related work is £2,000,000 or more. In this case, the Corporate Director concerned or the Director for Public Health shall ensure that an official order or a simple contract relating to such scheme is made in such terms that have the prior approval of a Legal Services Manager. For the avoidance of doubt, such official order, as well as such simple contract, must be signed by at least two signing officers.

7.4 Where any scheme has a value of less than £2,000,000:

- 7.4.1 the Corporate Director concerned or the Director for Public Health must issue an official order or make a simple contract where the value of any scheme is less than £2,000,000. Such official order or such simple contract must be made in such terms that have the prior approval of the Head of Legal and Governance and be signed by at least one authorised officer;
- 7.4.2 the Head of Legal and Governance (taking into consideration the risks involved) may deem an official order or simple contract inappropriate in any particular case, even where the value of the scheme is less than £2,000,000. In this case, the Corporate Director concerned or the Director for Public Health shall ensure that a formal contract under seal relating to the scheme is made in such terms that have the prior approval of the Head of Legal and Governance and in accordance with paragraph 7.3 of these Contract Procedure Rules;
- 7.4.3 Corporate Directors and the Director for Public Health may authorise, in writing, other officers to sign official orders or simple contracts or to authorise such orders or contracts electronically in a main financial system on their behalf at a value agreed with the Chief Finance Officer provided Corporate Directors and the Director for Public Health are satisfied that their officers have received relevant financial training as approved by the Chief Finance Officer (see Financial Regulation D.5) and the relevant form has been completed.

Corporate Directors and the Director for Public Health shall supply the names and signatures of signing officers together with the corresponding signing/authorising limits to the Chief Finance Officer. Corporate Directors and the Director for Public Health shall prepare and keep up-to-date a register of names and signatures of signing officers together with the corresponding signing limits, which shall be made available to the Chief Finance Officer upon request.

7.5 Corporate Directors and the Director for Public Health shall ensure that:

- i) no official order be issued or formal contract made for a scheme which will commit the City Council to expenditure unless provision exists to finance that expenditure, except in the event of an emergency;
- ii) no official order be issued or formal contract made for work, goods, materials or services for the private use of any person;
- iii) only official order forms in a format approved by the Chief Finance Officer be used;
- iv) each official order or formal contract indicates clearly the nature and quantity of the work, goods, materials or services, the agreed value or price and provisions for payment, any trade or cash discount or allowance, the time, or times, within which such order or contract is to be performed, together with any reference to a quotation, tender or other arrangement via the selection of the relevant Contract Purchase Agreement (CPA) when raising a purchase order. Reference to the CPA on a purchase order ensures those specific terms apply to the purchase, rather than the Council's standard purchase order terms of agreement;

- v) each official order or supplier's form of order used to call-off, draw-down or make other similar arrangements where a formal contract in respect of such requirements is already made (whether such contract be under seal or a simple contract) contains full details of the contract in question, including as a minimum: the date of the contract, the names of the parties to it and a description of the works, supplies or services (as the case may be) which form the subject-matter of the contract;
- vi) each official order or formal contract contains adequate and appropriate (and in addition, the applicable requirements of paragraphs 4.11.1 to 4.11.13 inclusive of these Contract Procedure Rules):
- price adjustment provisions;
  - anti-collusion provisions;
  - anti-corruption provisions; and
  - anti-fraud provisions;
- vii) each official order or formal contract contains the following clause (or such other similar clause as a Legal Services Manager may decide):
- “The City Council shall be entitled to immediately cancel this contract and to recover from the supplier all costs and losses resulting from such cancellation, if the supplier, or any person employed by, or acting on behalf of the supplier (whether with or without the knowledge of the supplier), shall:*
- (a) have offered or given or agreed to give to any person any gift or consideration of any kind as an inducement or reward for doing, or forbearing to do, or for having done, or refrained from doing any action in relation to the obtaining the execution of this contract, or any other contract with the City Council; or*
  - (b) for showing, or forbearing to show, favour or disfavour to any person in relation to this contract, or any other contract with the City Council; or*
  - (c) has been convicted of any offence under the Bribery Act 2010; or*
  - (d) shall have given any fee or reward the receipt of which is an offence under section 117(2) of the Local Government Act 1972.*
- For the avoidance of doubt, the events under sub-clauses (c) and (d) above shall apply to this contract, or any other contract with the City Council or with any other party, or in respect of any relevant function or activity, as the case may be.”;*
- viii) where applicable, and with the advice of the Head of Legal and Governance, each official order or formal contract for schemes exceeding £10,000 in value contain provisions for (and in addition to the other requirements of this paragraph 7.5 of these Contract Procedure Rules):
- the cancellation of such official order or formal contract;
  - the making of retentions; and
  - the deduction of liquidated and ascertained damages in the event of the supplier's non-compliance by the due or any extended completion date for a scheme;
- Where the City Council has a right to liquidated and ascertained damages, such right must be enforced by deductions from monies owing to the supplier. Any deduction of liquidated and ascertained damages shall be made in accordance with a certificate or instruction issued by Corporate Directors, the Director for Public Health or authorised issuing officers;

- ix) the proposed terms and conditions that are to apply to each official order or formal contract are adequate and appropriate and where necessary, be referred to a Legal Services Manager for consideration of the City Council's legal liability before proceeding with or entering into such official order or formal contract;
- x) where the terms of any official order or a formal contract are changed, such amendment(s) be initialled by Corporate Directors, the Director for Public Health or authorised signing officers. In addition, the copy of an official order so changed and held by the issuing City Council department, be amended accordingly;
- xi) as soon as possible after any official order has been made, a register be kept of such orders made; and
- xii) a scanned copy of every executed formal contract is sent to the Senior Procurement Manager for storing on the City Council's e-tendering system, together with an electronic record of the names of the City Council and supplier contacts relevant to each such contract.

## 7.6 Transparency obligations

7.6.1 Corporate Directors and the Director for Public Health shall ensure that as soon as possible after any formal contract has been made, the Chief Finance Officer and Head of Procurement or nominated representative are notified and a register be kept of such contracts made.

7.6.2 All formal contracts must be notified to the Procurement Team and recorded on the Council's Contracts Register.

7.6.3 The award of all contracts of value exceeding the relevant UK procurement threshold for the time being in force, must within a reasonable time, be published nationally in accordance with the requirements of the of the Public Contracts Regulations 2015, the Utilities Contracts Regulations 2016 or the Concessions Contracts Regulations 2016. This obligation applies to contracts awarded regardless of whether they fall within the EU procurement regime or are of a value likely to exceed the relevant EU threshold figure for the time being in force.

7.7 An official order or formal contract relating to any scheme may be extended to include further requirements relating to the scope of that scheme provided that any such variation complies with the requirements of the Public Contracts Regulations 2015, the Utilities Contracts Regulations 2016 and the Concessions Contracts Regulations 2016 and any re-enactment(s) of them, Best Value continues to be secured for the City Council and is made in consultation with the Head of Procurement or nominated representative.

7.8 Corporate Directors and the Director for Public Health shall ensure that any contingency allowance incorporated into an official order or formal contract does not exceed 10% of the estimated cost of a scheme.

7.9 Corporate Directors and the Director for Public Health shall ensure that variations to the scope of construction and engineering related work provided for by an official order or formal contract be authorised in accordance with the terms of such official order or formal contract, provided provision exists to finance that expenditure, except in the event of an emergency. Such authorisation shall be given in writing and shall state the agreed price of each variation or the agreed basis on which the cost of such variation is to be calculated. In urgent cases, verbal authorisation(s) may be given, but this must be confirmed in writing within 7 days, or in accordance with the appropriate term(s) of the official order or formal contract.

7.10 Provision of Works, Supplies or Services by the City Council to Other Organisations

7.10.1 The Head of Legal and Governance must be consulted where it is contemplated that any works, supplies or services will be provided to organisations other than the City Council whether on such organisation's terms and conditions or those of the City Council.

## **8 Supplier Performance**

8.1 Corporate Directors and the Director for Public Health shall ensure that each official order or formal contract for works, supplies or services contains adequate and appropriate provisions for supervising and monitoring supplier performance including the quality and standard of such works, supplies or services.

8.2 During the performance of an official order or formal contract for works, supplies or services, Corporate Directors and the Director for Public Health shall ensure that supplier performance, compliance with specification, expenditure, progress, risk and user satisfaction are monitored and also, where necessary, ensure that adequate and appropriate actions are taken to rectify and overcome any shortcomings.

8.3 Corporate Directors and the Director for Public Health shall ensure that claims received from suppliers of works, supplies or services in respect of matters not clearly in accordance with the terms of the official order or formal contract, or from other external organisations, be referred to the Head of Legal and Governance for consideration of the City Council's legal liability as soon as they are notified to the City Council.

8.4 Corporate Directors and the Director for Public Health shall ensure that claims made against suppliers of works, supplies or services or other external organisations be referred to the Head of Legal and Governance for consideration of the City Council's legal liability as soon as they become reasonably apparent.

8.5 Corporate Directors and the Director for Public Health shall ensure that where suppliers are required to provide guarantees then such guarantees are adequate and appropriate and underwritten by an insurance company or similar financial institution.

## **9 Payments**

9.1 Corporate Directors and the Director for Public Health shall ensure that payments to

suppliers for works, supplies or services are certified and made in accordance with:

9.1.1 the appropriate term(s) of the official order or formal contract; and

9.1.2 Corporate Financial Procedures D.60 and D.67.

## **10 Performance Security Arrangements**

10.1 Corporate Directors and the Director for Public Health shall ensure that procurement exercises allow for the obtaining of security for the due performance of all schemes (whether they be schemes involving supplies or services or involving construction and engineering related work) between the City Council and any external organisation where the value of such scheme is estimated to be £2,000,000 or more. Such security may be by way of performance bonding, parent company/third party guarantees, deposit of money as security or other means considered appropriate by the Head of Legal and Governance. The Head of Legal and Governance may decide that such security is not required for the procurement, in which case the following requirements shall not apply.

10.2 Each external organisation invited to submit a tender in respect of a scheme having a value estimated to be £2,000,000 or more must be required to make its own security arrangements and allow for the cost of such provision in its tender. Corporate Directors and the Director for Public Health shall ensure that:

10.2.1 the need for such allowance is made clear in the tender documents;

10.2.2 in conjunction with a Legal Services Manager, that the terms of such security arrangements are adequate and appropriate; and

10.2.3 the scheme must not commence until a decision has been made by a Legal Services Manager as to whether such security arrangements should be put into effect.

10.3 For the purpose of this Contract Procedure Rule 10, the estimated value of a scheme shall be the higher value of either:

10.3.1 the value of any official order to be issued to or formal contract to be made with the external organisation; or

10.3.2 the value of a series of official orders to be issued to or formal contracts to be made with the same external organisation where such official orders or formal contracts relate to the same scheme; or

10.3.3 the aggregate value of call-offs, draw-downs or other similar arrangements to be made against:

10.3.3.1 any official order to be issued to or formal contract to be made with the external organisation; or

10.3.3.2 a series of official orders to be issued to or formal contracts to be made with the same external organisation where such official orders or formal contracts relate to the same scheme.

10.4 Nothing in these Contract Procedure Rules shall prevent security arrangements in accordance with this Contract Procedure Rule 10 being put in place where the value of a scheme is estimated to be under £2,000,000 and the Corporate Director or the Director for Public Health in consultation with a Legal Services Manager determines that the subject-matter of such scheme justifies the need for such security arrangements.

## **11 Insurances**

11.1 Corporate Directors and the Director for Public Health shall ensure that there is adequate and appropriate insurance cover in force during the continuance of a scheme for both the City Council and its suppliers in conjunction with the City Council's insurance officers.

## **12 Consultants**

12.1 Where a supplier is providing consultancy services to the City Council (e.g. professional, technical, IT and managerial), Corporate Directors and the Director for Public Health shall ensure that the relevant provisions of these Contract Procedure Rules are followed and included in the terms of such supplier's appointment.

12.2 Corporate Directors and the Director for Public Health shall ensure that the taxation procedures set out within CFP D.115 – D.128 are followed in the employment of consultants and a Use of Consultants Approval Form is completed.

12.3 Corporate Directors and the Director for Public Health shall ensure compliance with the requirements of the Audit Commission's Checklist for commissioning and managing consultants the principles of which have been adopted by the City Council.

## **13 Records**

13.1 Corporate Directors and the Director for Public Health shall ensure that the records required by these Contract Procedure Rules are kept and securely retained.

13.2 For the purpose of these Contract Procedure Rules, Corporate Directors and the Director for Public Health shall ensure that the relevant documentation set-out in the City Council's Retention and Disposal Schedule is securely kept and retained for at least the periods stated in such schedule.

## **14 Audit Examination**

14.1 The authority of the City Council's Internal Audit is outlined in the City Council's Financial Regulation C.9 and further detail is outlined in CFP C.24 – C.35.

14.1.1 Before the final payment is certified in respect of any scheme for construction and engineering related work, such scheme and all documentation associated with it may be examined by the City Council's Internal Audit. All such documentation shall be provided to the City Council's Internal Audit within the time-scale for the ascertainment of the final payment set out in the contractual

provisions relating to an official order or formal contract in respect of any scheme for construction and engineering related work.

- 14.1.2 Corporate Directors and the Director for Public Health shall ensure that a copy of the final payment certificate in respect of any scheme for construction and engineering related work is provided to the City Council's Internal Audit at the time it is issued.
- 14.1.3 The City Council's Internal Audit may, at any time, examine any scheme and all associated documentation for works, supplies or services.
- 14.1.4 Where applicable, Corporate Directors and the Director for Public Health shall ensure that each supplier invited to provide a quotation or submit a tender for any scheme be notified at quotation or tender preparation stage that such scheme and all documentation associated with it may be examined by the City Council's Internal Audit.

**AUDIT COMMITTEE – 27 SEPTEMBER 2019**

<b>Title of paper:</b>	Audit Committee Terms of Reference and Annual Work Programme	
<b>Director:</b>	Strategic Director of Finance	<b>Wards affected:</b> All
<b>Report author and contact details:</b>	Shail Shah, Head of Audit and Risk 0115-8764245 <a href="mailto:shail.shah@nottinghamcity.gov.uk">shail.shah@nottinghamcity.gov.uk</a>	
<b>Recommendations:</b>		
<b>1</b>	Note the role and functions of the Audit Committee, which comply with best practice in the 2018 revision of CIPFA guidance on Audit Committees (the 2018 Guidance), including the additional elements prescribed by the Public Sector Internal Audit Standards (PSIAS), as set out in Appendix 1.	
<b>2</b>	Consider, comment on and endorse the outline work programme at Appendix 2.	

**1 REASONS FOR RECOMMENDATIONS**

- 1.1 The Terms of Reference should be reviewed by the Committee on a regular basis, to ensure that they remain relevant and reflect best practice. The current Audit Committee Terms of Reference were last amended by the Council in May 2019 to enable reviewing the Constitution in order to recommend to Council proposed non-executive amendments. The Terms of Reference are primarily based on the Position Statement on Audit Committees in Local Authorities and Police issued by CIPFA in 2018.
- 1.2 Audit Committees are necessary to satisfy the legal and governance requirements for sound management and internal control. Specifically they help satisfy
- section 151 of the Local Government Act 1972 which requires every local authority to ‘make arrangements for the proper administration of its financial affairs’, and
  - the Accounts & Audit Regulations 2015 which require that the authority ensures that it has a sound system of internal control which:
    - (a) facilitates the effective exercise of its functions and the achievement of its aims and objectives;
    - (b) ensures that the financial and operational management of the authority is effective; and
    - (c) includes effective arrangements for the management of risk.
- 1.3 In local authorities an Audit Committee reports to Council, is independent of both the executive and the scrutiny functions, acts as the principal non-executive advisory function to those charged with governance, has clear rights of access to other committees/functions and includes an independent member.
- 1.4 This report outlines the core functions of the Audit Committee, the benefits that will arise for the City Council and an outline annual work programme.

**Role of the Audit Committee**

- 1.5 The overarching purpose of an Audit Committee is to provide independent assurance on the adequacy and integrity of the governance and control environment, the Risk Management Framework, and the annual financial reporting process.
- 1.6 The Chair has emailed councillors requesting suggestions for inclusion in the Committee’s work plan. These suggestions have been collated with a view to incorporation in the work programme resulting in the outline work programme at Appendix 2. The Committee is asked to consider, comment on and endorse the outline work programme. Members will be aware that they can update the work programme or request any further items to be considered by the Committee if appropriate to the terms of reference.
- 1.7 Member suggestions have been incorporated within the following items:

Item	Scope to include
IICSA presentation	Outcomes of the inquiry and update on the plan at appropriate intervals to ensure that NCC procedures are robust enough
Equality / HR Assurance	Progress on NCC’s commitment around lack of BAME officers at senior level
Governance of major projects & capital schemes presentation	Broadmarsh MediCity Dakeyne Street
Companies Governance Updates	Monitoring arrangements where NCC has a significant interest and the value of those companies to the NCC group
Governance and Accountability of 3rd Party Arrangements	Area Based Grant and NCC’s relationship with other partners

**Benefits of the Audit Committee**

- 1.8 The benefits to be gained from operating an effective Audit Committee are shown in the diagram below:



## **Constitutional Role**

- 1.9 The Audit Committee aims to improve corporate focus on governance by:
- Providing assurance on the adequacy of the Risk Management Framework and the associated control environment;
  - Scrutinising the Council's financial and non-financial performance to the extent that it affects the Council's exposure to risk and weakens the control environment;
  - Overseeing the financial reporting process
  - Approving the Council's Statement of Accounts;
  - Commenting on the scope and nature of external audit;
  - Overseeing proposed and actual changes to the Council's policies and procedures pertaining to governance, including making recommendations to Council on non-executive amendments to the Constitution.

## **Functions of the Committee**

- 1.10 The Audit Committee fulfils the functions listed in Appendix 1
- under delegations from Executive Board / Leader as noted in the Constitution – Responsibilities for Functions and Terms of Reference
  - under PSIAS as a consequence of the Accounts and Audit Regulations 2015.

## **2 BACKGROUND**

2.1 An Audit Committee is central to the provision of effective corporate governance, which partly depends on a systematic strategy, clear framework and processes for managing risk. Good governance also helps to deliver improved services and maintains and increases public confidence in the objectivity and fairness of financial and other reporting. It is important that local authorities have independent assurance about the mechanisms underpinning governance.

2.2 It is recognised that high performing councils develop effective financial and non-financial control mechanisms. The development of expertise made available by the establishment of an Audit Committee, meeting on a regular cycle, and with Terms of Reference focussed on the key audit, control and risk management areas critical to the Council's performance is a key part of these mechanisms.

2.3 The Committee's outline work programme is attached as Appendix 2 and includes comparison to:

- the Terms of Reference for the Committee approved by the City Council and
- the requirements of PSIAS.

The work programme supports the Council's aim to improve its efficiency and effectiveness.

2.4 In accordance with CIPFA guidance, the Committee is politically balanced and will not have Executive membership. Membership will continue to be reviewed in accordance with guidance from the Ministry of Housing Communities & Local Government (MHCLG).

**3 BACKGROUND PAPERS OTHER THAN PUBLISHED WORKS OR THOSE DISCLOSING EXEMPT OR CONFIDENTIAL INFORMATION**

3.1 None

**4 PUBLISHED DOCUMENTS REFERRED TO IN COMPILING THIS REPORT**

4.1 Audit Committees – Practical Guidance for Local Authorities and Police (CIPFA 2018)

4.2 Public Sector Internal Audit Standards (Local Government Application Note) (CIPFA 2019)

## Audit Committee Terms of Reference

**POWERS / REMIT****(a) Main Purposes:**

1. The audit committee is a key component of Nottingham City Council's corporate governance. It provides an independent and high-level focus on the audit, assurance and reporting arrangements that underpin good governance and financial standards.
2. Provide independent assurance to those charged with governance of the adequacy of the risk management framework and the internal control environment.
3. Provide independent review of the Council's governance, risk management and control frameworks.
4. Oversee the financial reporting and annual governance processes.
5. Oversee internal audit and external audit, helping to ensure efficient and effective assurance arrangements are in place.
6. Scrutinise the council's financial and non-financial performance to the extent that it affects the council's exposure to risk and weakens the control environment.
7. Oversee proposed and actual changes to the council's policies and procedures pertaining to governance, including making recommendations to Council on non-executive amendments to the Constitution.

**(B) Main Functions:****Governance, Risk & Control**

1. Review the council's corporate governance arrangements against the good governance framework, including the ethical framework and consider the local code of governance.
2. Review the Annual Governance Statement prior to approval and consider whether it properly reflects the risk environment and supporting assurances, taking into account internal audit's opinion on the overall adequacy and effectiveness of the council's framework of governance, risk management and control.
3. Consider the council's arrangements to secure value for money and review assurances and assessments on the effectiveness of these arrangements.
4. Consider the council's framework of assurance and ensure that it adequately addresses the risks and priorities of the council.
5. Receive and consider the results of reports from external inspectors, ombudsman and similar bodies and from statutory officers.
6. Monitor the effective development and operation of risk management in the council.
7. Monitor progress in addressing risk-related issues reported to the committee.
8. Consider reports on the effectiveness of internal controls and monitor the implementation of agreed actions.
9. Review the assessment of fraud risks and potential harm to the council from fraud and corruption.
10. Monitor the counter-fraud strategy, actions and resources.
11. Review the governance and assurance arrangements for significant partnerships or collaborations, including the Partnership Governance Framework, annual health checks and the Register of Significant Partnerships.
12. Commission work from internal and external audit.
13. Consider arrangements for and the merits of operating quality assurance and performance management processes.

14. Consider the exercise of officers' statutory responsibilities and of functions delegated to officers.
15. Effectively scrutinise, review and monitor treasury management strategies and policies in accordance with guidance issued to local authorities, and make appropriate recommendations to the responsible body.
16. Consider any appeals made by an employee against decisions made by the Appointments and Conditions of Service Committee relating to a grievance made against the Chief Executive. Members involved in considering these will not be able to participate in any further consideration of the matter at other committees.

### **Financial Reporting**

17. Review the annual statement of accounts. Specifically, to consider whether appropriate accounting policies have been followed and whether there are concerns arising from the financial statements or from the audit that need to be brought to the attention of the council.
18. Consider the external auditor's report to those charged with governance on issues arising from the audit of the accounts.
19. Approve the Council's Statement of Accounts and associated governance and accounting policy documents

### **External Audit**

20. Support the independence of external audit through consideration of the external auditor's annual assessment of its independence and review of any issues raised by PSAA or the authority's auditor panel as appropriate.
21. Consider the external auditor's annual letter, relevant reports and the report to those charged with governance.
22. Consider specific reports as agreed with the external auditor.
23. Comment on the scope and depth of external audit work and to ensure it gives value for money.
24. Advise and recommend on the effectiveness of relationships between external and internal audit and other inspection agencies or relevant bodies.

### **Internal Audit**

25. Undertake the duties of the Board mandated by PSIAS (as identified in Table 2 below).
26. Consider reports from the head of internal audit on internal audit's performance during the year, including the performance of external providers of internal audit services.
27. Consider the head of internal audit's annual report.
28. Consider summaries of specific internal audit reports as requested.

### **Accountability Arrangements**

29. Report to those charged with governance on the committee's findings, conclusions and recommendations concerning the adequacy and effectiveness of their governance, risk management and internal control frameworks, financial reporting arrangements, and internal and external audit functions.
30. Report to full council on a regular basis on the committee's performance in relation to the terms of reference and the effectiveness of the committee in meeting its purpose.
31. Publish an annual report on the work of the committee.

**ACCOUNTABLE TO:** Council

**MEETINGS:** Normally six per annum plus specials where required

**MEMBERSHIP:** 9 non-executive members (politically balanced)

**ESTABLISHED SUB COMMITTEES:** None.

<b>TABLE 2: DUTIES OF THE BOARD (AUDIT COMMITTEE) MANDATED BY PSIAS</b>	
<b>PSIAS ref</b>	<b>Duty of the Board</b>
1000	Approve the Internal Audit charter
1110	Approve the risk-based internal audit plan, including internal audit's resource requirements, including any significant changes, the approach to using other sources of assurance and any work required to place reliance upon those other sources.
1110	Approve decisions relating to the appointment and removal of the Chief Audit Executive
1110	Receive an annual confirmation from the Chief Audit Executive with regard to the organisational independence of the internal audit activity
1110	Make appropriate enquiries of the management and the Chief Audit Executive to determine whether there are inappropriate scope or resource limitations
1110	The chair to provide feedback for the Chief Audit Executive's performance appraisal
1111	Provide free and unfettered access to the audit committee chair for the head of internal audit, including the opportunity for a private meeting with the committee.
1112	Consider any impairments to independence or objectivity arising from additional roles or responsibilities outside of internal auditing of the head of internal audit. To approve and periodically review safeguards to limit such impairments.
1130	Approve significant additional consulting services agreed during the year and not already included in the audit plan, before the engagement is accepted
1312	Contribute to the QAIP and in particular, to oversee the external quality assessment of internal audit that takes place at least once every five years.
1320	Receive the results of the Quality Assurance and Improvement Programme from the Chief Audit Executive
2020 & 2030	Receive communications from the Chief Audit Executive on internal audit's audit plan and resource requirements including the approach to using other sources of assurance, the impact of any resource limitations and other matters
2060	Receive communications from the Chief Audit Executive on the internal audit activity's purpose, authority, responsibility and performance relative to its plan. Reporting must also include significant risk exposures and control issues, including fraud risks, governance issues and other matters needed or requested by senior management and the board.
2600	Receive reports outlining the action taken where the head of internal audit has concluded that management has accepted a level of risk that may be unacceptable to the authority or there are concerns about progress with the implementation of agreed actions.

## Appendix 2 - Audit Committee Work Programme

### 1 Proposed Work Programme

2019

**Sep**

Accounts Update  
 External Audit Update  
 IICSA presentation  
 Audit Committee Training - Treasury Management Scrutiny  
 Customer Experience / Complaints and Ombudsman Annual Assurance  
 Audit Committee Terms of Reference & Work Programme

**Nov**

Brexit Update  
 Corporate Risk Register Update  
 Governance of major projects & capital schemes presentation  
 Health & Safety Annual Assurance  
 Internal Audit Update Q1-2  
 Treasury Management Half Year  
 AGS and Accounts 2018-19 Update  
 Audit Committee Training - Risk  
 Information Governance & Information Security Annual Assurance  
 Partnership Governance Framework & Annual Health Checks  
 External Auditor Progress

2020

**Feb**

Accounting Policies  
 AGS update & 2019-20 process  
 Companies Governance Mid-Year Update  
 Corporate Performance Assurance  
 Corporate Risk Register Update  
 Equality / HR Assurance

(continues ---->)

2020

**Feb (continued)**

IICSA Update  
 External Audit plan  
 Treasury Management (and Capital) Strategy  
 Internal Audit Update Q3

**Apr**

Companies Governance Update  
 Governance and Accountability of 3rd Party Arrangements  
 External Audit Update

**Jun**

Draft Statement of Accounts  
 EMSS Annual Report  
 Interim AGS 2019-20  
 Treasury Management Annual Report  
 Audit Committee Terms of Reference & Work Programme

**Jul**

Audit Committee Annual Report  
 External Audit Report  
 IA Annual Report & Opinion  
 Statement of Accounts

Final AGS 2019-20

**Sep**

Companies Governance Annual Assurance  
 Counter Fraud Strategy & Whistleblowing Policy  
 Audit Committee Training - Treasury Management Scrutiny  
 Customer Experience / Complaints and Ombudsman Annual Assurance  
 Audit Committee Terms of Reference & Work Programme



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