Guildhall Gainsborough Lincolnshire DN21 2NA Tel: 01427 676676 Fax: 01427 675170

AGENDA

This meeting will be recorded and the video archive published on our website

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Governance and Audit Committee Tuesday, 16th April, 2019 at 2.00 pm Council Chamber - The Guildhall

Members: Councillor Giles McNeill (Chairman) Councillor Mrs Jackie Brockway (Vice-Chairman) Councillor Mrs Sheila Bibb Councillor David Bond Councillor John McNeill Councillor Mrs Angela White Alison Adams Andrew Morriss Peter Walton

1. Apologies for Absence

Public Participation Period Up to 15 minutes are allowed for public participation. Participants are restricted to 3 minutes each. Minutes of Previous Meeting (PAGES 3 - 8)

- Minutes of Previous Meeting Minutes of the Meeting of the Governance and Audit Committee held on 12 March 2019.
- 4. **Members Declarations of Interest** Members may make any declarations of interest at this point but may also make them at any point during the meeting.
- 5. **Matters Arising Schedule** Matters Arising schedule setting out current position of previously agreed actions as at 8 April 2019.

(PAGES 9 - 10)

Agendas, Reports and Minutes will be provided upon request in the following formats:

Large Clear Print: Braille: Audio: Native Language

6. Public Reports for Consideration

a)	Internal Audit Quarter 4 Monitoring 18/19	(PAGES 11 - 28)
b)	Annual Constitution Review	(PAGES 29 - 112)

7. General Items of Business for Consideration

a) Work Plan

(PAGES 113 -114)

Mark Sturgess Head of Paid Services The Guildhall Gainsborough

Monday, 8 April 2019

Agenda Item 3

WEST LINDSEY DISTRICT COUNCIL

MINUTES of the Meeting of the Governance and Audit Committee held in the Council Chamber - The Guildhall on 12 March 2019 commencing at 2.00 pm.

Present:	Councillor Giles McNeill (Chairman) Councillor Mrs Jackie Brockway (Vice-Chairman)		
	Councillor Mrs Sheila Bibb Councillor John McNeill Councillor Mrs Angela White Alison Adams Andrew Morriss		
In Attendance: Ian Knowles Tracey Bircumshaw Caroline Capon Michael Norman James O'Shaughnessy	Executive Director of Resources and S151 Officer Strategic Finance and Business Support Manager Corporate Finance Team Leader Auditor Mazars Corporate Policy Manager & Deputy Monitoring Officer		

lan Knowles	Executive Director of Resources and S151 Officer
Tracey Bircumshaw	Strategic Finance and Business Support Manager
Caroline Capon	Corporate Finance Team Leader
Michael Norman	Auditor Mazars
James O'Shaughnessy	Corporate Policy Manager & Deputy Monitoring Officer
Matthew Waller	Internal Audit
James Welbourn	Democratic and Civic Officer

Apologies:

Councillor David Bond

54 PUBLIC PARTICIPATION PERIOD

There was no public participation.

55 MINUTES OF PREVIOUS MEETING

The minutes of the meeting held on 15 January 2019 were approved as a correct record.

56 MEMBERS DECLARATIONS OF INTEREST

There were no declarations of interests at this point of the meeting.

57 MATTERS ARISING SCHEDULE

The item on benchmarking of agency workers and consultants was highlighted, and the Chairman volunteered to see if anything could be added by APSE.

Councillor John McNeill sought, and gained assurances that his comments given at Full

Council on 4 March had been taken into account.

The matters arising schedule was then noted.

58 PREVENTION OF FINANCIAL CRIME POLICY, ANTI-FRAUD AND CORRUPTION POLICY AND ANTI-BRIBERY POLICY 2019

Members considered a report on policies relating to financial crime. Anti-fraud, corruption and bribery.

The policies within the report were based on the Chartered Institute of Public Finance and Accountancy (CIPFA) code of practice of managing risk of fraud, and cover legislative responsibilities and the principles of public life as produced in the Nolan report.

The policies sought to define the element of fraud; this could be done through culture, understanding of risks and ensuring staff and Member awareness. The training on these issues would take place again after May.

West Lindsey District Council (WLDC) shared data around procedures with other agencies such as the Lincolnshire Fraud Partnership, and also participated in the National Fraud Initiative.

An additional section had been added around the Financial Crime Incident Plan.

Following comment from Members and officers, further information was provided:

• The Whistleblowing report provided on a yearly basis to Governance and Audit Committee could deal with any concerns individuals may have with the Liaison Officer for the police. The Monitoring Officer could deal with such complaints privately if the Executive Director of Resources was not able to.

Internal Audit conduct investigations in a confidential manner;

- Lower levels of gifts and hospitality were more subtle and could lead to pockets of influence;
- Third parties would be dealt with differently to WLDC; these policies centred on protecting WLDC from fraud, corruption and bribery;

Some housekeeping amendments were suggested for the policy, including more clarity on hospitality.

The Chairman moved a slight amendment to the recommendations which was seconded, and agreed. Therefore the amended recommendation read:

RESOLVED to approve the Prevention of Financial Crime Policy, the Anti-Fraud and Corruption Policy, and the Anti-Bribery Policy 2019, in line with discussions at committee.

59 INTERNAL AUDIT CHARTER

Members considered a report on the Internal Audit Charter; this was a policy document that sought to ensure that the Council had effective audit arrangements in place.

CIPFA had recently released new guidance for the Charter; the changes to the document that had resulted were very minimal, and largely contained under the page of this report that dealt with the 'Scope of Internal Audit' and 'Independence and Objectivity'.

Assurance Lincolnshire assured Members that work on fraud was covered by them, and in fact was considered in everything they did.

RESOLVED to:

- (1) Approve the Internal Audit Charter;
- (2) Note the quality and effectiveness of the Council's Internal Audit Service Provider, Assurance Lincolnshire.

60 COMBINED ASSURANCE REPORT 2018/19

Members considered the Combined Assurance Report for 2018/19.

120 different activities across the Council had been assessed. These assessments had been conducted by Assurance Lincolnshire talking to service managers. The findings were largely positive, with the remaining risks being amber or red.

One of the red activities was markets, and the other was resourcing for the Council Tax team. The Council Tax team were trying to strike a balance between resource and demand.

All of the amber activities were known to Management Team, and plans and steps to address these were already in place. Four areas of focus were identified:

- 1. A review of strategic risks;
- 2. Peer review held by Management Team early in 2020;
- 3. Work on the findings of the governance review;
- 4. A thorough induction for Members in terms of training and development.

The above may, or may not form part of the Annual Governance Statement Action Plan, as that was for significant issues.

The overall findings of this report led to a conclusion that the governance framework was operating effectively.

Following discussions between Members and officers, further information was provided:

• The street cleaning service had a paid for element in addition to its standard offering; this paid for element had seen a drop in demand;

- The problem on homeless prevention related to a new system that had been implemented and wasn't initially able to provide detailed level of information. This problem had now been rectified;
- There was a dedicated Domestic Abuse Officer; however this role fell under the umbrella of safeguarding;
- The work of Assurance Lincolnshire was useful as it was objective and impartial. Also key to learning was annual service and business planning. Any areas for improvement would be seen through the Progress and Delivery quarterly reports;
- An example of trying to address issues outside of the reports process would be the additional resource allocated to the Planning Enforcement Team;
- A more in depth list of staff members and their roles should be available to all Members, possibly through the Members' Newsletter;
- It was a known issue that communications needed to be improved in planning enforcement;
- There was an appreciation of emerging risks at Team Manager level; each service area had its own emerging risks. If these risks escalated then they would be brought to the attention of Management Team.

The risk strategy would be refreshed later in the year.

RESOLVED to approve the report and be assured that the findings illustrate that the Council's governance framework was operating effectively.

61 ACCOUNTS CLOSEDOWN 2018/19- ACCOUNTING MATTERS

Members considered a report on accounting policies, actuary assumptions and materiality levels in preparation of the 2018/19 accounts. Also included was an explanation of the External Audit from the External Auditor, and the approach to the Value for Money audit 2018/19.

There was a new accounting standard for 2018/19, called IFRS 9 financial instruments. This would have an impact on how the Council accounts for, and classifies its financial investments. It could also have an impact on the general fund. There was a statutory override in place for the next 5 years to mitigate this, and enable the Council to review its investment decisions in the future.

The External Auditor highlighted the following points for their section of the report:

- The areas of responsibility were the same as the previous audit regime, and were set by the National Audit Office (NAO). These were:
 - Audit opinion;
 - Reporting to the NAO;

- Value for money;
- Electors' rights;
- Main outputs from the external audit were the audit plan, the audit strategy memorandum, the audit completion report and the external audit report given in July to Committee;
- There were three significant risks around:
 - Management override and control; an inherent risk that external audit were obliged to take into account;
 - Plant property and equipment;
 - Defined benefit liability evaluation;

These were key because the figures were highly material, and were subject to a high degree of estimation and uncertainty;

- It was an auditing standard to consider the risks of revenue recognition. This was usually rebuttable as a risk as revenue streams were relatively static and predictable;
- The business rates provision was subject to estimation;
- The risk assessment on Value for Money (VfM) highlighted broad commercialisation activities underpinning governance arrangements, as well as themes related to the Minimum Revenue Provision (MRP);
- There were no other issues needing reporting under auditing standards. The audit fee was set by public sector audit appointments; currently there were no additional issues requiring a variation on this fee;

Following this introduction, Members gave their opinions on the report and asked questions of officers. Further information was provided:

- The accounts closedown should be completed by the end of March 2019, but April 2019 was the final deadline;
- The Finance department had budgeted for a 2% increase in inflation rates; this was not a material change to the valuation of the scheme;
- Information returned from an external valuation was compared to previous years. If the variation was significant, the valuers would be challenged;
- There was a mistake in the External Audit report; the 2017/18 fee and the 2018/19 fee in the report were in the wrong part of the table. The fee for core audit work in 2018/19 was £33,420k.

With the proviso that the change in audit fee was noted by Members present, it was:

RESOLVED:

- (1) To approve the proposed Accounting policies;
- (2) That the pension assumptions had been considered;
- (3) That the risk assessment had been considered;
- (4) To approve the proposed materiality levels and revisions;
- (5) That the key closedown dates had been considered;
- (6) To accept the main accounting changes for 2018/19 and onwards;
- (7) To note the External Audit information.

62 WORKPLAN

The workplan for the next 12 months was noted.

The meeting concluded at 3.13 pm.

Chairman

Purpose:

To consider progress on the matters arising from previous Governance & Audit Committee meetings.

Recommendation: That members note progress on the matters arising and request corrective action if necessary.

Matters arising Schedule

Status	Title	Action Required	Comments	Due Date	Allocated To
Black					
	Constitution Annual Review	Questions/Motions at Annual Council, and Planning site visits are to be added into this work.	The Chairman also asked whether the delegation from lan to Tracey around being the police liaison officer be added into the Const. review?	16/04/19	Alan Robinson
Page	Housekeeping changes - anti-fraud policy	G and A committee mentioned housekeeping changes to the Anti-Fraud and Corruption Policy at committee on 12 March.		16/04/19	Tracey Bircumshaw
g		These included more explicit wording for hospitality in relation to bribery, and also the removal of the Standards Board from the document as it was no longer in existence.			
	Planning enforcement	The Chairman of the G and A committee requested that PE be looked at as part of internal audit work.	There was currently no contingency built in to deal with this work, but Assurance Lincs and IK to work together to fit this into the overall plan.	16/04/19	lan Knowles
			Now included within Plan		
Green					
	Benchmarking of consultants	During the committee meeting on 6 November, the Finance Manager agreed to look at some formal benchmarking on salary costs compared with other Councils. This is to be emailed round to all Governance and Audit committee members.	The Finance and Business Support Manager to email the Chairman of Governance and Audit to see if APSE can provide any information on benchmarking.	30/06/19	Tracey Bircumshaw

Agenda Item 5

	Such data does not currently exist. CIIr McNeill through his APSE role will seek to get APSE to provide such data through its various networks. Consideration will also be given to approaching CIPFA.	



Chair's Briefing -Governance and Audit

Monday, 1 April 2019

Subject: Internal Audit Quarter 4 Monitoring 18/19							
Report by:	Lucy Pledge (Head of Service – Corporate Audit & Risk Management – Lincolnshire County Council)						
Contact Officer:	Ian Knowles, Executive Director of Resources Ian.knowles@west-lindsey.gov.uk						
Purpose / Summary:	The report gives members an update of progress, by the Audit partner, against the 2018/19 annual programmes agreed by the Audit Committee in March 2018.						

RECOMMENDATION(S):

Members consider the content of the report and identify any actions required.

IMPLICATIONS

Legal:

None directly arising from the report.

Financial : FIN/235/19

None directly arising from the report

Staffing :

Equality and Diversity including Human Rights : None arising from this report

Risk Assessment :

Climate Related Risks and Opportunities :

Title and Location of any Background Papers used in the preparation of this report:

No background papers within Section 100D of the Local Government Act 1972 were used in the preparation of this report.

Call in and Urgency:

Is the decision one which Rule 14.7 of the Scrutiny Procedure Rules apply?

i.e. is the report exempt from being called in due to urgency (in consultation with C&I chairman)	Yes	No	X	
Key Decision:				
A matter which affects two or more wards, or has significant financial implications	Yes	No	X	

Internal Audit Progress Report



West Lindsey DC March 2019



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Appendices

Assurance Definitions Details of Overdue Actions 2018/19 Audit Plan to Date

Lucy Pledge CMIIA QIAL- Audit and Risk Manager (Head of Internal Audit) lucy.pledge@lincolnshire.gov.uk

John Sketchley – Audit Team Leader John.Sketchley@lincolnshire.gov.uk

This report has been prepared solely for the use of Members and Management of West Lindsey District Council. Details may be made available to specified external organisations, including external auditors, but otherwise the report should not be used or referred to in whole or in part without prior consent. No responsibility to any third party is accepted as the report has not been prepared, and is not intended for any other purpose.

The matters raised in this report are only those that came to our attention during the course of our work – there may be weaknesses in governance, risk management and the system of internal control that we are not aware of because they did not form part of our work programme, were excluded from the scope of individual audit engagements or were not bought to our attention. The opinion is based solely the work undertaken as part of the agreed internal audit plan.

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Introduction

The purpose of this report is to:

- Provide details of the audit work during the period 07.12.2018 10.03.2019
- Advise on progress with the 2018/19 plan
- · Raise any other matters that may be relevant to the Audit Committee role

Key Messages

During the period we have completed nine reviews:

- Seven final assurance reports
- One consultancy report
- One Assurance Mapping report

Assurances

The following audit work has been completed and a final report issued:

- Key Controls Insurance– High
- Key Controls VAT High
- Customer First Substantial
- Corporate Planning Substantial
- Commercial Plans Follow Up Substantial
- Key Controls Health & Safety Substantial
- ICT Records Management Substantial
- Good Governance Consultancy
- Assurance Map

Note: The assurance expressed is at the time of issue of the report but before the full implementation of the agreed management action plan. The definitions for each level are shown in Appendix 1. 2 HIGH ASSURANCE

SUBSTANTIAL ASSURANCE

LIMITED ASSURANCE

CONSULTANCY

During the period we have issued four reports giving high or substantial assurance.

	High Assurance
	The Council must have an insurance process in place, in order to mitigate risks. The main aim for an organisation handling insurance claims, is to ensure that each claimant is dealt with efficiently, effectively and professionally. It is equally important to make sure that each claim is legitimate.
Key Controls	The audit gave assurance that the insurance function within the Council is effectively managed whilst guaranteeing that claims are dealt with accurately, compliantly and timely.
Insurance	Our assurance rating for insurance at West Lindsey District Council is High. A sample of claims was taken from the claim log sheet for analysis. For each claim log and claim form, the information is accurate, up to date and clear to follow.
	There are no recommended actions from this audit.
	The aim of the audit is to give assurance that the VAT re-claiming function of the Council is effectively managed, accurate, compliant and timely whilst, guaranteeing that fines are not incurred. We are also checking that the VAT is correctly identified and recorded.
Key Controls VAT	The sample of creditor invoices that we analysed, were exhibiting all the appropriate and valid information and there is a robust process for checking debtor VAT. The amount of VAT being re-claimed is correct and the process is easy to understand and check, as all of the relevant information is documented.
	The VAT form was submitted correctly and it was signed off by an authorised employee. The submission was made within the deadline days, meaning that no fines were incurred.
	The assurance rating for VAT is High and there are no recommended actions for this audit.

Substantial Assurance

The Customer First Programme is a transformational area of work for the Council, which will directly affect all customer facing services of the Council and will also have implications on its support services.

Overall, we can provide substantial assurance that a clearly defined strategic approach to the Customer First Programme exists. Governance and management arrangements for the Programme have been firmly established with regular, monitoring and reporting on the delivery of the Programme and its projects.

Customer First

We have included five medium priority findings to support the Council in addressing identified issues from the review including –

- A Quality Management Plan should be developed detailing quality objectives, roles and responsibilities
- Formal role definitions to be documented for Project Sponsor, Programme Lead and Theme Leads
- Benefits identified at both the Programme and Theme Level should be both measurable and realistic
- Theme Leads should be appointed as benefit owners, responsible for tracking benefits and reporting on their progress to the Programme Board.

In October 2017 we reviewed the Council's Commercial Strategy and progress in delivering the key outcomes from this. The outcome was a low assurance report, based on the Councils approach, management and delivery of the Commercial plan at the time.

Commercial Follow Up

The purpose of this follow up review is to confirm that previously agreed actions to address the low assurance report for this area have been actioned and that there has been an improvement in the management and delivery of the commercial agenda.

Overall, we can provide substantial assurance that actions have been taken and that these have supported an improved approach to commercial aims at exactly the right time as the Council further explores commercialism to better support its financial position and delivery of key services.

Substantial Assurance

This review has provided assurance on the corporate planning approach; how the Council sets and reviews its strategic priorities and monitors achievement of those priorities. It included a review of how previous Corporate plan learning can be used in the development of the new 2019 -2023 plan.

We were able to give positive assurance on how the new plan is being developed and confirm that the plan is being put together using learning gained from previous corporate plan development. There is wide management awareness of issues and clear actions are being developed to address these with the new plan.

Corporate Planning

We made several recommendations to support the Council in its development of the new Corporate Plan including -

- Ensure measures are SMART and there is early engagement with officers for ownership of measures.
- Issues identified during development and delivery of the current 2016-2020 Corporate Plan be collated, documented and formally reported.
- Create a Project plan to record key milestones, timescales and responsible officers for the development, approval, launch and progress reporting of the new Corporate Plan 2019-2023
- Support the understanding of the "golden thread" which links all officers with Corporate Plan aims and objectives.

The scope of the audit is to provide independent assurance that current records management practices support the organisations needs and are compliant with regulatory requirements.

Our review confirms that robust processes and controls are in place and embedded throughout the organisation. There are no findings around the storage, retention and disposal of electronic records. There are some areas that can be improved for hard copies of documents stored at the depot.

ICT Records Management

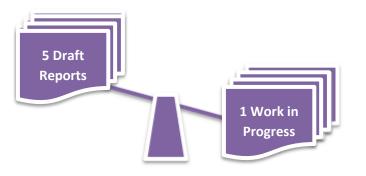
The Council needs to manage these risks and we have made several recommendations to support this area, including –

- · Reviewing the storage of hard documents at the depot
- Ensuring document disposal records are recorded and accessible
- Clearly identifying retention records and responsible officers for records stored at the depot.
- Confirming that records management risks are updated and monitored and deageonteels and mitigating actions.

Substantial Assurance

The purpose of the audit is to provide assurance on the Council's health and safety processes and the issue, and risk, of how incident and accident in the workplace are investigated.

Key Controls Health & Safety Our audit work has given substantial assurance with a positive direction of travel. We are confident that the foundations are in place and plans for the future once implemented fully will further support the processes and delivery of strategy. This will allow WLDC to have a secure position through a robust Health and Safety management system should there be an accident or incident.



Audits reports at draft

We have four audit's at draft report stage:

- ICT Infrastructure Plans joint review with NKDC
- Planning Enforcement Follow Up Management
- Investment Programs
- PCI DSS Follow Up
- ICT Capacity and Capability joint with NKDC.

These will be reported to the committee in detail once finalised.

Work in Progress

We also have one final 2018/19 audit in progress

Key Controls - Payroll







Internal Audit's performance is measured against a range of indicators. The statistics below show our performance on key indicators year to date.

Performance on Key Indicators



High achievement of Audit KPI's to date





Other Matters of Interest

CIPFA Better Governance Forum Update

In February 2019 CIPFA produced an audit committee update paper. This highlights recent reports from external auditors, in particular the National Audit Office report on Local Authority Governance. It also takes stock of local audit arrangements in the light of recent developments.

Understanding the work of external auditors is a key responsibility of the audit committee, and supporting and overseeing the organisation's response to the auditor recommendations is an essential role for the committee.

The report examined local arrangements, particularly those that support financial sustainability. These included:

- · operation and independence of the audit committee
- priority given to ethical standards
- effective internal audit
- robust risk management arrangements
- effective scrutiny and challenge •
- the right conditions for statutory officers to fulfil their roles.

The NAO surveyed the external auditors of the authorities on the extent to which they were satisfied that these arrangements were effective. In 50% of authorities, the external auditors had no concerns and 19% had concerns on one area only. However, 30% of authorities were scored as having two or more concerns, including 9% with four or more areas of concern. Page 22

The findings from the survey of external auditors was further supported by a survey of section 151 officers and a range of focus groups and interviews with stakeholders.

The document also covers the work of the Committee on Standards in Public Life who have published a report on their review of standards arrangements in English local authorities. The report, Local Government Ethical Standards, acknowledges that the vast majority of councillors and officers maintain high standards of conduct but that there is clear evidence of misconduct by some councillors, particularly around bullying and harassment.

While the report concludes that local responsibility for standards should be maintained, it recommends a number of improvements, including:

- a new model code of conduct
- extending regulations about the disclosure of interests
- strengthening and clarifying the role of the independent person
- a new sanction to suspend a councillor for up to six months
- disciplinary protection for the statutory officers in authorities (monitoring officer, section 151 officer and head of paid service) should be extended to all disciplinary action
- amendments to the Transparency Code to cover disclosures of code of conduct complaints and changes to



Other Matters of Interest

A summary of matters that will be of particular interest to Governance and Audit Committee Members

In addition, there are 15 best practice recommendations made to local authorities.

Governance and Audit committee members should take account of the report as an individual councillor or independent member, but they should also be aware of the report when considering the strength of their authority's ethical framework for the Annual Governance Statement.

High

Our critical review or assessment on the activity gives us a high level of confidence on service delivery arrangements, management of risks, and the operation of controls and / or performance.

The risk of the activity not achieving its objectives or outcomes is low. Controls have been evaluated as adequate, appropriate and are operating effectively.

Substantial

Our critical review or assessment on the activity gives us a substantial level of confidence (assurance) on service delivery arrangements, management of risks, and operation of controls and / or performance.

There are some improvements needed in the application of controls to manage risks. However, the controls have been evaluated as adequate, appropriate and operating sufficiently so that the risk of the activity not achieving its objectives is medium to low.

Limited

Our critical review or assessment on the activity gives us a The controls to manage the key risks were found not always to be operating or are inadequate. Therefore, the controls evaluated are unlikely to give a reasonable level of confidence (assurance) that the risks are being managed effectively. It is unlikely that the activity will achieve its objectives.

Low

Our critical review or assessment on the activity identified significant concerns on service delivery arrangements, management of risks, and operation of controls and / or performance.

There are either gaps in the control framework managing the key risks or the controls have been evaluated as not adequate, appropriate or are not being effectively operated. Therefore the risk of the activity not achieving its objectives is high.

Outstanding Audit Recommendations for all audits at 10.03.2019

Activity	Issue Date	Assurance	Total recs	Recs Imp				Rec s
								not
				_				due
					High	Medium	Low	

There are no over due actions to report.

Appendix 32018/19 Audit Plan to date

Audit	Scope of Work	Start Planne d date	Start Actual date	End Actual date	Status/ Rating
Environmental Protection & Enforcement	Review the recent changes in structures and management and provide assurance that services are being delivered as intended.	Q1 June 2018	June 2018	Sept 2018	Limited
Investment programmes	Review the Councils approach to managing projected gaps in the budget and provide assurance on the delivery of projects which provide a commercial return to the Council.	Q1 June 2018	Sept 2018		Draft
Growth Programmes	To follow up on 2016 growth audit work and provide assurance on project and programme work in delivery.	Q1 May 18	June 2018	Nov 2018	Substantial
Housing Benefits Subsidy	Test a sample of benefit cases to on behalf of the external auditor KPMG to provide assurance on the subsidy claimed by the Council.	Q2 July – Sept 2018	Aug 2018	Sept 2018	High
Customer First	A key programme of work and business transformation for the Council. Provide assurance that the programme is being effectively managed and monitored.	Q2 July – Sept 2018	Sept 2018	Feb 2019	Substantial
Corporate Planning	Review the Council's systems and processes over the setting of its strategic direction.	Q2 July – Sept 2018	Sept 2018		Draft Report

Audit	Scope of Work	Start Planne d date	Start Actual date	End Actual date	Status/ Rating
Financial Strategy & Budget Preparation	Review the Councils systems and processes in place to provide assurance on the process of budget preparation and it's alignment with the Council's strategic priorities. This will include budget setting and links to corporate priorities and the medium term plan.	Q2 July – Sept 2018	Aug 2018	Sept 2018	High
Budget management	Review the Councils systems and processes in place to provide assurance on the management of budgets. This will include budget monitoring, control and management of variations.	Q2 July – Sept 2018	Aug 2018	Sept 2018	High
Leisure Contract	Consultancy review of the new Leisure contract process.	Q2 July – Sept 2018	Sept 2018	Feb 2019	Consultancy
ICT Infrastructure joint with NKDC	Joint review with NKDC to cover the roadmap and spending plans for future ICT software and hardware.	Q2 July – Sept 2018	Nov 2018		Draft Report
Follow up PCI DSS	Follow up low or limited audit reports for assurance on improvement and implementation of findings.	Q3 Oct – Dec 2018	Jan 2019		Draft
Follow up Sales & Invoicing	Follow up low or limited audit reports for assurance on improvement and implementation of findings.	Q3 Oct – Dec 2018	Sept 2018	Nov 2018	High
Combined Assurance	Document the Council's critical areas to provide an assurance rating to inform the audit plan and report to management and members. Page 2	Q3 Oct – Dec 2018	Sept 2018	Dec 2018	Complete

Audit	Scope of Work	Start Planne d date	Start Actua I date	End Actual date	Status/ Rating
Follow up Planning Enforcement	Follow up low or limited audit reports for assurance on improvement and implementation of findings.	Q3 Oct – Dec 2018	Jan 2019		Draft
Follow up Commercial	Follow up low or limited audit reports for assurance on improvement and implementation of findings.	Q3 Oct – Dec 2018	Jan 219	March 2019	Substantial
ICT Records Management	Provide assurance on the Councils systems and controls for document management and compliance with legislation.	Q3 Oct – Dec 2018	Dec 2019		Draft Report
Key Controls Insurance & VAT	Provide assurance that key controls are operating effectively throughout the year	Q4 Jan – March 2019	Dec 2019	Feb 2019	High
Key Controls Payroll	Provide assurance that key controls are operating effectively throughout the year	Q4 Jan – March 2019	Feb 2019	Feb 2019	WIP
Key Controls Health & Safety	Provide assurance that key controls are operating effectively throughout the year	Q4 Jan – March 2019	Jan 2019	Jan 2019	Draft Report

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Governance and Audit Committee

16 April 2019

Subject: Annual Constit Report					
Report by:	Monitoring Officer				
Contact Officer:	Alan Robinson Strategic Lead for Democratic and Business Support and Monitoring Officer 01427 676509				
	Katie Coughlan Senior Democratic & Civic Officer 01427 676594 katie.coughlan@west-lindsey.gov.uk				
Purpose / Summary:	The purpose of the report is for the Governance and Audit Committee to recommend to Council the proposed amendments to the Constitution.				
	For the first time this year, the report also includes an Annual Report from the Monitoring Officer which sets out the governance arrangements in place to manage Commercial and Economic Growth; information regarding the way in which the Council has responded to General Data Protection Regulations (GDPR) which came into effect on 25 th May 2018; presents a data analysis of the number, nature and outcome of complaints received under the Code of Conduct; and advises of recent appointment made in respect of governance matters.				
	The report aims to provide an holistic overview of all governance associated matters.				
	The Governance and Audit Committee are also asked to approve the amendment(s) made to the Page 29				

Financial and Contract Procedure Rules, which will subsequently be noted by Council as part of the Annual Review.

RECOMMENDATION(S):

- (a) That Members note the outcome of the annual review.
- (b) That the amendments detailed at Section 2 of the report be recommended to Council for immediate adoption and implementation; and
- (c) That the proposed amendments, raised through the review process, but which are not being progressed, detailed at Section 2.8 be agreed and recommended to Council for non-inclusion; and
- (d) That Members Approve the amendment made to the Contract and Procurement Procedure Rules detailed at Section 3.2 of the report (the full set of Procedure rules are attached at Appendix 2 for completeness) and these be noted by Council as part of the Annual Review; and
- (e) That Members note the progress made with regards to those areas of work agreed for further development in the 2018/19 review (Section 4) and the further planned work for 2019/20 detailed at Section 5 of the report; and
- (f) That Members Agree the governance outlined in this report, in respect of managing Commercial and Economic Growth, provides assurance that the council is taking appropriate mitigating measures against the risks identified in its commercial approach and note the updated position provided at Section 6 of the report;
- (g) That Members note the statistical data provided within the report in respect of the number, nature and outcome of the Code of Conduct Complaints at Section 7 of the report; and
- (h) That Members note the appointment information contained in Section 8 of the report, which will be subject to separate reports being ratified by Annual Council in May 2019.

IMPLICATIONS

Legal:

The Council is required by law to prepare, and keep up to date, the Constitution

Financial : FIN/234/19

There are only very limited financial implications as a result of making amendments to the constitution, these costs can be met from existing budgets

These relate to the resources needed to make changes to electronic records and to the limited printing costs of producing amended pages for paper copies of the Constitution.

Staffing :

The Constitution sets out the manner in which staffing matters should be dealt with.

Equality and Diversity including Human Rights :

None arising from this report.

Risk Assessment :

Failure to amend the constitution to reflect changes could lead to a risk of legal challenge and reputational risk for the Council.

Climate Related Risks and Opportunities :

None arising from this report.

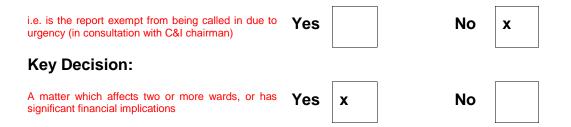
Title and Location of any Background Papers used in the preparation of this report:

Annual Constitution Review 2017/18

Effectiveness of Committees' Surveys

Call in and Urgency:

Is the decision one which Rule 14.7 of the Scrutiny Procedure Rules apply?



1 Introduction and Summary

- 1.1 The Council is required by law to prepare and keep up to date a Constitution which explains how the Council operates, how decisions are made and the procedures which are to be followed to ensure that these are efficient, transparent and accountable to local people.
- 1.2 Article 14 of the Constitution stipulates how such a review should be conducted namely:
 - a) by observing meetings of different parts of the Member and officer structure;
 - b) by undertaking an audit trail of a sample of decisions;
 - c) by recording and analysing issues raised with the Monitoring Officer by Members, officers, the public and other stakeholders;
 - by comparing practices in this authority with those in comparable authorities, or national examples of best practice; and
 - e) by undertaking a review of each committee's effectiveness.
- 1.3 As a comprehensive review of the Constitution was undertaken in 2011, 2014 and 2017, and a large number of amendments being made to large sections of the document in 2018 a number of relatively minor amendments are being proposed as detailed at Section 2 of the report.
- 1.4 On this occasion some amendments proposed throughout the review are not being proposed for progression, these are detailed at Section 2.8 of the report together with the rationale.
- 1.5 As part of the Annual Review last year Members agreed a list of associated work to be undertaken during the 2018/19 civic year namely:
 - The role of the C and I Committee A review of its role and effectiveness
 - Member Development
 - Members ICT including the possibility of providing West Lindsey owned and issued hardware.

Section 4 of the report provides a brief update of the work which was undertaken and the arising outcomes. Reviewing the role of the C and I Committee has resulted in some proposed amendments these are contained in the Table at Section 2, alongside all other proposed amendments.

- 1.6 Section 5 details associated work planned to be undertaken during the 2019/20 civic year.
- 1.7 An Audit of the Council's Procurement Procedures was undertaken in April 2018 which resulted in considerable amendments being made to the Contract and Financial Procedure Rules in the last Constitution Review. A number of significant amendments were also made to reflect the Council's commercial agenda. Only one relatively minor amendment is being proposed as a result of this review, with staff and stakeholders alike considering them to be fit for purpose, clear and easy to understand/use. Section 3.2 provides further details.
- 1.8 Section 6 of the report sets out the governance arrangements in place to manage Commercial and Economic Growth and information relating to how the Council has responded to the requirements of GDR. Section 7 presents a data analysis of the number, nature and outcome of complaints received under the Code of Conduct and Section 8 advises of recent appointments made.
- 1.9 These sections are new additions to the report this year and aim to provide an holistic overview of all governance associated matters.
- 1.10 Historically the Annual Review of the Constitution has also included a list of in-year changes already agreed by Council for noting. With the introduction of Mod.Gov and its ease of re-publishing sections of the document independently, any changes agreed in-year have throughout 2018/19 been published immediately and therefore it is not considered necessary to include these again. The relevant reports have been included in the list of background papers should members wish to review these.

2. **Proposed Amendments to the Constitution**

- 2.1 In reviewing the Constitution, the actions detailed at 1.2 above have been undertaken using a variety of methods including:
 - a) attending a variety of Committee Meetings in order to review proceedings;
 - b) collating feedback from stakeholders and interested parties, including that received in formal complaints or alleged breaches of the Code, whether upheld or not;
 - c) Seeking the views of Senior Officers and Team Managers who work within the Constitution;
 - d) Surveying Members as to the effectiveness of the Committees to which they are appointed;
 - e) Reviewing other "fourth-option" Council's Constitutions; and
 - f) Holding workshops to focus on particular matters.

- 2.2 This has resulted in several, yet the majority minor, amendments having been made throughout the Document, but primarily to Part IV and V.
- 2.3 The review also prompted comments relating to the way in which the Public Participation at Planning Committees is operated. Whilst this document sits outside of the Constitution, the proposed amendments have been included within the table and the amended leaflet is appended to the report for approval
- 2.4 Arising from the feedback received/issues identified the following additions/amendments are proposed to come into immediate effect.
- 2.5 The Table below sets out the main proposed amendments for consideration along with the rationale for each.

Ref	Section /Page Ref	Amendment required	Reason for Amendment		
	Part IV (Responsibility for Functions ED of Operations – Operational Services) – page 37	To AMEND current delegation 5 by ADDING the words "Market Street, Church Street and Lord Street. Amended delegation will read "To approve the dates of any extra markets in Gainsborough Market Place, Silver Street, Market Street, Church Street and Lord Street, at any time of the year, in consultation with the Chairmen of the Corporate Policy and Resources and Prosperous Communities Committees.	For clarity/avoidance of doubt and to ensure that all areas where markets can be held are covered by the same delegation		
	Part IV (Responsibility for Functions ED of Resources) – (Chief Finance Officer) page 32	To AMEND current delegation 28 by ADDING the words Sections 43,45, 47 and 48 of the Local Government Finance Act 1988 as amended by the Localism Act 2011 and the National Non-Domestic Rating (Discretionary Rate Relief) Regulations 1989 (SI 1989/1059). Amended delegation will read "To determine applications for national non-domestic rate discretionary relief in accordance with Sections 43,45, 47 and 48 of the Local Government Finance Act 1988 as amended by the Localism Act 2011 and the National Non-Domestic Rating (Discretionary Rate Relief) Regulations 1989 (SI 1989/1059) and where the application accords with the Council's approved policy framework.	To ensure all current regulations under which the function operates are reflected.		
	Part IV (Responsibility for Functions) (Corporate Delegations Table) 9.5 – Writing off Debts – page 52	To AMEND the values within the notes to £2,500 from £1,500 The amended note will read "Up to £2,500; Chief Finance Officer Over £2,500; Corporate Policy and Resources Committee decision"	In order that the delegation in the table matches Delegation NO.4 of the Chief Finance Officer (Page 30) which currently states write off debt up to £2,500		
	Part IV (Responsibility for Functions) (Corporate Delegations Table) 7.6 –	from LGO complaints is a function of the Governance and Audit –	For the avoidance of doubt /for clarity		

Ref	Section /Page Ref	Amendment required	Reason for Amendment		
	Authorising Compensation – page 50				
	Part IV (Responsibility for Functions) (Corporate Delegations Table) 7.4 – Incurring Expenditure in 'state of emergency' or in order to ensure business continuity – page 50	To INSERT a ✓ in the Strategic Lead Column and AMEND the notes to read: - "This delegation only applies to Strategic Leads when they are carrying out the role of Strategic Commander in respect of emergency planning" The amended Note will read "Financial Procedure rules, where practicable. CMT and CFO in consultation with Chairman of Corporate Policy and Resources Committee. This delegation only	Currently there are two Strategic Leads who are trained to undertake the strategic commander role. This addition is to ensure that should they be "on duty" they have the appropriate approvals to spend.		
		applies to Strategic Leads when they are carrying out the role of Strategic Commander in respect of emergency planning"			
	Part IV (Responsibility for Functions) (Corporate Delegations Table) 7.5 – Incurring Expenditure in taking immediate urgent action in responding to a civil emergency and severe weather – page 50	To INSERT a ✓ in the Strategic Lead Column and AMEND the notes to read: - "This delegation only applies to Strategic Leads when they are carrying out the role of Strategic Commander in respect of emergency planning" The amended Note will read "Financial Procedure rules, where practicable. CMT and CFO in consultation with Chairman of Corporate Policy and Resources Committee. This delegation only applies to Strategic Leads when they are carrying out the role of Strategic Commander in respect of emergency planning"	Currently there are two Strategic Leads who are trained to undertake the strategic commander role. This addition is to ensure that should they be "on duty" they have the appropriate approvals to spend.		
	Part IV (Responsibility for Functions ED of Resources) – (Monitoring Officer) page 33	To ADD a new delegation namely "to undertake the role of Strategic Commander and all associated duties in respect of Emergency Planning and Business Continuity".	To reflect this additional duty carried out.		

Ref	Section /Page Ref	Amendment required	Reason for Amendment	
	Part IV (Responsibility for Functions ED of Operations – Planning	To AMEND current delegation 1 by REPLACING the word housing with homeless.	Possible drafting error	
	and Housing Enforcement) – page 41	The amended delegation will read "To determine homeless applications within the terms of the current homelessness legislation"		
1	Part IV (Responsibility for Functions ED of Operations – Planning and Housing Enforcement) – page 41 / 42	To ADD the Homeless Act 2002 as amended by The Homeless Reduction Act 2017 to the list of legislation contained under delegation 5	To reflect current legislation under which the Team works	
	Part IV (Responsibility for Functions ED of Operations – Public Protection) – page 34/35	To ADD the Equality Act 2000 to the list of legislation contained under delegation 4	To ensure all legislation which the team works with is reflected	
,	Part IV (Responsibility for Functions ED of Resources) – (Chief Finance Officer) page 30	 To AMEND the current delegation 12 by removing the words "Ward Councillors" The amended delegation would read "12 To approve new street names and numbering in respect of new development submitted by: Parish Councils 	Approval by Ward Councillors is not current practice and would extend the process unnecessarily	
		 Parish Councils Private developers, following approval by the local parish council concerned" 		

Ref	Section /Page Ref	Amendment required	Reason for Amendment
	Part IV (Responsibility for Functions – Housing	To firstly AMEND the name of the Housing Appeals Board to Simply "Appeals Board"	The Board's Terms of Reference cover more than Housing Appeals so therefore
	Appeals Board Terms of Reference) Page 23	Then To ADD the following sub notes to the Committee's Terms of Reference "Any member of the Appeals Board may be called upon to	the name is more reflective.
		sit on the Appeals Board to deal with appeals under the 5 terms of reference for the committee.	For the first time in a number of years the Housing Appeals Board met this year. The Board currently comprises 6
		(three Members plus one reserve).	Members. In the absence of this note it resulted in the in Hearing having to be
]		Meetings of the Appeals Board will be convened as and when necessary.	heard by all Members of the Committee. This is both un-wieldy and over whelming for the appellant.
		The provisions of the Local Government (Committees and Political	
)		Groups) Regulations 1990 do not apply.	This sub note would mean the Appeals Boards operates on similar basis to both
		The quorum shall be three Members."	Licensing Hearings and Taxi Hearings.
		Note: - If this amendment is approved a full find and replace will be	
		undertaken within the Constitution to ensure all references to the Board are amended.	
	Part V (Rules of	The following words be ADDED to procedure rule 26.1 " and the	The Governance and Audit Committee is
	Procedure – Quorum of Committees /Sub	Governance Audit Committee whose quorum will be three members"	traditionally a smaller Committee and for the past four years has comprised 6
	Committees) Page 15	The amended procedure rule will read: "26.1 The quorum of a	Members, on occasion meeting the
		committee meeting will be one quarter of the whole number of	quorum of 4 has been "touch and go" and
		Members, provided that in no case shall the quorum of the committee	therefore this minor amendment will make
		be less than four voting Members, with the exception of the	the likelihood of not being quorate less.
		Standards Sub-Committee which is subject to paras (1) & (2) below and the Governance Audit Committee whose quorum will	

Ref	Section /Page Ref	Amendment required	Reason for Amendment
		be three members"	
	Part V (Rules of Procedure – Quorum of Committees /Sub Committees) Page 15	Procedure Rule 26.2 be AMENDED to simply read "the quorum of all sub-committees will be three" as opposed to "26.2 The quorum of a sub-committee meeting will be one quarter of the whole number of Members, provided that in no case shall the quorum of the sub- committee be less than two voting Members with the exception of the Licensing Sub-Committee where the quorum will be three.	Ease of operation and clarity. The Count only currently has 3 sub-committee licensing sub, regulatory sub an standards sub. Standards sub is covere separately by procedure rule 26.1 an both the other two sub-committees hav notes in their terms of reference to sa they can only operate with 3 Member The rule as currently drafted therefor seems over complicated.
))	Part V (Chairmen of Committees Election) Page 14	Procedure Rule 23.1 be AMENDED by ADDING the words "by those Committee Members present" The amended procedure rule will read "In the absence from a meeting of the Chairman (and Vice-Chairman if elected), a Chairman shall be appointed for that meeting by those Committee Members present"	Historical drafting error identified Council Meeting on 4 March
	Part IV (Responsibility for Functions – Licensing Committee Terms of Reference) Page 10	The following sub note be ADDED to the Committee Terms of Reference "Members who have not received the appropriate training will not be permitted to sit on the Committee when it is determining Policy matters and will not be eligible to sit on Hearings heard under the Sub-Committee arrangements"	Ease of Operation and Clarity to all.
	Part IV (Responsibility for Functions – Regulatory	The following sub note be ADDED to the Committee Terms of Reference "Members who have not received the appropriate training will not be permitted to sit on the Committee when it is determining	Ease of Operation and Clarity to all.

Ref	Section /Page Ref	Amendment required	Reason for Amendment
	Committee Terms of Reference) Page 11	Policy matters and will not be eligible to sit on Hearings heard under the Sub-Committee arrangements"	
	Part IV (Responsibility for Functions – Remuneration Panel Terms of Reference) Page 22		This is a historical drafting error, the requirement to report to the Governance and Audit Committee was removed from the Governance and Audit Committee's Terms of Reference in last year's review, as it led to the independence of the Panel being questioned. Unfortunately it was not removed from the Remuneration Panel's Terms of Reference.
	Part VII – Management Structure	Oliver FT and Michelle Howard be removed from the management structure and the necessary amendments be made namely, inclusion of: - Rachel Parkin, Di Krochmal (Housing Services) Rachael Hughes, Russell Clarkson (Planning Services) Phil Westmorland (Building Control)	To reflect current structure. Note: - the amended structure has not been included as an appendix to this report however it will be for the report submitted to Annual Council.
	Part IV (Responsibility for Functions – Challenge and Improvement Committee Terms of Reference) Page 16	Scrutiny Committee"	As a result of the outcome of the review undertaken during 2018/19 and decision past by G and A at their meeting on 15 January.
	Part IV (Responsibility for Functions – Challenge and Improvement	Membership note the following sub-note be ADDED to Committee's Terms of Reference. "Members cannot serve on this Committee if	As a result of the outcome of the review undertaken during 2018/19 and decision past by G and A at their meeting on 15

Ref	Section /Page Ref	Amendment required	Reason for Amendment
	Committee Terms of Reference) Page 16		January. It is hoped this membership restriction will assist increasing the committee's effectiveness.
	Part V Page 26(Rules of Procedure – Overview and Scrutiny Procedure Rules) – Rule 4	REMOVE the requirement for 8 Meetings to be held to allow greater flexibility.	As a result of the outcome of the review undertaken during 2018/19 and decision past by G and A at their meeting on 15 January.
J	Part V Page 26(Rules of Procedure – Overview and Scrutiny Procedure Rules) – Rule 2.1	ADD to the Membership restrictions contained in Rule 2.1 the following "or serving Members of either of the Policy Committees" The Amended Rule will read "All Councillors with the exception of the Chairman, Leader of the Council, Deputy Leader of the Council, Leader of the Opposition and any serving Member of either policy committee may be members of the Overview and Scrutiny Committee."	As a result of the outcome of the review undertaken during 2018/19 and decision past by G and A at their meeting on 15 January. It is hoped this membership restriction will assist increasing the committee's effectiveness.
	Part IV (Responsibility for Functions ED of Operations – page 34	REMOVE delegation 2 namely "2. To be the Company Director of WLDC Trading Ltd and its subsidiaries (Sure Staff Lincs Ltd and WLDC Staffing Services Ltd)"	This function will no longer be permitted to be sub-delegated (see amendment below) so is being removed from the Officer delegation list. Furthermore the ED of Operations will no longer hold the position
	Part IV (Responsibility for Functions – Corporate Policy and Resources Terms of Reference – Page 4	ADD the following words to current terms of reference no.11 "This includes changing the directorship if required and this function cannot be sub-delegated to an Officer" The amended term of reference will read "11. Approving the creation of any new legal entity and appointments of directors or other statutory officers onto the Board of the legal entity This includes changing the directorship if required and this function cannot be sub-	This is to ensure these Directorship Appointments are made in a clear and transparent manner and it is clear the person is appointed as Director rather than delegated to act in the capacity of Director. This will ensure the requirements of Companies House are met without doubt.

Ref	Section /Page Ref	Amendment required	Reason for Amendment
		delegated to an Officer"	
	Part I Page 1 – Introduction	The vision be replaced with the up to date vision agreed by Council In November namely : - "West Lindsey Is A Great Place To Be Where People, Businesses And Communities Thrive And Can Reach Their Potential"	To reflect Council's Decision
		 The Council's values to also feature on this page namely:- 1. To put the customer at the centre of everything we do 2. To act as one council 3. To be business smart, to act on evidence and take advantage of opportunities, thinking creatively and getting things done 4. To communicate effectively with all stakeholders 5. To have integrity in everything we do 	To reflect Council's decision and raise awareness of the values in this public facing document
	Part IV Responsibility for Functions – ED of Operations – Development Management - Page 39 Page 37	To ADD the following NEW SUB to delegation 2" (i) All applications for "prior approval", made under the provisions of the Town & Country Planning General Permitted Development Order 2015 (as amended)" And remove "all prior approval applications" from delegation 1 (which has the caveat the above powers cannot be used if"	 Prior Approval applications are automatically granted planning permission by Government Order – subject to whether WLDC approval is required on certain, specified issues. However, these applications are time-limited. If the Council has not provided an answer within a specified time period (usually 28 or 56 days) – it is automatically approved. As it stands, this runs the risk that, Officers may not have the authority to

Ref	Section /Page Ref	Amendment required	Reason for Amendment
			determine such an application, but that it is automatically granted ahead of the next scheduled committee meeting. It is therefore proposed that such applications are always determined under delegated powers, to ensure the decision is taken by the Authority within the prescribed time period.
	Part IV Responsibility for Functions – ED of Resources – (Chief Finance Officer) - Page 32	To ADD the following words to current delegation 31 "and to hold all such Directors of such companies to account". The amended delegation will therefore read "31 to be the Council's Shareholder representative for the Group Holding Company and its individual subsidiaries and to hold all Directors of such companies to account".	To make it clear where accountability sits for company Directors once appointed by CPR Committee (particularly as other amends proposed within this report will prevent the function of appointing Directors being a sub-delegated function)
	Part IV Responsibility for Functions – ED of Resources – (Chief Finance Officer) - Page 30	To ADD the following words to current delegation, including responsibility for dealing with fraud" The amended delegation will therefore read "1 To exercise the proper administration of the Council's financial affairs under Section 151 of the LGA Act 72 and Section 114 of the Local Government Finance Act 1988 including responsibility for dealing with fraud"	For transparency and following comments made at a previous G and A Committee.
	Part IV Responsibility for Functions – ED of	To ADD the Civil Contingencies Act 2004 to the list of legislation contained under delegation 4	To ensure all legislation which the team works with is reflected

Ref	Section /Page Ref	Amendment required	Reason for Amendment
	Operations – (Public Protection) - Page 34/ 35		
		To ADD a new delegation 2 namely "To alter the charges for all aspects of building control."	This delegation is currently contained in the constitution for a number of other "commercial services" such as commercial waste collection and disposal, trinity arts centre and markets. This would allow the service to be more responsive to the market.

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2.6 As referenced in 2.3 above, the review also prompted comments relating to the way which in the Public Participation at Planning Committee is operated, the proposed amendments are detailed in the table below and the amended leaflet featuring track changes to easily identify the amendments is attached at Appendix 1 for approval. It should be noted the Planning Committee have been operating in accordance with these changes since around October 2018, and these amendments therefore formalise the way of working.

Change required	Reason for Change		
Amendment to question	 Previously it was not clear that the public participation being referred to was specifically that participation at Planning 		
"does public participation alter the existing arrangements for the publicity of planning applications?"	Committee. It was not referring to the Planning portal.		
Has been made clear that public participation at Planning Committee would not apply to decisions delegated to officers			

 Amendment to question "if I wish to speak, how do I arrange it?" Flexibility added in to allow for the fact that on occasion, individuals wishing to speak might have good reasons why they could not register on time to speak. 	 To give the Chairman more scope to allow those people to speak who have valid reasons for not being able to register on time.
 Amendment to question "what is the order of speaking on each application?" A tightening up of which County Councillors can speak during public participation. 	 There was nothing previously included to say which County Councillors could potentially speak for up to 5 minutes. It should now be clear that only those County Councillors whose County Ward contains the application being discussed can register to speak under the 'Ward and/or County Councillor' category. Other County Members can still register, but would be classed as
	'supporters' or 'objectors'.
 Standing advice to WLDC Members on what to do following any speech during public participation at Planning Committee to be added into the guidance. 	 There has long been standing advice to WLDC Planning Committee Members, contained within the document 'Guidance for Members and Officers dealing with Planning Application', but it was not extended to all WLDC councillors. It is important that the public perception of influence is safeguarded against regardless of whether the speaker is a planning committee member (acting in ward councillor duty) or a general Member of WLDC, particularly when that Councillor is a senior Member of the Council. This amendment is a response to complaints which have been received.

- 2.7 As referred to in Section 1.4 above, on this occasion some amendments proposed throughout the review are not being proposed for progression.
- 2.8 The table below sets out amendments which have been proposed but which are not intended to be implemented, together with the rationale.

TABLE OF PROPOSED AMENDMENTS	NOT TO BE INCLUDED
Proposed Amendment	Rationale for Non Inclusion
That Councillors be prevented from abstaining in regulatory Committee decisions	The act of abstaining is legally recognised and therefore there is no legal basis on which this right can be removed. There are often legitimate reasons for abstaining for example arriving half way through a debate, or having left for a comfort break. It would be more of a risk for Councillors to be forced to vote for or against a proposal having not heard all the facts
That questions and motions be permitted at Annual Council	Having researched a number of other authorities' practices, there is a mixed approach to this matter. Annual Council is reserved for ceremonial and statutory matters here at West Lindsey and there is no proposal for this to change.
Planning Officers have suggested that, where an application is from a family member (to staff/member) and is for a householder application only, and where no objections have been received from any third parties, that these applications should be determined by officers under delegated powers.	The number effected by such is relatively small and it is felt that the need to maintain the upmost transparency in such applications outweighs the need to "free up the Committee time"

2.9 Members are asked to agree that these are not included and recommend them to Council for non-inclusion.

3 In Year Changes to Contract and Procurement Procedure Rules – for Approval by Governance and Audit Committee

- 3.1 The Governance and Audit Committee are delegated to make any changes to the Contract and Procurement Procedure Rules between Annual Councils. These must then be reported up to Full Council, for noting, as Part of the Annual Review.
- 3.2 As stated in Section 1.7 above, an Audit of the Council's Procurement Procedures was undertaken in April 2018 which resulted in considerable amendments being made to the Contract and Financial Procedure Rules in the last Constitution Review. A number of significant amendments were also made to reflect the Council's commercial agenda. Only one

relatively minor amendment is being proposed as a result of this review namely : -

Section 9 - Above OJEU threshold procurement – Introductory Text, the following be inserted:

"For the higher value procurements, Procurement Lincolnshire recommend a strategy is written to determine the planned approach of cost-effectively purchasing the Council's required supplies, taking into consideration several elements and factors such as the background, scope, outcomes, procurement route options, selected route, timeline for procurement, checklist, funding, budget, the projected risks and opportunities, among others."

- 3.3 The Full set of Contract and Procurement Procedure Rules is attached at Appendix 2 for completeness, with the amendment highlighted for ease.
- 3.4 This document sits within Part V of the Constitution Rules of Procedure.
- 3.5 Members of the Governance and Audit Committee are asked to approve this amendment, which will subsequently be reported to Annual Council for noting as part of the Annual Review.

4 Progress made with regards to those areas of work agreed for further development in the 2018/19 review.

- 4.1 As detailed at Section 1.5 of the report as part of the Annual Review last year Members agreed a list of associated work to be undertaken during the 2018/19 civic year.
- 4.2 This Section provides a brief update on the progress which has been made: -

4.3 Reviewing the Role and Effectiveness of the Challenge and Improvement (C and I) Committee.

- 4.3.1 As well as being included in the "associated planned work" section of the 2017/18 Constitution Review, the remit to review the role and effectiveness of the C and I Committee was a matter included in the Annual Governance Statement (AGS) 2017/18 and Action Plan.
- 4.3.2 The AGS put forward four actions to be undertaken as part of the Challenge and Improvement Review:
 - Meet with Chair(s) to set the scope of the review which included 'call-in' process;
 - Undertake review, assess findings and identify areas to address, using KPMG training material as a reference point;
 - Report findings back and create and monitor project plan;

- Track delivery of the plan and assess level of improvements.
- 4.3.3 Furthermore in early 2018, external auditors delivering scrutiny training to Members asked the Challenge and Improvement committee to 'prove its worth', and deliver more value
- 4.3.4 As result of the information and views gathered through the review a report was submitted to the Governance and Audit Committee proposing three possible avenues to be pursued: -
 - 1. Make no changes to the Challenge and Improvement Committee;
 - 2. Make limited changes to the functions of the committee and review the terms of reference, and include a change in the criteria for membership;
 - 3. The removal of Challenge and Improvement Committee from West Lindsey's structure but retain a call-in function;
- 4.3.5 The full report submitted can be viewed <u>here</u>, together with the <u>minutes</u>.
- 4.3.6 The Governance Audit Committee based on the report resolved to accept Option 2 detailed above.
- 4.3.7 The following issues were also singled out as being particularly favourable:
 - Meeting dates should have the option of being more flexible;
 - The name change, to Overview and Scrutiny, would be something that was simple but effective;
 - A change in the criteria for membership, which could in turn lead to a smaller committee;
- 4.3.8 As a result of this work a number of minor amendments have been included in Section 2 of the report for approval, including a change of name and a restriction on Membership. No amendments have been made to the Committee's Terms of Reference at this stage, as no definitive direction in respect of this matter was offered by the Governance and Audit Committee.
- 4.3.9 In light of the issues raised during the debate the role and effectiveness of the C and I Committee will again be a focus for 2019/20. Further information is contained in Section 5 below.

4.4 Reviewing the Approach to Member Development and ensuring a robust induction programme and 4 year training plan is in place.

4.4.1 A Member Development Group has been set up in order for interested Councillors to have an input with the development plan and Members of the Governance and Audit Committee have received reports on this matter, namely at their meetings on 19 June and 6 November 2018.

- 4.4.2 The full reports can be found here <u>https://democracy.west-lindsey.gov.uk/ieListMeetings.aspx?Cld=155&Year=0</u>
- 4.4.3 As a result, a full and robust induction plan is now in place to cover not only the initial post-election sessions but also to support Members through the first few months of the Civic Year. Although some sessions will be particularly relevant for newly elected Members, there will be a number of sessions focusing on statutory subjects such as Licensing and Planning, which all Members will be expected to attend.
- 4.4.4 Within the Member Development Group it was agreed that alongside the induction programme, each Councillor will be allocated a named Democratic Services Officer to assist with the induction period who will also be first point of contact for most queries and it is anticipated this will carry through the term of office. The longer term development plan, with future sessions identified over the coming four years, is also underway with input from the Member Development Group. Further details can be found in the report and associated appendices. <u>https://democracy.west-lindsey.gov.uk/documents/s10215/Member%20Development%20Draft%20Programme%20for%20Induction%202019.pdf</u> and <u>https://democracy.west-lindsey.gov.uk/ieListDocuments.aspx?CId=155&MId=2000&Ver=4</u>
- 4.4.5 Member Development will continue to be a focus in the 2019/20 civic year. Further information is contained in Section 5 below.

4.5 Members ICT – considering options for ICT provision including the possibility of providing West Lindsey owned and issued hardware

- 4.5.1 Officers have worked with Members throughout 2018/2019 to further progress this matter.
- 4.5.2 Members were contacted back in late July 2018 through the Members' Bulletin about their availability so that they could provide information on what they would require from a new device.
- 4.5.3 The Members that volunteered their time then attended one of two workshops (held on 29 August 2018 and 6 September 2018) and aired their views on the specification for any new equipment
- 4.5.4 The main requirements arising from these sessions are summarised below
 - Efficient email capability
 - A standard device and software across the membership
 - The ability to read and save documents to a device
 - A light and portable device
 - Long battery life
 - Touchscreen welcome, in addition to a keyboard and mouse
 - Training and ongoing support (technical and operational)
 - Use of Modern.gov.

- 4.5.5 Following these workshops, 5 Members volunteered to form a pilot group to test a potential device, which would meet all of the above requirements. These Members included someone from each political group on the Council, and contained a range of IT abilities.
- 4.5.6 This work culminated in a report being submitted to the Corporate Policy and Resources Committee on 14 February 2019 where the Committee resolved to accept the rollout of West Lindsey District Council owned devices, and in doing so, the previous policies related to this matter were revoked.
- 4.5.7 The full report submitted can be viewed <u>here</u>, together with the <u>minutes</u>.
- 4.5.8 As a result, following the Elections in May 2019, the newly elected cohort will be issued with a Council owned device.
- 4.5.9 This revised approach will further safeguard the Council and ensure it meets its requirements under the new GDPR arrangements.
- 4.5.10 Members ICT will continue to be a focus in the 2019/20 civic year. Further information is contained in Section 5 below.

5 Associated Work Planned to be undertaken during the 19/20 year

- 5.1 Whilst undertaking the annual review of the Constitution a number of other associated actions for further work and development have been identified, namely: -
 - The role of the C and I Committee (to be known as the Overview and Scrutiny Committee if this report is agreed) and further Training -An initial review was undertaken during 2018/19 as detailed above. Throughout 2019/20 the Committee's role and effectiveness will continue to be monitored, and the impact of the amendments made through this review will be assessed. The Effectiveness of Committee surveys submitted by Members of the C and I Committee expressed mixed views as to whether the Committee was functioning well and understood its remit. A thorough review of the Committee's Operating Methodology will also be undertaken, to streamline its content and ensure it reflects the way the Committee actually operates. This will be presented to the Overview and Scrutiny Committee at its June/July meeting for immediate adoption. Training for the Overview and Scrutiny Committee will also be a focus of 2019/20 Any recommendations arising from the monitoring of the Committee's effectiveness will made as part of the Annual Review for 2019/20, and would become effective from Annual Council May 2020.
 - Member Development Whilst a robust induction plan has been agreed, as referred to in the reports linked to Section 4.4.2. There is still desire to make greater use of on-line training and explore other options for alternative methods of delivery (this could also include increased use of the library on modern.gov). After the induction programme is completed post-elections, the details of the four year plan will be ratified Page 50

with any additional needs identified from induction incorporated into the longer term plan. There will also be a greater focus on engagement with development sessions with the Member Development Group continuing in an advisory role in order to maximise attendance at advertised sessions. The induction process for Members who become a Councillor through by-elections will be formalised within the Democratic Services Team in order to have a structure in place if needed in the future. Member Development will continue to be a focus for the team as lessons are learnt as to what is successful and meaningful for Members, as well as continuing to adapt to the changing needs of both the Council and Elected Members. Member attendance rates at training events will be internally monitored.

- **Members ICT** The rollout of Council owned devices will become effective from May 2019 following the Elections, both the Democratic Services Team and the ICT Team are committed to ensure Members are fully trained and feel confident in using their devices for all Council business.
 - Device masterclasses will be available to Members following the election in May as part of the induction and beyond
 - Written guidance provided as part of the pilot panel will be made available to all Councillors on collection of their device
 - Support for Members will be provided by the ICT Team (including remote support, as the devices can be updated and configured remotely). This support will be provided either in person at the Council offices or via a telephone call, as required to best resolve any issue. The ICT Team will record all support requests so that additional resources can be made available to fix any issue that has not been resolved first time.
 - Each Councillor will be assigned a member of the Democratic Services team as a 'buddy' so that questions of a more basic nature, and in particular queries on Modern.gov can be dealt with before any escalation to ICT.
- Petition Scheme The Petition Scheme has not been reviewed since its introduction in 2009/2010. A review of similar authorities' petitions schemes will be undertaken to ensure the Council's Scheme is still fit for purpose. Any recommendations arising from the review will be made as part of the Annual Review for 19/20, and would become effective from Annual Council May 2020.
- Review of Governance of Accountable Bodies A Review will be undertaken to ensure all procedures and governance arrangements, including financial regulations and contract procedure rules are appropriate for these types of roles. Any recommendations arising from the review will made as part of the Annual Review for 19/20, and would become effective from Annual Council May 2020.

6 Annual Report from the Monitoring Officer which sets out the governance arrangements in place to manage Commercial and Economic Growth

- 6.1 This part of the report deals with changes to Governance of the Council which have taken place during the year, with a focus on Commercial activity.
- 6.2 In June 2018 a report was received by the Governance and Audit Committee regarding the Governance of Commercial Activity. The report is attached as Appendix 3 for you information. The report gave details of the Governance around Local Authority Owned Companies, Development Agreements and the Commercial Property Portfolio.
- 6.3 The Sections below provide updated positions in respect of each together with information on how the Council has responded to the GDPR Regulations.

6.4 West Lindsey Owned Companies

6.4.1 The current companies in West Lindsey ownership are detailed below. These are manged using nominated representatives acting as Directors and carrying out the shareholder function. The shareholder function for all companies currently sits with The Section 151 Officer and Executive Director of Resources, Ian Knowles, who in practice carries out this role through reports to the Corporate Policy and Resources Committee.

Company	Reg. No.	Date incorporated	WLDC	Staff/Roles	Shareholding
		· · · ·			•
WLDC Trading Ltd	10547086	Jan 2017	KW – Director		Sole
WLDC Staffing	10276205	Jul 2016	IK – Shareholder		Shareholder
Services Ltd			Representative		
SureStaff (Lincs) Ltd	06476932	Jan 2018	TB - Secretary		
Market Street Renewal	10298200	Jul 2016	EFM Director		50/50 with
Ltd			AM Director		DPL
			IK Shareholder		
				Representat	
				ive	

Key: -

IK – Ian Knowles - Executive Director of Resources

EFM – Eve Fawcett-Moralee – Executive Director of Economic and Commercial Growth

KW – Karen Whitfield – Communities and Commercial Programme Manager

AM – Andrew Morriss – Independent Lay Member of the Governance and Audit Committee

TB – Tracey Bircumshaw – Financial Services Manager

6.4.2 During 2018/19 The Sure Staff companies and Market Street Renewal Ltd have presented Business plans to Corporate Policy and Resources

Committee. These are now planned in as a matter of course for future years to allow for the forward plan to be accurate and to ensure prompt reporting.

- 6.4.3 A change which has been made is that Karen Whitfield, the Communities and Commercial Manager has been appointed to the role of Director of Sure Staff by way of sub-delegation by the Executive Director of Operations in accordance with the Council's Constitution. Full Council ratified this decision at its meeting on 8 April 2019. It is proposed that the Constitution is amended to provide that sub-delegations of this function in the future are not permitted.
- 6.4.4 Such proposed changes and the rationale for such have been included in Section 2 of the report
- 6.4.5 In conclusion there have been no issues raised around the governance of the West Lindsey owned companies and they have not been subject to any legal challenge during the year.

6.5 **Development Agreements in General**

- 6.5.1 A development agreement is a term which is used to cover a variety of agreements amongst developers, landowners, purchasers, tenants and funders. Each agreement will, of course, require to be tailored to the parties and the circumstances of the particular development, but they tend to have a number of elements in common.
- 6.5.2 Many include some or all of the following obligations on the developer:
 - to carry out the particular development in line with agreed plans and specifications;
 - to procure the provision of collateral warranties by the contractor and consultants to the purchaser/tenants and funder;
 - provisions which are designed to ensure the quality of the development;
 - letting obligations, which set out the minimum criteria for any prospective leases which the developer seeks to secure, perhaps with an agreed form of lease attached; and
 - A timetable for the development, including a longstop date for completing it.

6.6 West Lindsey Development Partnership

- 6.6.1 During 2018 West Lindsey District Council entered into a Development Partnership with a Muse Developments.
- 6.6.2 The Development Partner was procured through a process known as "Competitive Dialogue". This is a staged process which in this case has taken almost two years. The Development Agreement was negotiated during the dialogue stage. The Development agreement clarifies the

roles responsibilities and obligations placed on both parties throughout the agreed duration of the agreement.

- 6.6.3 West Lindsey procured specialist legal advice which was used throughout the procurement process and in the drafting of the agreement.
- 6.6.4 Members were involved at each stage of the procurement and at a Concurrent meeting of the Prosperous Communities Committees and the Corporate Policy and Resources Committee.
- 6.6.5 Since the agreement was signed members of the Corporate Policy and Resources Committee and Prosperous Communities Committee have been kept up to date with progress including a report to both Committees on 25th February 2019 at which members endorsed the current approach.

6.7 Commercial Property Portfolio.

- 6.7.1 At the Corporate Policy and Resources Committee on 13th April 2017 members agreed a criteria for investment in commercial properties.
- 6.7.2 The criteria included Lot size, Location, Asset quality, Tenant ease term, Tenant Covenant, Occupation and Tenure. In addition the committee agreed to delegate the application of the criteria to the Executive Director of Resources following consultation with the Chairman of Corporate Policy and Resources Committee.
- 6.7.3 The criteria was revised at the meeting of the Corporate Policy and Resources on 10th May 2018 to increase the purchase price range to £10 million. This was to enable the portfolio to be balanced and to take advantage of a gap in the market for lots between £5 million and £10 million.
- 6.7.4 The following tables gives details of the investment portfolio as at 31st March 2019

Property	Acquisition Price	Total Capital Costs				
Bradford Road, Keighley BD21 4BB Status: Acquired	£2,350,000	£2,490,354				
43 Penistone Road Sheffield Status: Acquired	£2,550,000	£2,699,466				
Unit 7	£3,000,000	£3,174,913				

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Drake House Sheffield Status: Acquired		
5 Sandars Road, Heapham Road Gainsborough Status: Acquired	£6,105,000	£6,470,070
Heaton Street Gainsborough Status: Acquired	£1,100,000	£1,149,644
Total	£15,105,000	£15,984,447
Portfolio Gross Yield		7.27%

- 6.7.5 All the decisions to purchase these properties were carried out in accordance with the agreed criteria and the decisions have been appropriately documented.
- 6.7.6 Members have been regularly updated on these properties in the budget monitoring reports which are provided on a quarterly basis to the Corporate Policy and Resources Committee.

6.8 General Data Protection Regulations GDPR

- 6.8.1 GDPR came into effect on 25th May 2018. These regulations provided an update on the existing Data Protection Act and gave additional duties to data controllers.
- 6.8.2 West Lindsey reviewed its systems and processes in line with the new requirements and introduced a number of Privacy statements as well as clear reporting lines for the reporting of data breaches. Extensive training was carried out for officers, members and parish councillors.
- 6.8.3 Monitoring arrangements have been put in place to review the impact on Freedom of Information requests and Subject Acess Requests. This will enable officers to adapt to changes of behaviour brought about by the regulations.
- 6.8.4 GDPR also requires West Lindsey DC to appoint a Data Protection Officer. As such Steve Anderson has been appointed as Data Protection Officer for the purposes of the regulations.

7 Data Analysis Of The Number, Nature And Outcome Of Complaints Received Under The Code Of Conduct.

7.1 The Standards Sub-Committee at its meeting on 24 September 2018 received a report which presented a data analysis of the number, nature

and outcome of complaints received under the Code of Conduct regime for the civic years 2016/17, 2017/2018 and 2018/19 to-date (which was July 2018).

- 7.2 The full report is attached at Appendix 4 and includes information on the current approach adopted.
- 7.3 The sections below set out an updated position in respect of complaints data for the 2018/19 civic year up to March 2019.
- 7.4 During 2018/19 there have now been a total of 14 complaints.
- 7.4.1 6 relate to Parish Councillors and 8 relate to District Councillors.

7.4.2 The nature of these complaints is summarised below:

- Integrity 2 (1 Parish Council and 1 District Council)
- Respect 9
- Bullying
- (Parish Council)

(7 Parish Council and 2 District Council)

Bullying 2 Use of Position 1 (Parish Council)

7.4.3 The Outcome of these complaints is summarised as follows: -

- 2 Potential Breach
- 2 Reiected
- Non Breach 10

8 **Recent Appointments made by the Monitoring Officer**

8.1 **Remuneration Panel**

> The period of appointment of three members of the Remuneration Panel expires in May 2019. Following a recruitment exercise, all three positions have been re-filled. One is a returning member while two are new recruits to this Panel.

- 8.2 **Appointment of Independent Persons** This role assists the Monitoring Officer in determining whether the Members' Code of Conduct has been breached when investigating complaints against Councillors. We currently have two Independent Persons whose terms of office expire in May 2019. Following a recruitment exercise, both have been re-appointed.
- 8.3 Independent Member of Governance & Audit Committee We have three Independent Members who sit on this Committee. The term of office for one Member expires in May 2019. Following a recruitment exercise this Member has been re-appointed.
- 8.4 All appointments are subject to ratification at Annual Council in May 2019 and will be subject to separate reports.

List of Appendices

- Appendix 1 Public Participation at Planning Committee Meetings for adoption
- Appendix 2 Contract and Procurement Procedure Rules for adoption
- Appendix 3 G and A Report June 2018 Commercial Activity
- Appendix 4 Standards Sub-Committee Report 24 September 2018

West Lindsey District Council

Participation at Planning Committee Meetings



Revised May 2017 2019

West Lindsey District Council is committed to extending public involvement in the planning process.

There are already extensive consultation and neighbour notification procedures for all planning applications. This leaflet explains how you can speak directly to Councillors at Planning Committee meetings.

The advice in this leaflet applies equally to applicants, their agents, supporters, objectors and local council representatives.

Questions and Answers

- Q Can I get a copy of the agenda before the meeting?
- A The agenda, containing details of each application, will be available on the Council's website, at the meeting and will be available for inspection at the council's offices five clear days before the meeting.
- Q Does "public participation" alter the existing arrangements for the publicity of planning applications?
- A No. Planning applications will continue to be publicised as at present.

The council's Planning Committee generally consider applications which are of wider significance or of major importance to the district as a whole, while decisions on simple or straightforward applications are usually delegated to officers. You may need to check with Planning & Development Services on 01427 676676 (following Options for the Planning Team), or email: planning.customer.care@west-lindsey.gov.uk if you are not sure if the application in which you are interested is to be considered at a Planning Committee meeting. Applicants, agents and town or parish councils will be informed about five days before the meeting if an application in which they are interested is on the agenda for that meeting. All other interested parties (i.e. anyone else that has commented/local residents) need to view dates and agendas for forthcoming committee meetings on the council's website. Unfortunately it is not possible to notify interested parties (other than the parish council) directly. Where a planning application is dealt with by officers under delegated powers, clearly public participation at a Planning Committee will not apply.

- Q If I object to a proposal, do I have to speak at the committee meeting?
- A No. Details of all objections, if received in time, are reported to the committee anyway. It is entirely at your own discretion whether you ask to speak at committee. Objections are available to view using the application tracker pages of the council's website (<u>www.westlindsey.gov.uk</u>).
- Q If I am the applicant or agent, do I have to speak at the committee meeting?
- A No. If the recommendation to the committee is to approve the proposal, you may decide not to take up committee time. If the recommendation is for refusal, you may wish to present your case. Please note, however, that a recommendation is not always accepted by the committee.

Q If I wish to speak, how do I arrange it?

A If you wish to speak, you will need to telephone or e-mail the Democratic Services team on:
 01427 676594/5-, 676595 or 676606
 committeeadmin@west-lindsey.gov.uk to register your request.

All speakers, including members of the public, visiting Ward Members and County Councillors are required to comply with the requirement to register in advance of the meeting (by 5pm two working days before the meeting). i.e. on the Monday for a Wednesday meeting or the Friday if the Monday is a Bank Holiday.

You can register as soon as you become aware of the application even if you do not know at that stage whether the application will be dealt with by officers or submitted to committee. Late requests to speak will not be accepted_unless there are exceptional circumstances.

Q Where and when are the committee meetings held?

A Meetings of the Planning Committee are generally held every four weeks on Wednesdays at 6.30pm in the Council Chamber, Guildhall, Marshall's Yard, Gainsborough.

Q When will the application be considered?

A Applications on which the public wish to speak may be considered before other applications. If you make arrangements to speak, you should endeavour to be present at the start of the meeting. Applications will not be deferred or delayed in the event of late or non-attendance. Specific times for the discussion of particular applications cannot be given.

Q What is the order of speaking on each application?

- A One of the planning officers will introduce the item. Speakers will be invited to speak in the following order:
 - Town/Parish Council/Meeting representative
 - Supporters (including the applicant(s) and/or agent(s))
 - Objectors
 - Ward and/or County Councillors (for the Ward being dealt with as part of the application)

Please ensure that you make it clear in what capacity you wish to speak: objector; supporter; Parish/District/County Councillor.

The committee will then consider the application and reach a decision. If at the meeting a deferral or site visit is agreed arising from comments made during public participation, you may speak again at the meeting when the application is next considered.

Standing advice to all WLDC Members would be to leave the Chamber for the remainder of the debate on the item they have spoken on.

Q How long will I be able to speak for?

A There is a time limit of five minutes for each category of speakers. Into whichever category you fall, you are encouraged to get together and arrange a single spokesperson. A maximum of three speakers will be allowed in each category, sharing the time equally, if agreement cannot be reached. If more than three still wish to speak, time will be allocated on the basis of the first three who registered with the Committee Administration team.

Q Can I ask questions of other speakers?

A No. Comments should be in the form of statements rather than questions. It is important to focus comments on material planning matters that have not otherwise been raised by other speakers.

Q Can I use photographs or plans or circulate supporting documents?

A Documentation in support of oral representations is permitted provided a copy is submitted to Planning Services by no later than 12 noon on the day preceding the committee meeting.

Q What are the relevant issues in considering proposals?

- A The relevant issues will vary with the nature of the proposal and the site, but may include the following:
 - Local and Neighbourhood Plan policies

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- Government planning guidance
- Planning law and previous decisions
- Highways safety and traffic issues
- Noise, disturbance and smells
- Design, appearance and layout
- Conservation of historic buildings, trees etc
- Residential amenities and Environmental impact
- The current Minerals and Waste Plan for the area

Q What issues are usually not relevant in considering proposals?

- A They will also vary from case to case, but the following are examples:
 - Matters covered by other laws (e.g. alcohol licensing)
 - Private property rights (e.g. boundary or access disputes)
 - The applicant's morals or motives Suspected future development
 - Loss of view
 - Effect on value of property

Allegations of factual errors in the report are not to be the subject of oral representations. If you believe this to be the case, you must take this up in writing with the Planning and Development Services Manager prior to the meeting. You should particularly note that you should not make derogatory or defamatory remarks about other people. Any such comments may leave you open to legal action.

Q Can I speak more than once on the same application?

A The Planning Committee may seek points of clarification from participants. If a motion for deferral/a site visit arises from listening to the comments made during the public participation period and is duly agreed, public participation arrangements will apply to that item when it is next considered.

Q Whom do I ask if I have any other queries?

A If you have any questions not answered by this leaflet, you are welcome to contact:

Democratic Services West Lindsey District Council Guildhall, Marshall's Yard Gainsborough, Lincolnshire DN21 2NA

Telephone: 01427 676594/5, 676595 or 676606Email:committeeadmin@west-lindsey.gov.uk

Notes:

- Councillors are elected to represent you on the District Council. You might like to contact your Councillor about the application concerned, but he/she will not be able to commit him/herself to a decision before hearing all the evidence and debate at the meeting. Councillors must take into account the laws and planning guidance as well as public opinion.
- The Chairman of the Planning Committee has absolute discretion regarding the interpretation of this scheme and its temporary suspension, variance or withdrawal at a particular meeting if it would be conducive to the debate or in the event that it becomes, or threatens to become, disruptive to the conduct of the meeting or the proper and lawful exercise of the council's statutory powers and duties.
- Minutes of Committee Meetings are published on the website and may also be viewed at council offices. Copies can be provided on request. There is a charge to cover printing and postage costs.

Other Leaflets in this Series:

Public Participation at Committee Meetings and Public Question Time at Council Meetings West Lindsey District Council

If you would like a copy of this in large, clear print, audio, Braille or in another language, please telephone **01427 676676**

Guildhall, Marshall's Yard Gainsborough, Lincolnshire DN21 2NA Tel: 01427 676676 Fax: 01427 675170 DX 27214 Gainsborough

www.west-lindsey.gov.uk



May 20192017



CONTRACT & PROCUREMENT PROCEDURE RULES

In partnership with Procurement Lincolnshire

Revised February 2019

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Contract & Procurement Procedure Rules

1. INTRODUCTION AND SCOPE

Contract & Procurement Procedure Rules (CPPR's) inform officers involved in procurement of the mandatory requirements when undertaking procurement and developing contract documentation.

The CPPR's advise on procedures for the purchase of goods, works and services and should be read together with Financial Procedure Rules within The Constitution and the Public Contract Regulations 2015 <u>http://www.legislation.gov.uk</u>, and apply to all officers employed by the Council and any persons appointed to work with or on behalf of the Council.

In the event of any conflict between EU law, UK law and these Contract & Procurement Procedure Rules, the requirements of European law shall prevail over UK law and the requirements of UK law shall prevail over these Procedure Rules.

In support of continuous improvement, Contracts need to be devised that drive down costs, drive up quality and still provide an incentive for both partners.

Following these CPPR's will ensure that the Council promotes good purchasing practice, deters corruption and prevents allegations of incorrect or fraudulent purchase.

When carrying out any procurement, consideration shall be given to the four principles:

- Transparency
- Non-discrimination
- Proportionality
- Mutual consideration

1.1 BASIC STANDARDS

The purpose of the CPPR's is to:-

- Help officers procure their contracts in a consistent and proper way;
- Ensure legal clarity and reliability in contract administration;
- Help ensure that expenditure involved in contracts is controlled within approved budgets;
- Support officers to achieve and demonstrate best value for the Council;
- Ensure compliance with Public Contract Regulations, Financial Procedure Rules, applicable Grant Funding regulation and with all UK and European Union legal requirements;
- Ensure fairness in allocating public contracts;
- Comply with all legal requirements;
- Comply with the Councils' policies; and
- Comply with the Councils' corporate and service aims and objectives

In addition, ensure that: -

- Any grant money received must be spent in line with these Contract & Procurement Procedure Rules unless the grant conditions state otherwise;
- The purchase has been authorized by the relevant level of management;
- It is a lawful purchase; and
- Processes are in place to maintain the security and integrity of data;

Officers involved in any procurement will make sure that:

- The rules set out in this document are followed;
- Any additional legal or financial advice is sought prior to commencement or during the procurement process;
- Any personal financial interest in a contract is declared prior to commencement of the procurement process;
- All bids are kept confidential;
- A written contract is issued and signed by both parties or purchase order is issued before the supply of goods, services or carrying out of works begin;
- Where appropriate identify a Contract Manager with responsibility for ensuring the contract delivers as intended; and
- A review of each contract is carried out at an appropriate stage in a term contract or at the end of a fixed term contract.

1.2 CONTRACTS

All contracts must comply with the Contract & Procurement Procedure Rules. A contract is any arrangement made by, or on behalf of, the Council, for the carrying out of works or for the supply of goods or services. These include arrangements for:

- The supply of goods;
- Execution of works;
- The delivery of services;
- The hire, rental, repair, maintenance or lease of goods or equipment.

For the purposes of these CPPR's contracts do not include:

- a) Contracts of employment which make an individual a direct employee of the Council;
- b) Agreements regarding the acquisition, disposal, or transfer of land (for which Financial Regulations apply); or
- c) Awarding of Grant monies.

1.3 CONCESSION CONTRACTS

A concession contract is an agreement between the Council and an Economic Operator (mostly private companies) where the Economic Operator is given the right to exploit works or services provided for their own gain. Economic Operators can either receive consideration for their services solely through third party sources, or partly through consideration from the Council, along with income received from third parties.

There are two types of concessions contracts: works concessions and service concessions. In a works concession, the Economic Operator operates, maintains and carries out the development of infrastructure. In a service concession, the Economic

Operator provides services of general economic interest.

Advice must be sought from Procurement Lincolnshire prior to tendering a concessions contract.

1.4 RESPONSIBILITIES

1.4.1 The Executive Director Management Team (EDMT)

The EDMT have joint responsibility for:

- Ensuring that procedures for procurement are sound and properly administered;
- All staff comply with these Contract & Procurement Procedure Rules.

The Section 151 Officer (Executive Director of Resources) is responsible for ensuring all income and expenditure is lawful. In addition, the Section 151 Officer will also monitor the use of the exception process (section 2).

1.4.2 Strategic Leads/Managers/Team Managers

Will be responsible for:

- Ensuring staff are aware of their responsibilities under these procedures and receive adequate training and guidance;
- Ensuring officers assigned to manage contracts, update those contracts with the relevant management information, i.e., orders, invoices, minutes, etc. in the current contract management depository;
- Ensure sufficient time and resource is allocated to the pre-procurement and tendering process.

1.4.3 Procurement Resources

1.4.3.1 Contracts & Procurement Officer

Will be responsible for:

- The Council's Electronic Contract Register which holds all contracts where the estimated contract value is £5000 and over, including extensions.
- Ensuring safe keeping of an electronic copy of the signed contract is held where a contract is formed in addition to a Purchase Order
- All approved exceptions are held on the Contract Register
- All Consultancy and Interim appointments are held on the Contract Register

The Contracts & Procurement Officer is the officer authorized to carry out procurement, under £75,000, for supplies, services and works on behalf of the Council, and shall ensure that the principles and standards of these CPPR's are complied with. Advice must be sought from Procurement Lincolnshire with regard to any deviation from these Rules and an Exception Report shall be submitted to the Executive Director of Resources for approval.

The officer must check whether a suitable Contract or Framework Agreement exists within the Council, which can be utilized, before engaging in a Procurement exercise.

A framework should be used unless there is a good reason not to, i.e., limited suppliers, timescales, etc., and any reason must be recorded.

The officer must also ensure that any agents acting on the behalf of the Council comply with the CPPR's and all other relevant regulations, and with all UK and EU binding legal requirements.

1.4.3.2 Procurement Lincolnshire District Liaison Officer

The Shared Service agreement with Procurement Lincolnshire provides an additional procurement resource to assist the Council with high value or complex procurement enquiries, as required, in particular with focus on procurements over the value of £75,000.

2. EXCEPTIONS TO COMPLIANCE WITH THE CONTRACT & PROCUREMENT PROCEDURE RULES

Exceptions are provided in circumstances where the Executive Director of Resources (Section 151 officer) believes an alternative route to normal tendering procedures is required.

Exceptions may be necessary because of an unforeseen event has occurred whereby there may be immediate risk to persons or property, or potential serious disruption to Council services.

Exceptions are not a substitute for occasions where procurement planning has not been exercised and there is insufficient time to undertake a competitive process.

The exception report shall be completed by the Contracts & Procurement Officer and submitted to the appropriate authority for approval as follows:-

- The appropriate Committee if:
 - The value of the contract is over EU threshold and approval has been given by Legal Services and Procurement Lincolnshire: and
 - The tendering exercise would not achieve best value.
- The Executive Director Management Team if:
 - The potential value of the contract is between £75k EU threshold; and
 - A quotation or tender differs marginally from the specification but nevertheless represents the best value for West Lindsey; or
 - There is only one potential supplier or contractor.
- The Section 151 Officer if:
 - The value of the contract is below £75k; and
 - The requirement is of an urgent nature; or
 - Social value is of high importance; or
 - There is only one potential supplier or contractor; or
 - There are unforeseen events.

All exceptions shall be recorded on the Councils' Contract Register.

3. JOINT COMMISSIONING

When the council jointly commissions services with other public sector bodies, the following procedures shall apply:-

- The parties concerned will decide which of them is to act as the lead authority for the purposes of the particular service that is to be commissioned;
- The procedures for the procurement of services of the lead authority shall be followed;
- All participating authorities will be issued with a signed copy of the agreement.

Contracts entered into through collaboration with other public sector bodies, where a competitive process has been followed that complies with their equivalent to the CPPR's will not require an exception from this Council's CPPR's.

4. APPOINTMENT OF CONSULTANTS, INTERIM STAFF AND TEMPORARY STAFF

<u>Consultants</u>

Definition – a person who provides expert knowledge and advice in a particular field

Where, it is considered necessary to appoint a consultant to provide the services to the Council the following procedure shall be undertaken.

The Service shall submit a report to the Executive Director Management Team setting out:

- The nature of the services for which the appointment of a Consultant is required;
- The estimated Total Contract Value of the services;
- The preferred Procurement route (RFQ, tender, framework);
- That no employee of the Council has been identified with the capacity or availability to undertake the services;
- The identified budget availability as agreed with Finance.

If it is the opinion that the nature of the services required is so specialist that fewer than three Applicants would be able to provide the services the officer must record in writing the reason why the services are so specialist and, subject to the approval of the Executive Director Management Team, may send the invitation to one/two Applicant(s) only.

If permission is granted, an RFQ/Invitation to Tender for the provision of consultancy services must include as a minimum:

- a specification for the services;
- a questionnaire seeking details of the applicant's experience in providing similar services;
- the Council's standard contractual terms on which it is intended to appoint the consultant to provide the services; and
- the Award Criteria.

The estimated Total Contract Value will dictate which Procurement route is applicable.

The Service will, in liaison with Human Resources, obtain responses in line with the identified procurement route, for evaluation. Human Resources will ascertain as to whether IR35 (intermediaries legislation) will apply.

Where it is deemed that IR35 will apply, the status check report and cost implications of such appointment must be highlighted. No consultant is to be appointed without confirming if the IR35 rule applies to an engagement.

IR 35 is legislation which affects Tax and National Insurance contributions relating to appointments whereby consultants are contracted to work through an intermediary.

The intermediary can be:

- a limited company;
- a service or personal service company; or
- a partnership

The potential candidates will be evaluated and HR will then carry out the relevant checks and assurances. The Service will then submit a final report to the Executive Director Management Team detailing the proposed appointment and costs for approval. If approved, the successful candidate will then be engaged. HR will then ensure the contract documentation is completed.

Once the consultancy assignment is completed, the Service must submit a report to the Executive Director Management Team detailing the total cost of the engagement, the benefits and whether the aims and objectives were achieved.

Interim Staff

<u>Definition – a person employed for a set period of time, experienced professional with</u> <u>niche skills, able to cover long term leave or manage a project</u>

Where, it is considered necessary to appoint an interim to provide long term cover for an existing post within a Service the following procedure will be undertaken.

The officer must submit a report to Human Resources and Financial Services setting out:

- The nature of the services for which the appointment of an Interim is required;
- The estimated Total Contract Value of the services;
- The preferred Procurement route (RFQ, tender, framework);
- That no employee of the Council has been identified with the capacity or availability to take over the post;
- The identified budget availability as agreed with Finance.

Where the interim resources is for additional capacity or for specific project delivery, The officer must submit a report to the Executive Director Management Team setting out the items as detailed above. If permission is granted, an RFQ/Invitation to Tender for the provision of interim services must include as a minimum:

- a specification for the services;
- a questionnaire seeking details of the applicant's experience in providing similar services;
- the Council's standard contractual terms on which it is intended to appoint the interim to provide the services; and
- the Award Criteria.

The estimated Total Contract Value will dictate which Procurement route is applicable. The potential candidates will be evaluated and HR will then carry out the relevant checks and assurances. The successful candidate will then be engaged. HR will then ensure the contract documentation is completed.

Where the employment of a Consultant or Interim is estimated to attain a value of £5000 or over, an entry shall be made on the Council's Contract Register.

HR will ensure that all documentation relating to the appointment and engagement of a Consultant or Interim will be stored in a secure environment.

Temporary staff

Definition – a person hired through an agency to cover unexpected short term defined work.

The Service Manager will complete a vacancy request form. It will be assessed by finance for budget requirements and if approved, will then be forwarded to Human Resources (HR) to source suitable agencies. The number of CV's required will be dependent on the budget (see procurement thresholds for quotes).

HR will complete relevant employment checks and advise the Service on the most suitable candidate. If the candidate is self – employed through an agency the Service will be required to sign the agency contract. If the candidate is not self-employed through an agency, HR will complete the council agency contract document and arrange for a signature from the successful candidate.

5. E-PROCUREMENT

Electronic tendering is the compliant method of carrying out an Invitation to Tender (ITT) or Request for Quotation (RFQ) process where the value of the contract will be $\pounds 5,000$ and above.

When calculating the expected value of a contract, the final cost will be identified through the total capital and/or revenue expenditure over the projected life of the contract; this will also include any extension periods. If dealing with open-ended contracts the total value should be costed over a four year period.

The electronic tendering portal has a Contract Register and Contract Management module within. It will be the responsibility of the Contracts & Procurement Officer to ensure the register is up to date, all awarded contracts are published and contract management is in place. It will be the responsibility of the Service to ensure all relevant documentation relating to the contract management is uploaded, and the contract is managed through to end of contract term.

6. STEPS PRIOR TO PROCUREMENT

Before engaging in a procurement resulting in a Contractual arrangement, the following must be considered:-

- Is the proposed contract in line with the Council's Corporate Plan, aims and objectives?
- Is there a budget in place or will one need to be developed?
- Have all options for delivering the contract been explored?
- Will the proposed contract provide value for money in line with good quality?

For potential procurements not already identified and approved by the Executive Director Management Team through the Business and/or Service Plans and are considered to be outside 'Business as Usual', these must be authorized through a Business Case detailing:

- The need
- The value
- The objectives
- The risks
- The governance and data protection
- The market
- The most appropriate procurement method
- The resources required for procurement process
- The resources required for ongoing management and monitoring of the contract

6.1 BEST VALUE

Procurements should consider how the contract will impact on the economic, social value and environmental wellbeing of the district and Lincolnshire as a whole, as required by the Public Services (Social Value) Act 2012.

Where necessary, the council should consider as part of an assessment:

- How the proposed procurement might improve the economic, social and environmental well-being of the relevant area
- How, during the development of the procurement documentation, the potential improvements can be incorporated, to secure delivery
- Whether any consultation is necessary

6.2 LOCAL SUPPLIERS

For the purpose of these regulations a local supplier is defined as those "who's trading premises are located in Lincolnshire and/or a 20 mile radius of the County".

6.3 USING A FRAMEWORK AGREEMENT

A framework is an agreement put in place by a Contracting Authority that may be

used by other purchasing organisations, subject to that organisation having been included in the original OJEU notice and identified within the contract documentation, (there maybe more than one Contracting Authority).

The purchasing organisation (the buyer) can call off from a framework by either Direct award or Further Competition according to the detail of the Call-Off procedure included in the contract documentation. As a framework has already satisfied the procurement procedures included in an OJEU tendering process they can often be a faster route to procurement. However for a Direct Award the requirements of the buying organisation must be precise in detail with that within the framework, this means no change to specification, terms and conditions, standards, price and costs, payment terms etc. Documentation for either a Call-Off or Further Competition is often supplied by the Framework Contracting Authority and part of the framework portfolio documents.

Prior to any procurement the officer responsible for carrying out the procurement activity must consider as to whether there are any frameworks available and suitable for meeting the buying organisations purchasing need.

Engagement of a supplier and formation of a contract must be executed in accordance with the framework procedures (it is the Call-Off order that forms the contract within the Framework). Officers must ensure that they fully understand the terms and conditions, are familiar with and understand all of the Framework and Call-Off procedures documentation along with buyer eligibility before using the framework.

To make a direct award the buying organisation must be able to differentiate amongst suppliers and demonstrate a value for money approach.

6.4 GRANT MONIES

Procuring contracts using external grant monies can involve additional regulatory requirements and additional scrutiny. It is therefore mandatory that both the Service and officer responsible for conducting the procurement are fully conversant with all of the requirements of the relevant funding bodies and identify any risks in a pre-procurement risk register.

The Procuring Officer shall ensure they engage with Procurement Lincolnshire to maintain assurance that the correct process is followed and any additional guidance is provided.

NOTE: Specifically for ERDF funding, officers must appraise the intended procurement activity against the ERDF published 'common mistakes' guidance prior to initiating any procurement activity to ensure all of the common mistakes are avoided.

6.5 STATE AID

State aid is any advantage granted by public authorities through state resources on a selective basis to any organisations that could potentially distort competition and trade

in the European Union (EU).

The definition of state aid is very broad because 'an advantage' can take many forms. It is anything which an undertaking (an organisation engaged in economic activity) could not get on the open market.

State aid rules can (among other things) apply to the following:

- Grants
- Loans
- Tax breaks, including enhanced capital allowances
- The use or sale of a state asset for free or at less than market price

The rules can apply to funding given to charities, public authorities and other non-profit making bodies where they are involved in commercial activities.

Prior to undertaking any tender the Service must give consideration as to whether there are any state aid implications, advice to be sought from Procurement Lincolnshire.

Where any state aid implications are found, Legal Services should be consulted before continuing with the procurement.

6.6 INFORMATION GOVERNANCE AND DATA PROTECTION

The Contracts & Procurement Officer, when engaging in any procurement process, must consider as to whether any of the requirements of the General Data Protection Regulations will apply. If it is anticipated that personal data is to be processed, the officer must ensure that safeguards are built into the tender documentation and assessed, where appropriate, as part of the evaluation.

<u>6.7 TUPE</u>

When undertaking a procurement exercise, consideration must be given as to whether any Transfer of Undertaking (Protection of Employment) TUPE issues may arise. Human Resources and Legal should be consulted before the procurement process commences.

7. THRESHOLDS

The following table shows the financial threshold levels for Procurement:

up to £5000	one written estimate/quotation
	(email included)
£5001 - £25,000	two quotations
£25001 - £75,000	three independent quotations (no
	group relationship) (RFQ)
£75,001 – EU threshold (£181,302.00)	four independent quotations (no
	group relationship) (RFQ)
over £181,302.00	full EU tender process (ITT)

Goods and Services

Works contracts as above until

£181,302.00 - £4,551,413.00	Five independent quotations (no group relationship) or by advertisement	
Over £4,551,413.00	full EU tender process (ITT)	

Compliance with the CPPR's must not be avoided by disaggregating spend into lesser values.

8. BELOW OJEU THRESHOLDS FOR PROCUREMENT OF SERVICES

8.1 SELECTING THE CORRECT PROCESS

When engaging in any procurement the Service must ensure that good quality and best value is obtained for West Lindsey.

Contracts up to £5,000

- Minimum of one written quotation is required for services and goods, which includes similar types of process (e.g. looking up from a catalogue). An email will be acceptable. A local supplier shall be used where appropriate.
- The form of contract will be a completed West Lindsey District Council Purchase Order raised through the Financial Management System Purchasing Module.

Contracts from £5,001 to £25,000

- Procurement of contracts for £5000 and over shall be carried out through the Electronic Tendering Portal.
- Pre-Procurement approval is required from Strategic Lead or Executive Director Management Team.
- A minimum of two written quotations is required. One of the quotations shall be from a local supplier, where possible, and a local supplier shall be used if they provide the most economically advantageous offer.
- The minimum requirement for the form of contract will be a properly completed official West Lindsey District Council order raised through the Financial Management System Purchasing Module. An accompanying letter or e mail, cross-referenced to the order, should give further details if necessary. For the higher value contracts it may be pertinent to have a formal contract document signed by both parties.
- All Awarded Contracts of £5,000 and over shall be published on the Contract Register. Contracts under £5,000 will be entered at the discretion of the Service.

• The Service will be responsible for updating the contract on the management module through the term of the contract.

Contracts from £25,001 to £75,000

- Procurement of contracts for £5000 and over shall be carried out through the Electronic Tendering Portal.
- Pre-Procurement approval is required from Strategic Lead or Executive Director Management Team.
- Procurement at this level has two options.
 - Option 1 Seek a minimum of three written quotations.
 - Option 2 Advertise the opportunity on Source Lincolnshire and Contracts Finder. This process will be conducted through the Open Procedure. Permission must be sought from the Executive Director of Resources
- Quotations must be based on a Request for Quotation (RFQ) document including a written specification with Terms and Conditions.
- The Service will be responsible for updating the contract in the management depository through the term of the contract.
- The requirement for the form of contract will be a properly completed official West Lindsey District Council order raised through the Financial Management System Purchasing Module and a formal contract document signed by both parties.
- Awarded contracts over £25,000 shall have an award notice published on Contracts Finder within 30 days of sign off of contract documentation by both parties.

Contracts from £75,001 up to the EU Threshold

- Procurement of contracts for £5000 and over must be carried out through the Electronic Tendering Portal.
- Pre-Procurement approval is required from Executive Director Management Team.
- Procurement at this level has two options.
 - Option 1 Seek a minimum of four written quotations.
 - Option 2 Advertise the opportunity on Source Lincolnshire and Contracts Finder. This process will be conducted through the Open Procedure. Permission must be sought from the Executive Director of

Resources

- Tenders over £75,000 should be coordinated by Procurement Lincolnshire, with all tender documentation issued electronically by and returned to the relevant officer as advised by Procurement Lincolnshire.
- The requirement for the form of contract will be a properly completed official West Lindsey District Council order raised through the Financial Management System Purchasing Module and a formal contract document signed by both parties.
- Awarded contracts over £25,000 shall have an award notice published on Contracts Finder within 30 days of sign off of contract documentation by both parties.

8.2 REQUEST FOR QUOTATIONS (RFQ'S)

RFQ's are the Council's preferred method of undertaking procurement within the value thresholds identified in section 7.

As a minimum, quotation documentation must include the following details as a minimum:-

- A date and time for the receipt of the quotations;
- Specification
- Pricing schedule (including any discounts or deduction options);
- The period over which the contract is to be performed;
- The timing of the supply;
- Arrangements for payments;
- Terms and Conditions from the Councils' Standard Terms and Conditions for Services or Works:
- Any requirement specific terms and conditions
- Evaluation criteria and award procedure.

In addition, the RFQ can also include:-

- Management and Monitoring requirements and service levels;
- Quality or outcomes required;

The quotation must also state that the Council is not bound to accept any tender or quotation.

All Quotations with an estimated value of £5000 and over, should ideally be received electronically through a secure vault. If this option is not practical quotations can be received in a plain sealed package by the date and time previously specified. They must be marked "Quotation for" with the name of the contract but with no mark to identify the sender.

If quotations are received through an electronic vault they are to be opened by the

Contracts & Procurement Officer or other designated procurement officer.

If quotations are received in hard copy, they are to be endorsed with the date and time of receipt and kept by the Contracts & Procurement Officer in a secure place until the time of opening.

Quotations (hard copy) are to be opened at one time by the Contracts & Procurement Officer and witnessed by another officer with a record being kept of all quotations.

Quotations received after the time specified or in envelopes/packages which identify the sender may not be considered.

Any anomalies or apparent errors in the quotation will be clarified by the Contracts & Procurement Officer and a record of the outcome kept on file.

The Council should accept in writing the quotation that represents the best value for West Lindsey.

8.3 APPROVED LISTS

Approved lists may be used in conjunction with RFQ's to select Economic Operators. Approved lists may be used when recurrent transactions need to be priced individually and cannot easily be aggregated and priced in a single tendering exercise.

Approved lists may not be used if the estimated total aggregated spend for contracts to be placed under the approved list, over a 48 month period, may exceed the relevant EU threshold. When this might occur, a Dynamic Purchasing system or Framework agreement would be a more suitable and compliant approach.

Suppliers to be entered onto an Approved List must have both their financial and technical ability assessed to ensure they are fully able to comply with the requirements.

The list shall be reviewed annually and re-advertised at least every three years. The review will consider the financial, technical ability and performance of those suppliers on the list.

Suppliers no longer qualified will be deleted from the list with a written record kept justifying the deletion.

Suppliers may be entered onto the list at any time between advertisement and readvertisement as long as they comply with the requirements.

On re-advertisement, all suppliers currently on the list must be invited to reapply.

All Approved Lists must be transparent, non-discriminatory and proportionate. The lists must also be available for public inspection.

8.4 INVITATION TO TENDER (ITT) BELOW THRESHOLD

If it is considered that the RFQ process will not deliver the required outcome, a full tendering exercise may be undertaken.

If the total contract value is estimated to be below EU threshold, the Invitation to Tender (ITT) should follow an Open procedure. This a single stage tender process where all bidders submitting a response will be evaluated, there will be no assessment of bidders, through a Standard Selection Questionnaire (SSQ) for the purpose of reducing the numbers of bidders invited to bid for the contract

For works contracts which are above the Services EU threshold and below the Works OJEU threshold, a Restricted Tendering process is permitted by the Public Contract Regulations 2015, which means an SSQ can be included in the tendering process.

8.5 TOTAL CONTRACT VALUE

The total contract value will need to be estimated in order to identify the correct procurement process. All total values will exclude Value Added Tax.

The value will be calculated as follows:

Fixed Term contracts – total estimated value of the supplies, services or works to be supplied over the period including extensions.

Indeterminate Length contracts – estimated annual value for 4 year period. Continuance of these contracts will only be permitted after a cost review and best value assurance has been ascertained on a periodic timescale.

Consultancy contracts – daily rate multiplied by duration of assignment

Concession Contracts – estimated total value of concessionaire's total turnover generated over the duration of the contract

Framework agreements – estimate of the total throughput expected to be placed through the framework in order to provide some additional capacity for unexpected requirements.

Periodic purchases for the same requirement, from the same or different suppliers, must be aggregated over a minimum 12 month period.

Where the Council is only making a part payment, the value from all contributors must be totaled to obtain estimated total value.

9. ABOVE OJEU THRESHOLD PROCUREMENT

Where the estimated total contract value is over the EU threshold, advice must be sought from Procurement Lincolnshire.

There are several tender procedures available:- Open procedure, Restricted procedure, Competitive Dialogue, Competitive Procedure with Negotiation, Innovation Partnership.

In an Open procedure all bidders will be evaluated. In other procedures bidders will be de-selected at SSQ stage, prior to completion of the full tender document. Bidders should also be informed of the reasons for de-selection in a pre-tender shortlisting process, at the point of de-selection.

For the higher value procurements, Procurement Lincolnshire recommend a strategy is written to determine the planned approach of cost-effectively purchasing the Council's required supplies, taking into consideration several elements and factors such as the background, scope, outcomes, procurement route options, selected route, timeline for procurement, checklist, funding, budget, the projected risks and opportunities, among others.

9.1 STANDARD SELECTION QUESTIONNAIRE

The SSQ is structured in 3 separate parts:

Part 1 of the SSQ covers the basic information about the supplier, such as contact details, trade memberships, details of parent companies, etc.

Part 2 covers a self-declaration regarding whether or not any of the exclusion grounds apply.

Part 3 covers a self-declaration regarding whether or not the company meets the selection criteria in respect of their financial standing and technical capacity.

A Part 1 and Part 2 declaration is mandatory from potential suppliers to declare that they have not breached any of the exclusion grounds.

If a potential supplier, or any organisation has breached any of the exclusion grounds, the organisation has the opportunity to explain how and what action they have taken to rectify the situation (this is called self-cleaning).

You must not add to or change the questions in Part 1 or Part 2 of the Standard Selection Questionnaire. Deviations are permissible for the supplier selection questions in Part 3, but must be reported.

9.2 STANDARDS AND AWARD

The Award Criteria is used to determine which of the Bidders will be awarded the contract and they are assessed as part of the ITT.

Public contracts must be based on the Most Economically Advantageous Tender 'MEAT'. Award Criteria must be designed to secure a sustainable outcome which represents Value for Money and quality for the Council.

Award criteria can be:

• Lowest price or total cost

- Based on specified qualitative, environmental or social criteria
- Best price/quality ratio

It may also include:

- Quality, including technical merit, aesthetic and functional characteristic, accessibility
- Innovative characteristics
- Organisation, qualification and experience of staff assigned to performing the contract
- After sales service and technical assistance, delivery conditions and process

It must not include:

- Non-commercial considerations i.e.,
 - Terms and conditions of employment by suppliers of their workers
 - Terms on which suppliers contract with their sub-contractors
 - Suppliers business activities or interests with other areas of government
 - Conduct of suppliers or workers in industrial disputes
 - Any political, industrial or sectarian affiliations or interests of suppliers
 - Financial support or lack of, by the suppliers for any institution to or from which the authority gives or withholds support
 - Workforce matters and industrial disputes
 - Use or non-use by suppliers of technical or professional services provided by the authority under the Building act 1984.
 - Matters which discriminate against suppliers from the European Economic Area or signatories to the Government Procurement Agreement
 - Selection/Suitability Criteria

9.3 COMMUNICATION WITH SUPPLIERS

All communication with suppliers will take place through an electronic tendering portal.

The Contracts & Procurement Officer or Procurement Resource will publish all documents relating to the procurement. No substantial modification to the documentation is permitted once it has been published.

No verbal communication regarding the documents must be undertaken with bidders during the tender process. Communication must be conducted through the electronic tendering portal.

If a competitive dialogue process is used, oral communication is permitted within the dialogue phases of the procurement. Advice should be sought from Procurement Lincolnshire before this process is undertaken.

9.4 UNDERTAKING A TENDER

When considering a tender process, it is in the Council's interest to ensure that the Bidders are given sufficient time in which to prepare and submit a tender and that as much relevant information is disclosed to allow Bidders to submit a competitive offer.

The Invitation to Tender (ITT) must include:

- A specification this must describe clearly the council's requirements
- Any proposed contract mobilisation or implementation
- A process to enable the Council to ensure the Supplier meets its obligations
- Exit strategy and potential decommissioning
- A statement that the council is not bound to accept any tender received
- Timeline for the procurement process, including clarification deadlines and process for return of tenders through the electronic tendering portal
- The award criteria and weightings where relevant
- The evaluation procedure
- The Form of Tender and collusive tendering certificate

9.5 CLARIFICATIONS PRIOR TO SUBMISSION

During the tender process, Bidders are allowed to submit questions regarding the tender documentation. All questions are to be submitted through the electronic tendering portal. The Council will then respond through the portal ensuring both the clarification and response is shared with all Bidders, except when the response would disclose confidential Bidder information.

9.6 PRESENTATIONS

Presentations are no longer permitted to be assessed as part of the procurement process unless presenting is a material component of the specification.

The evaluation of presentations must be defined within the Award Criteria of the ITT and the following undertaken:

- Contemporaneous notes are collected detailing all questions, responses and points raised
- Questions to be concentrated on the evaluation requirements

9.7 EVALUATIONS AND SCORING

Tenders shall be evaluated, recorded and awarded in accordance with the Award Criteria detailed in the RFQ or ITT, and the award criteria and any sub-criteria should be kept to a minimum to enable the evaluation process to be more manageable.

The evaluation and scoring meeting will be chaired by the Contracts & Procurement Officer or Procurement resource from Procurement Lincolnshire, the chair is not allowed to be part of the evaluation panel.

The evaluators must evaluate the Bidder submission alone, no other documentation or knowledge of the Bidder can be included, and the written record must demonstrate why the highest scoring Bidder provided the best submission. Evaluators are required to reach a consensus score with agreed comments. The scores and comments for all the Bidders shall be objective and in line with the Award criteria. Any commentary may be disclosed to Bidders if there is a legal challenge and the evaluation process is an activity where the risk of challenge is high.

9.8 CLARIFICATIONS DURING EVALUATION

Any unclear or ambiguous aspects of the bids shall be clarified with the Bidder through the electronic tendering portal. Clarifications during the evaluation process shall not be used to extract additional components of the bid, but to ascertain the extent of the Bidder's offer.

Any response subject to a clarification request by the council shall not be scored until the clarification has been received.

9.9 AWARD

Where the estimated total value of the contracts exceeds the EU threshold, all Bidders shall be informed of the intention to award to the successful bidder. A Standstill period of 10 calendar days will be in force after the notification to allow unsuccessful bidders to challenge the decision.

Once the 10 day period has expired, the contract may be formally awarded to the successful supplier. Contract documentation will then be drawn up for signatures.

If the decision is challenged the council will immediately inform Procurement Lincolnshire for advice.

In the case of unforeseen circumstances outside the control of the Council, the 10 day standstill period can be waived, after confirmation with Legal Services and Procurement Lincolnshire.

The Contracts & Procurement Officer or Procurement resource will inform all bidders of the reason for the award and provide feedback. This must include:

- The award criteria;
- Scores for the relevant sections of the tender for the bidder who is to receive the debrief;
- The deadline for the standstill period and the date after which the council is able to award the contract;
- Evaluation commentary for the Bidder
- Name of the winning Bidder

10. REPORTING REQUIREMENTS

It is a requirement of the Public Contract Regulations, on completion of an over EU threshold tender process, for a written procurement report to be drawn up, to include at least:

Name and address of the contracting authority, subject matter, and value of contract

- Names of selected bidders and reasons for selection
- Names of deselected bidders and reason for deselection
- Name of successful bidder and reasons why its tender was selected
- Justification for use of competitive procedures with negotiation and competitive dialogues in accordance with regulation 26 (PCR's)
- Justification for use of negotiated procedures without prior publication, in accordance with regulation 32 (PCR's)
- The reason for non-award of contract
- The reason for not using the electronic tendering portal
- Any conflicts of interest identified and measures taken.

A copy of the report must be submitted to the Cabinet Office or European commission on request.

Sufficient documentation must be kept to justify all decisions taken in all stages of the procurement process.

The documentation must be kept for a minimum of 12 months for records of unsuccessful tenders and 6 years in relation to the successful tender.

11. CONTRACT FORMATION

Every contract, including the appointments of consultants or interims, with a total contract value of £5,000 and above, including extensions, must be recorded on the Council's electronic Contract Register.

No amendments must be made to the contract, or terms and conditions, without first consulting Legal Services or Procurement Lincolnshire. Any amendments agreed during the clarification process will be stated in the clarifications list as an Appendix to the contract document.

Every contract must clearly state appropriate governance obligations where it involved the processing of personal data.

Procurement Lincolnshire advice must be obtained for contracts involving:

- Leasing arrangements
- Use of supplier terms and conditions
- A total contract value in excess of £75,000
- Complex documentation

12. CONTRACTS SIGNED UNDER HAND

The officer responsible for obtaining the signature for the contracts shall ensure that the person signing it has the authority to do so.

A signature will be required for all contracts up to a total term of 6 years and not in excess of the EU threshold.

13. CONTRACTS SIGNED UNDER SEAL

A contract should be sealed where:

- The council may wish to enforce the contract for more than 6 years after its end;
- The total contract value is over the EU threshold
- Legal Advice has been provided to this effect
- Where the Council has paid no consideration for goods or services, or the carrying out of works

14. PREVENTION OF CORRUPTION

Officers engaged in procurement processes must not invite or accept any gift or reward in respect of the award or performance of any contract.

The onus will be on the officer to prove that anything received was not received corruptly.

On submission of tenders, the ITT must include an anti-collusion statement signed by the Bidder, this is a declaration of good standing confirming that the Bidder has not met any grounds for mandatory exclusion.

15. CONTRACT MANAGEMENT

All contracts, whatever the value, shall require some form of management methodology to be able to evidence that they are: Efficient, Economic and Effective.

A hard copy of all contracts, requiring further documentation than a Purchase Order must be kept in a central location and it is the responsibility of the Contracts & Procurement Officer to ensure it is done.

All contracts must have a named Contract Manger for the life of the contract.

16. CONTRACT MONITORING

All contracts will be monitored and reviewed on a regular basis, subject to the requirement. Areas for monitoring will include:

- Adherence of the specification
- Compliance with the terms and conditions
- Attainment of performance standards and service levels
- Change protocol
- Payment arrangements
- User satisfaction
- Data protection

17. CONTRACT VARIATION & EXTENSION

The Contracts & Procurement Officer must ensure that all variations and extensions to contracts are made in accordance with the provisions included within the contract.

Any variations to the original contract must not result in a substantial modification or change to exceed 50% of the initial total contract value.

All variations and extensions must be within the scope of the original procurement and must be signed by both parties.

A copy of any variation or extension must be kept with the original contract documentation.

18. FINANCIAL CONTROL

Where expenditure is expected to exceed the contract price, this should be reported as follows –

Contract Figure	Executive Director of Resources	Executive Director Management Team	Committee
£	(S151) £	£	£
Up to £25,000	Up to 5,000	Over 5,000 to 10,000	Over 10,000
£25,001 to £75,000	Up to 7,500	Over 7,500 to 15,000	Over 15,000
£75,000 above	Up to 10,000	Over 10,000 to 25,000	Over 25,000

The reporting requirement does not apply where contract growth is in accordance with the provisions of the contract.

Financial Procedures Rules regarding virement still apply to all additional expenditure.



Committee: Governance and Audit

Date 19th June 2018

Subject: Governance of Commercial and Growth Activity				
Report by:	Executive Director of Resources			
Contact Officer:	Alan Robinson Monitoring Officer Telephone 01427 676509 Email alan.robinson@west-lindsey.gov.uk			
Purpose / Summary:	This report provides Members with information about what Governance is in place to manage Commercial and Economic Growth.			

RECOMMENDATION(S): That Members

- 1. Agree the governance outlined in this report provide assurance that the council is taking appropriate mitigating measures against the risks identified in its commercial approach; and;
- 2. Request a report on changes to commercial governance is contained in the Monitoring Officer's annual report to the Governance and Audit Committee.

IMPLICATIONS

Legal:

None as a result of this report

Financial : FIN 53/19/TJB

None as a result of this report

Staffing :

None as a result of this report

Equality and Diversity including Human Rights :

None as a result of this report

Risk Assessment :

Climate Related Risks and Opportunities :

Title and Location of any Background Papers used in the preparation of this report:

None.

Call in and Urgency:

Is the decision one which Rule 14.7 of the Scrutiny Procedure Rules apply?

i.e. is the report exempt from being called in due to urgency (in consultation with C&I chairman)	Yes	No	Χ	
Key Decision:				
A matter which affects two or more wards, or has significant financial implications	Yes	No	x	

Governance of Commercial and Growth Activity

1 Introduction

- 1.1 West Lindsey District Council has ambitious plans to regenerate the district and to rise to the financial challenge of the austerity agenda. This means the use of investments and innovative approaches to stimulate the economy, provide the environment for growth and reduce the cost to the taxpayer of its services.
- 1.2 As a result there are and will continue to be complex projects which need to be managed in a way that allows for innovation and yet maintains the appropriate levels of Governance.
- 1.3 This report aims to explain the delivery options available, the necessary governance as well as detailing those models which WLDC has already used.

2. Local Authority Companies

- 2.1 The Council has the legal power to establish and operate trading companies. These can be wholly owned in order to enable the Council to take advantage of the powers to trade for profit introduced under the Local Government Act 2003, where opportunities to do so arise and it is possible to use the company as a vehicle for the trading activity proposed.
- 2.2 In addition, under the "general power of competence" introduced by Section 1 of the Localism Act 2011 local authorities now have a general power that enables them to do anything that a private individual is entitled to do, subject to certain statutory limitations. These "General Powers of Competency include the ability to own shares in a trading company.
- 2.3 It should be noted that things done for a commercial purpose even under the Localism Act 2011 must be done through a company, unless powers or duties exist within other legislation which does not rely on either of the two pieces of legislation detailed above.

3. West Lindsey Owned Companies

Company	Reg. No.	Date	WLDC Staff/Roles		Shareholding
		incorporated			
WLDC Trading Ltd	10547086	Jan 2017	MS – Director		Sole
WLDC Staffing	10276205	Jul 2016	IK – Shareholder Sł		Shareholder
Services Ltd			TB - Secretary		
SureStaff Lincs Ltd	06476932	Jan 2018			
Market Street Renewal	10298200	Jul 2016	EFM	Director	50/50 with
Ltd			AM	Director	DPL
			IK	Shareholder	

MS – Mark Sturgess – Executive Director of Operations

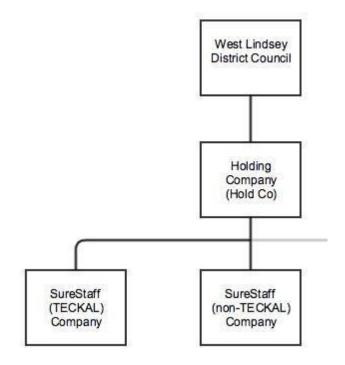
IK – Ian Knowles - Executive Director of Resources

EFM – Eve Fawcett-Moralee – Executive Director of Economic and Commercial Growth

AM – Andrew Morriss – Independent Lay Member of the Governance and Audit Committee

3.1 West Lindsey currently has 4 registered companies in which it has a shareholding and these are detailed above. West Lindsey Trading Ltd is a holding company which has 2 subsidiary companies (WLDC Staffing Ltd and Sure Staff Lincs Ltd.) These are wholly owned West Lindsey companies where the council is the only share holder. Market Street Renewals Limited is a Joint Venture Company Limited by shares and is Jointly Owned by West Lindsey and Dransfield Property Services.

3.2 Company Structure



The group structure offers a number of advantages

- Assets usually property and intellectual property can be ring fenced to protect against claim if the trading company is subject to litigation
- The operation of separate companies for different areas of the business can be helpful if one part of a business is regulated or has a higher risk profile
- If there is potential to sell the business it can avoid some of the legal issues that can arise with a sale of assets
- A group structure can be tax efficient
- 3.3 WLDC Staffing Services Limited is a "Teckal" company. This enables the company to trade directly with the Council. A Teckal company provides:
 - Services to the Council and other legal persons controlled by the Council (within the meaning of regulation 12 of the Public Contracts Regulations 2015) in accordance with any business plan then in force and on terms agreed between the Teckal Co and the Council
 - Use of a Teckal Company can reduce the administrative burden of procurement by allowing the Council to award contracts to its own company without the need for formal competition.

3.4 Sure Staff Lincs Limited is a Commercial Trading Company which enters into commercial contracts to provide short term staffing for a range of commercial customers.

4 Governance in Place for Companies

- 4.1 Due diligence on prospective Business Cases is carried out as part of an internal four stage project management process. An officer programme board is in place to consider Business Cases prior to committee approval.
- 4.2 Business cases are reviewed and signed off by the Section 151 Officer of the Council, who is also the Executive Director of Resources, as the Council's Chief Finance Officer. All financial implications and risks will be documented as part of the decision making process
- 4.3 Compliance with legislative requirements and the seeking of professional legal opinion is carried out through the Council's Monitoring Officer. This process is documented below.

4.4 The Council has ensured that it is properly represented on the Board of each Company. Currently the Head of Paid Service is the nominated Director for the three fully owned companies. Representatives have been formally appointed following agreement at full council and in accordance with Part IV of the Councils constitution which has been revised to allow for this. Delegated authority assigned and outlined in The Constitution (with The Constitution updated as relevant). Director nominees are contractually required to stand down from company roles when they cease employment with the council

- 4.5 Business plans are scrutinised and approved by Corporate Policy and Resources Committee on an annual basis and any changes to business plans have to be approved by Corporate Policy and Resources Committee.
- 4.6 Companies House Documentation is used to control the activity of the companies. The articles set clear objectives for the companies. Each company has a Shareholder agreement which includes a list of Reserved Matters which includes the requirement for the Share Holder to approve key issues including changes to the Articles, Business Plans, Share Issues and access to borrowing. Any changes to these are dealt with through a deed of variations which would need approval by Shareholders. The role of Shareholder is the responsibility of the Section 151 officer and in practice this requires a report to the Corporate Policy and Resources Committee.
- 4.7 Resourcing agreements are in place at the outset of the formation of the Company to ensure correct re-imbursement of Council costs. This ensures that the council does not subsidise the operations of companies and lead to a reduction in the councils operating costs

5 Learning and potential improvements

- 5.1 Financial year-end of the Council and company should be aligned where possible and complementary accounting principles should be adopted.
- 5.2 Interests of the Council's commercial services should be represented in any works undertaken by the Company; for example Building Control.
- 5.3 Build in visibility of expected receipt of reports (business plans/progress reports) via the Forward Plan and assign accountability to relevant officer. (Appendix 1 shows a timetable for reports due to Committee). Ensure all Council appointed Directors to Company Boards are provided with an ongoing programme of training in order to effectively discharge their responsibilities

All of these will be built into future endeavours.

6. Joint Venture Companies

6.1 Joint Venture are a legal delivery model for Local Authorities. Under the Localism Act 2011 Councils have the General Power of Competency which is detailed in section 1 of the Act. There a number of type of Joint Ventures including Companies Limited by guarantee or shares. This is where two or more organisations form a legal entity to work together. In the case of Local Authorities this is frequently with a private sector partner but could be with another public sector or even third sector organisation.

7 West Lindsey Joint Venture

7.1 West Lindsey currently has an interest in one Joint Venture Company. This is called Market Street Renewals Ltd and is jointly owned in equal shares With Dransfield Property Limited.

8 Governance in Place for Joint Venture Company

- 8.1 The Joint Venture has company documentation which includes articles which determine the purpose of the company and shareholder agreement with similar conditions to the fully owned companies. Eve Fawcett-Moralee (Executive Director of Economic and Commercial Growth) and Andrew Morriss (Independent Lay Member of Governance and Audit Committee) represent West Lindsey as nominated Directors of the Company. The make-up of the board is also split 50/50 in line with the shareholding.
- 8.2 Annual business plans are received and variations from these are agreed by the Corporate Policy and Resources Committee.
- 8.3 All of the governance for companies is also replicated in the joint venture.

9 Development Agreements

9.1 A development agreement is a term which is used to cover a variety of agreements amongst developers, landowners, purchasers, tenants and funders. Each agreement will, of course, require to be tailored to the parties and the circumstances of the particular development, but they tend to have a number of elements in common.

Many include some or all of the following obligations on the developer:

- to carry out the particular development in line with agreed plans and specifications;
- to procure the provision of collateral warranties by the contractor and consultants to the purchaser/tenants and funder;
- provisions which are designed to ensure the quality of the development;
- letting obligations, which set out the minimum criteria for any prospective leases which the developer seeks to secure, perhaps with an agreed form of lease attached; and
- A timetable for the development, including a longstop date for completing it.

10 West Lindsey Development Agreements

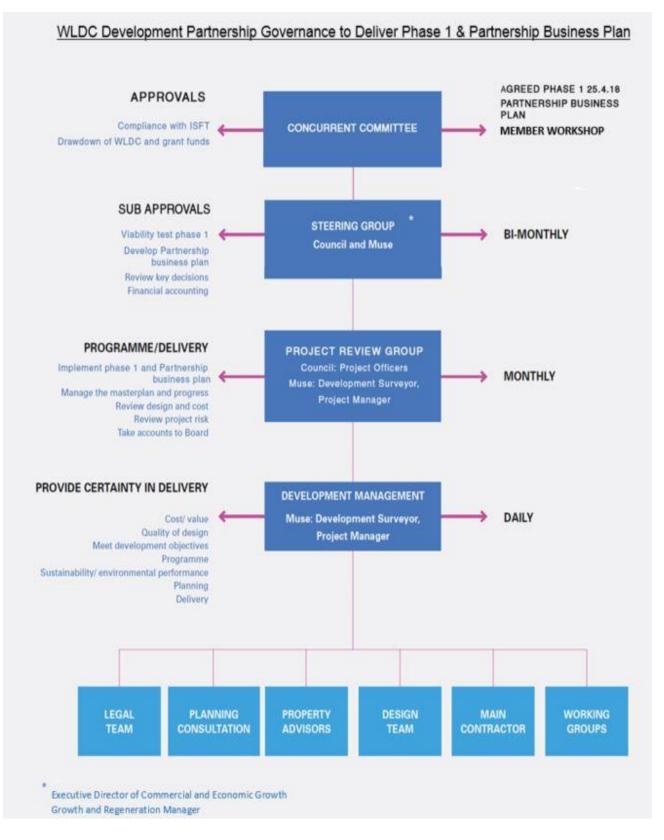
- 10.1 The council is currently finalising the details of a development agreement with a development partner to regeneration and grow the economy for the District. The first phase of this development is expected to include a cinema and a number of restaurants in the town centre of Gainsborough.
- 10.2 The Development Partner was procured through a process known as "Competitive Dialogue". This is a staged process which in this case has taken almost two years. The Development Agreement was negotiated during the dialogue stage. The Development agreement clarifies the roles responsibilities and obligations placed on both parties throughout the agreed duration of the agreement.

- 10.3 West Lindsey procured specialist legal advice which was used throughout the procurement process and the drafting the agreement.
- 10.4 Members were in involved at each stage of the procurement and a Concurrent meeting of the Prosperous Communities Committees and the Corporate Policy and Resources Committee. Details of the committee process are detailed below

Date	Stage	Committee
14/07/16	Agreement to	Prosperous
	commence	Communities
	procurement	
14/07/16	Agreement to	Corporate Policy and
	commence	Resources
	procurement	
25/10/16	Project update	Prosperous
		Communities
27/10/16	Scope of Procurement	Corporate Policy and
	agreed	Resources
28/02/17	Invitation to Submit	Prosperous
	Outline Proposal	Communities
28/02/17	Invitation to Submit	Corporate Policy and
	Outline Proposal	Resources
11/07/17	Invitation to submit	Prosperous
	detailed outline	Communities
	proposals	
11/07/17	Invitation to submit	Corporate Policy and
	detailed outline	Resources
	proposals	
06/02/18	Final Tender	Concurrent Meeting of
		Prosperous
		Communities and
		Corporate Policy and
0=10,444.6		Resources
25/04/18	Final Tender award of	Concurrent Meeting of
	contract	Prosperous
		Communities and
		Corporate Policy and
		Resources

11 Governance for Development Agreement

11.1 A comprehensive process has been agreed for the ongoing Governance of the Development Agreement. This is detailed below.



12 Commercial Loans

- 12.1 Government changes in the way councils are funded has prompted local authorities, over the last few years, to look at more commercial and innovative ways of growing income streams from other sources other than Government grants and council tax in order to support their services. The Council can make loans available through the use of their reserves and/or borrowing from the Public Works Loan Board (PWLB) to support outputs to the growth agenda and to support future revenue income streams by providing loan funding. A commercial loan approach, as opposed to a grant regime, would ensure more measurable outputs in terms of financial returns
- 12.2 Loans to third party organisations and businesses may be provided under the Council's general power of competence. The General Power of Competence, Localism Act 2011 Sec 1 (1) gives local authorities, including eligible local Council's, *"the power to do anything that individuals generally may do"*. This power is not to be relied upon as a specific power to lend or invest but rather to supplement Section 12 of the Local Government Act 2003 or Section 24 of the Local Government Act 1988 when investing or lending.
- 12.2 As with all Local Authority funding types a major consideration is State Aid. This can be mitigated in the case of loans by only issuing loans at commercial rate hence ensuring that the market is not distorted.

13 Application Process

- 13.1 This involves a five stage process:
 - An Expression of Interest (EOI) will be assessed by the Screening Team (Senior Growth & Project Officer and Commercial Accountant).
 - If the EOI is accepted by the Screening Team as meeting the Council's strategic growth priorities and delivering economic outputs, the project applicant will be invited to submit a full application.
 - Applications which appear viable will be subject to a thorough due diligence process in order to carry out a detailed examination of the applicant's proposal.
 - Progressed applications will be reviewed alongside the associated due diligence and third party review.
 - A report will be submitted to Corporate Policy and Resources to recommend approval of the loan application.

14 Due Diligence Requirements

14.1 Projects must satisfy this process before Senior Officers and Executive Director Team can recommend to Committee to fund any project. It is anticipated that the average due diligence check should take up to four weeks to complete. Applicants will be required to demonstrate the need for investment from the Council's lending resources and loans must not be used to replace other available sources of finance or funding. Only projects that cannot proceed without the Loan funding will be considered. The evaluation of the company's business plan including its growth plans and reasons for seeking WLDC investment, will be carried out internally by the Strategic Growth Team or externally if required. The financial assessment will be undertaken by the WLDC Finance and Growth Teams (and any appointed professional advisers).

15 Commercial Property Portfolio

15.1 At the Corporate Policy and Resources Committee on 13th April 2017 members agreed a criteria for investment in commercial properties. The criteria included Lot size, Location, Asset quality, Tenant ease term, Tenant Covenant, Occupation and Tenure. In addition the committee agreed to delegate the application of the criteria to the Executive Director of Resources following consultation with the committee chairman. The criteria was developed with Cushman and Wakefield. The criteria was revised at the meeting of the Corporate Policy and Resources on 10th May 2018 to increase the range to £10 million. The criteria is detailed below.

Criteria	Excellent	Good	Acceptable	Poor
Lot size	Large	Medium	Medium/Small	Small
Location	Prime	Sub-prime	Secondary	Tertiary
Asset quality	Modern or recently refurbished	Good with capex needed in 20 years	Older property with capex needed in 10 years	Old property with capex needed in 5 years
Tenant lease term	10 years+	5 years+	3-5 years	< 3 years or void
Tenant covenant	'Blue chip' covenant	Good financial strength	Reasonable financial strength	Poor financial strength
Occupation	Single occupier	Multi-occupied no voids	Multi-occupied with voids	Vacant
Tenure	Freehold	125 years LLH	100 – 125 years LLH	<100 years LLH

15.2 Due diligence is carried out on the tenants and the property to ensure that any risks and or issues are identified prior to committing to the purchase. West Lindsey have to date purchased 1 such property for £2.35 million which

considered against all the agreed criteria. Any acquisition has to deliver a 3% yield after the cost of borrowing has been taken into account.

16 Governance for Commercial Property Portfolio

16.1 An annual report is taken to the Corporate Policy and Resources to provide members with an update on the progress of investments and to consider recommended amendments to the criteria that has been agreed.

17 Collaborative Agreements

17.1 These provide a legal framework for collaborative working where two or more organisations commit to working together for a common purpose or to deliver a common outcome. Once agreed these are binding on all partners. There are no current agreements in place at this time and further legal advice would be obtained before entering into such an arrangement.

18 Conclusion

- 18.1 In order to meet the current challenges presented to it West Lindsey District Council is using a wide range of legal structures. All of these have Governance around them which is robust and designed to ensure that the council is protected from financial risk and legal challenge to the greatest extent possible
- 18.2 In the current environment it is expected that the range of delivery models will grow and as such it will be necessary put in place appropriate governance. It is therefore recommended that changes in internal Governance be reported annually as part of monitoring officer's report to annual council.



Standards Sub Committee

24 September 2018

Subject: To Review the Number, Nature and Outcome of Complaints received during the Civic Years 2016/2017 – 2018/2019

Report by:	Director of Resources
Contact Officer:	Alan Robinson Monitoring Officer 01427 676509 <u>Alan.robinson@west-lindsey.gov.uk</u>
	Katie Coughlan Senior Democratic and Civic Officer 01427 676594 <u>Katie.coughlan@west-lindsey.gov.uk</u>
Purpose / Summary:	This report presents a data analysis of the number, nature and outcome of complaints received under the Code of Conduct regime for the civic years 2016/17, 2017/2018 and 2018/19 (to-date).
	The report further asks Members to give consideration as to whether the Standards Sub-Committee should undertake pro-active work in the run up to all out Elections in 2019.

RECOMMENDATION(S): that

- (a) Members note the statistical data presented within the report; and
- (b) Members give consideration as to whether proactive work should be undertaken in the run up to the 2019 all out Elections

IMPLICATIONS

Legal:

Financial :

Staffing :

Equality and Diversity including Human Rights :

Risk Assessment :

Climate Related Risks and Opportunities :

Title and Location of any Background Papers used in the preparation of this report:

Wherever possible please provide a hyperlink to the background paper/s

If a document is confidential and not for public viewing it should not be listed.

Call in and Urgency:

Is the decision one which Rule 14.7 of the Scrutiny Procedure Rules apply?

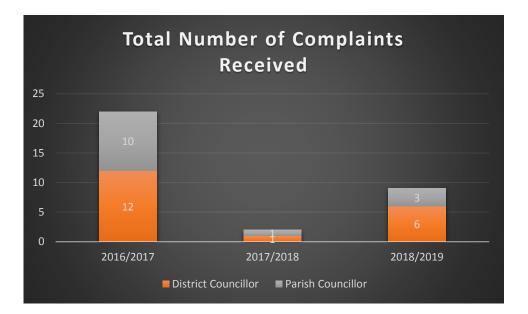
i.e. is the report exempt from being called in due to urgency (in consultation with C&I chairman)	Yes	No	
Key Decision:			
A matter which affects two or more wards, or has significant financial implications	Yes	No	

1 Background and Introduction

- 1.1 During the Civic Year 2016/17 the Standards Sub-Committee undertook a considerable amount of work in reviewing the Authority's Code of Conduct.
- 1.2 In support of the rationale for change the Committee were also provided with statistical information which covered the period 1 October 2015 30 September 2016.
- 1.3 As a result, a revised Code of Conduct was formally adopted by the District Council in May 2017, and incorporated provisions relating to
 - Respect / Bullying and Harassment
 - Confidential Information; and
 - Use of Resources
- 1.4 On adoption of the New Code of Conduct, the Standards Sub Committee also resolved that Officers be requested to report regularly to this Committee the number, nature and outcome of complaints received under the Code of Conduct.
- 1.5 This report sets out statistical information for: -
 - the Full Civic year before the adoption of the new Code (2016/17);
 - the Full Civic year after the adoption of the new Code (2017/2018) during which time proactive work was being undertaken with Parish Councils with a view to them also adopting the Code; and
 - the current civic year (2018/19) to-date.
- 1.6 It is hoped that by providing data for both pre and post adoption of the new Code, the Sub-Committee may be able to identify the impact, if any, the Code's adoption has had and determine whether undertaking further pro-active work around the standards of behaviour expected would be of assistance.

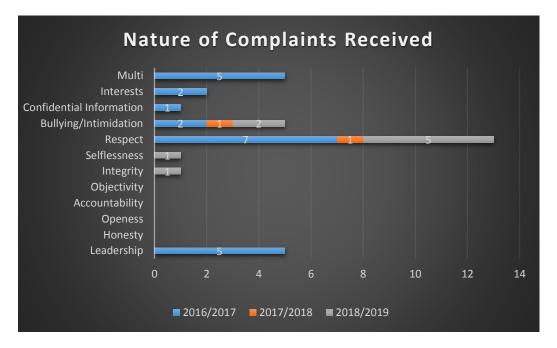
2. Summary of Number, Nature and Outcome of Complaints received during the Civic Years 2016/17, 2017/2018 and 2018/2019 (to-date)

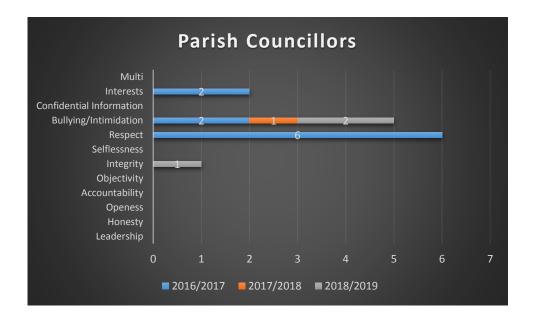
2.1 The graph below shows the total number of complaints received for each year and whether these were related to a Parish or District Councillor.

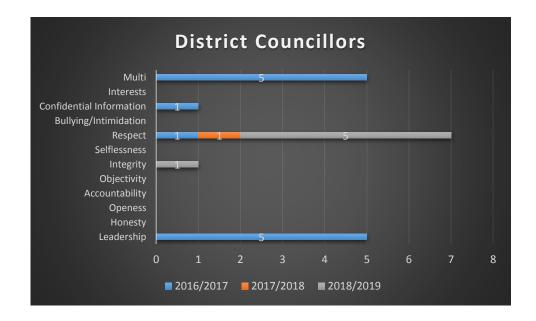


2.2 The charts below sets out:-

- a) the nature of the complaints received for each year as total.
- b) the nature of the complaints received for each year split between District Councillors and Parish Councillors.



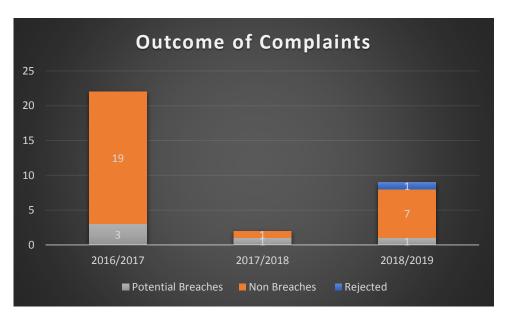




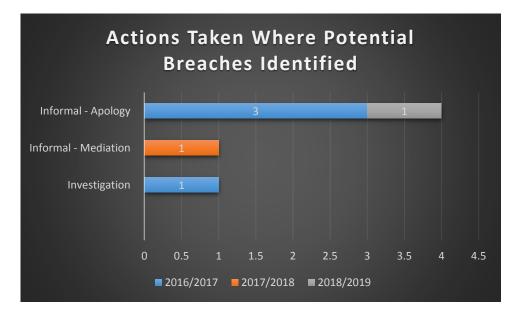
Note:

It should be noted that the way in which data is collated changed with the introduction of the new Code. It is difficult to make direct comparison and some Officer interpretation is used when categorising the complaints.

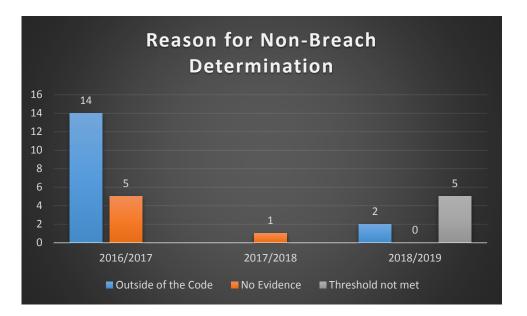
2.3 The Chart below sets out the outcome of each complaint received during each year



- Note: These cases are deemed potential breaches as no formal investigation has been undertaken at this stage in the process.
- 2.4 The Chart below sets out the action taken in respect of each case where a potential breach of the Code was identified.



2.5 The final Chart sets out the reasons why those complaints deemed to have been a "non-breach" were so.



3. Current approach

- 3.1 As indicated on its adoption, the Code is enforced with the ethos of good governance, openness and transparency underpinning any decisions made. Local and informal resolution is always used wherever possible. This is particularly important due to the imposable sanctions being limited. Complaints are only to be released into the public domain, when all forms of local and informal resolutions have failed.
- 3.2 Complaints regarding respect, bullying and harassment, are considered within a threshold of tolerance, with less tolerance applied for complaints regarding behaviour towards the public or very public acts.
- 3.3 That being said, the Code is not intended to stifle the rough and tumble of political debate, nor to enable malicious, petty, politically or personally motivated complaints to be pursued.

This can be demonstrated by the limited amount of complaints being pursued to formal investigation.

3.4 The Code aims to respect a Councillor's right to a private life, however, it is important to understand that the public, particularly in small communities, will never see their elected Members as off duty. In such cases elected Members are issued with polite reminders as to the impact their behaviour could have on the reputation of local democracy but no further action can legally be taken.

4. Summary

4.1 The number of complaints fell sharply following the introduction of the new Code for both Parish and District Councillors. However in the current civic year the number of complaints made has begun to raise particularly against District Councillors.

- 4.2 The main source of complaints continues to be respect, bullying and intimidation.
- 4.3 In recent months social media has been at the centre of a number of complaints
- 4.4 The majority of complaints still result in a "no breach" determination being made at the initial assessment stage. This is primarily as result of them relating to behaviour in a Councillor's private capacity, or having been deemed to not meet the threshold worthy of investigation.
- 4.5 The number of complaints falling outside the Code has reduced significantly, but this is directly as a result of the additional provisions being included in the Code from May 2017 onwards.
- 4.6 Investigations are costly, and time consuming and with imposable sanctions being limited, this is arguably not a cost effective use of public funds. That being said costs would not prevent the most serious cases being further investigated and the public interest is also considered.
- 4.7 In all cases, except one, where a potential breach was identified they were resolved with a local informal resolution such as meditation or an apology without the need for investigation. Guidance has also been issued on the use of social media, and friendly yet firm reminders issued regarding personal behaviour within communities which Councillors represent
- 4.8 Only 1 case has resulted in investigation during the period, the outcome of which was determined that there had been no breach of the Code.

5 Moving Forward -

5.1 The Committee are asked to consider whether any further informal actions should be undertaken by the Monitoring Officer at this stage.

Examples could include

- * Issuing further guidance on social media and e-mail communications
- * More training on the Code
- * Issuing strong guidance on the run up to Purdah
- Ensure the Code of Conduct is included with Candidate packs, so all candidates are clear in advance of the expectations should they be elected
- * Encouraging Chairman to make better use of the Standing Orders to manage behaviour in meetings

6 Recommendations

On that basis, Members are asked to

- (a) note the statistical data presented within the report; and
- (b) give consideration as to whether proactive work should be undertaken in the run up to the 2019 all out Elections.

Purpose:

This report provides details of reports scheduled for committee for 2019/20 electoral cycles at 8 April 2019.

Recommendation:

1. That members note the report.

Date	Title	Lead Officer	Purpose of the report
18 Jun 2019	Internal Audit Annual Report 18/19	James Welbourn, Democratic and Civic Officer	To present the yearly internal audit report to G and A committee
18 Jun 2019 ບັ	Draft AGS 2018/19	James O'Shaughnessy, Corporate Policy Manager & Deputy Monitoring Officer	To provide a draft version of the Council's AGS for 2018/19
0 0 0 0 0 0 0 0 0 0 0 0 0 0	Unaudited Statement of Accounts	Caroline Capon, Corporate Finance Team Leader	To present the
23 Jul 2019	Internal Audit Q1 19/20	James Welbourn, Democratic and Civic Officer	To present the update for quarter 1 to G and A committee
23 Jul 2019	Annual Governance Statement 2017/18 Action Plan	James O'Shaughnessy, Corporate Policy Manager & Deputy Monitoring Officer	To present the updated position on the AGS 2017/18 action plan
23 Jul 2019	Annual Governance Statement 2018/19	James O'Shaughnessy, Corporate Policy Manager & Deputy Monitoring Officer	To present the Council's Annual Governance Statement and Action Plan for 2018/19
15 Oct 2019	Internal Audit Q2 19/20	James Welbourn, Democratic and Civic	To present the update for quarter 2 to G and A committee

		Officer	
15 Oct 2019	Annual Fraud Report 2018/19	Tracey Bircumshaw, Strategic Finance and Business Support Manager	To present details of the work undertaken in countering fraud and to report on any instances of fraud identified
14 Jan 2020	Certification of Grants and Returns	Tracey Bircumshaw, Strategic Finance and Business Support Manager	To present the outcome of the External Audit of Grant Claims and returns
14 Jan 2020	Draft Treasury Management Strategy	Tracey Bircumshaw, Strategic Finance and Business Support Manager	To provide members with the opportunity to review the Strategy and to provide assurance prior to recommending to Council for approval.
ປັ4 Jan 2020 ລ ເງ ອ	Internal Audit Draft Annual Plan Report 2020/21	James Welbourn, Democratic and Civic Officer	To present to members the draft annual internal audit plan based on assurance mapping and risk assessments across the Council's critical services.
<u>1</u> 4 Jan 2020 ₽	Internal Audit Q3 19/20	James Welbourn, Democratic and Civic Officer	To present the update for quarter 3 to G and A committee
14 Apr 2020	Internal Audit Q4 19/20	James Welbourn, Democratic and Civic Officer	To present the update for quarter 4 to G and A committee