



# Agenda

## Audit and Standards Committee

Date:	Thursday, 20 May 2021 at 6:30 pm
Venue:	Council Chamber, Town Hall, St Annes, FY8 1LW
Committee members:	<p>Councillor John Singleton JP (Chairman)</p> <p>Councillor Ellie Gaunt (Vice-Chairman)</p> <p>Councillors Paula Brearley, Delma Collins, Peter Collins, Brian Gill, Kiran Mulholland, Ed Nash and Sally Nash-Walker.</p>

	PROCEDURAL ITEMS:	PAGE
1	<b>Declarations of Interest:</b> Declarations of interest, and the responsibility for declaring the same, are matters for elected members. Members are able to obtain advice, in writing, in advance of meetings. This should only be sought via the Council's Monitoring Officer. However, it should be noted that no advice on interests sought less than one working day prior to any meeting will be provided.	1
2	<b>Confirmation of Minutes:</b> To confirm the minutes, as previously circulated, of the meeting held on <a href="#">18 March 2021</a> as a correct record.	1
3	<b>Substitute Members:</b> Details of any substitute members notified in accordance with council procedure rule 23(c).	1
	<b>AUDIT DECISION ITEMS:</b>	
4	<b>Local Government Association – Voluntary Model Code of Conduct</b>	3 - 5
5	<b>Constitution Amendment – Terms of Reference - Committees</b>	6 - 19
6	<b>Contracts Procedure Rules</b>	20 - 29
	<b>AUDIT INFORMATION ITEMS:</b>	
7	<b>Regulation of Investigatory Powers Act 2000: Authorisations</b>	30

Contact: Democracy – Email: [democracy@fylde.gov.uk](mailto:democracy@fylde.gov.uk)

The code of conduct for members can be found in the council's constitution at  
<http://fylde.cmis.uk.com/fylde/DocumentsandInformation/PublicDocumentsandInformation.aspx>

**© Fylde Council copyright 2021**

You may re-use this document/publication (not including logos) free of charge in any format or medium. You must re-use it accurately and not in a misleading context.

The material must be acknowledged as Fylde Council copyright and you must give the title of the source document/publication.

Where we have identified any third party copyright material you will need to obtain permission from the copyright holders concerned.

This document/publication is also available on our website at [www.fylde.gov.uk](http://www.fylde.gov.uk)  
Any enquiries regarding this document/publication should be sent to us at the Town Hall, St Annes Road West, St Annes FY8 1LW, or to [listening@fylde.gov.uk](mailto:listening@fylde.gov.uk).

## DECISION ITEM

REPORT OF	MEETING	DATE	ITEM NO
RESOURCES DIRECTORATE	AUDIT AND STANDARDS COMMITTEE	20 MAY 2021	4
<b>LOCAL GOVERNMENT ASSOCIATION – VOLUNTARY MODEL CODE OF CONDUCT</b>			

### PUBLIC ITEM

This item is for consideration in the public part of the meeting.

### SUMMARY

To note the current position with respect to the consideration of the Local Government Associations (LGA) Code of Conduct which has been developed as a result of a recommendation from the Committee on Standards in Public Life (2019).

Members will need to reach a view on whether to adopt it in its entirety, to amend the model code and update it with aspects of the Council's current code or to update the Council's current code as appropriate with parts of the LGA Model code.

### RECOMMENDATION

- (i) That the Director of Resources, together with the Chairman and Vice-Chairman of the Committee and an independent group member, be authorised to review the LGA Code in consultation with representatives from Blackpool Borough Council's Standards Committee and the three Independent Persons, at a summer workshop to consider whether to adopt the Local Government Association Model Code in its entirety, to amend the model code and update with aspects of the Council's current code or to update the Council's current code as appropriate with parts of the LGA Model code and report back to this committee.
- (ii) That a report be brought back thereon, to the September Committee if time permits, with recommendations for the committee to consider.

### SUMMARY OF PREVIOUS DECISIONS

26<sup>th</sup> November 2020 – report on the position with respect to the development of a model Code of Conduct by the Local Government Association – progress was noted, and members requested a further update in due course.

CORPORATE PRIORITIES	
Economy – To create a vibrant and healthy economy	✓
Environment – To deliver services customers expect	✓
Efficiency – By spending money in the most efficient way	✓
Tourism – To create a great place to live and visit	✓

## REPORT

1. The Model Code was produced by the Local Government Association (LGA) following a consultation exercise which ran from the 8th of June to 17th of August 2020. The review was carried out whilst the Government continues to consider the recommendations made by the Committee on Standards in Public Life in their report on Local Government Ethical Standards from January 2019. If the Government chooses to implement any of the recommendations, this could require a change to the Model Code.
2. At the November 2020 meeting of this committee, it was noted that a response on a draft model code of conduct circulated by the LGA, had been made in the summer months following a joint workshop with representatives from Blackpool Borough Council. The Monitoring Officer also reported on the current position with respect to the LGA Model Code, and members requested to be kept informed of the development of this work and be invited to consider the adoption of the model code once available.
3. The LGA Model Code was published in late 2020 and covers several elements and comprises joint statement, introduction, definitions, purpose, general principles, application, standards of councillor conduct, general conduct and a number of appendices including an outline of the seven principles of standard's in public life, registering interests and information on the Committee for Standards in Public Life.
4. Under the Council's constitution, the Committee's functions include advising the Council on the adoption or revision of the Code of Conduct for Members and playing a key role in upholding standards of behaviour on the part of members of the Council as set out in the current Code of Conduct.
5. The current Code of Conduct is familiar to members and the committee will want to take this into account when making recommendations on changes to it. This requires careful consideration and it is felt that this would be best achieved through a workshop as outlined in the recommendation.
6. A recent survey of Monitoring Officers has been undertaken by a professional body for the same seeking a gauge of the likely course of action of their respective councils. The results are summarised below:
  - 20% have or intend to adopt the model code in full
  - 20% will adopt parts of the model code
  - 55% have decided not to adopt the model code, of which:
    - i. 25% will not be adopting the model code nor changing their code
    - ii. 30% are not adopting the model code in full but will make changes to their current code
    - iii. 5% are undecided

IMPLICATIONS	
Finance	None directly arising
Legal	Local authorities are responsible for councillor standards and conduct. They must maintain a code of conduct and maintain a register of disclosable pecuniary interests, and deal with allegations of breaches in the code and failure to register interests. The system was introduced by the Localism Act 2011.
Community Safety	None directly arising
Human Rights and Equalities	None directly arising
Sustainability and Environmental Impact	None directly arising
Health & Safety and Risk Management	None directly arising

LEAD AUTHOR	CONTACT DETAILS	DATE
Tracy Manning	Email <a href="mailto:tracy.manning@fylde.gov.uk">tracy.manning@fylde.gov.uk</a> & Tel 01253 658521	5 May 2021

BACKGROUND PAPERS		
Name of document	Date	Where available for inspection
Fylde Constitution incorporating the Elected Member Code of Conduct		<a href="http://www.fylde.gov.uk">www.fylde.gov.uk</a>
LGA Model Code of Conduct		<a href="https://local.gov.uk/publications/local-government-association-model-councillor-code-conduct-2020">https://local.gov.uk/publications/local-government-association-model-councillor-code-conduct-2020</a>

## DECISION ITEM

REPORT OF	MEETING	DATE	ITEM NO
DEVELOPMENT SERVICES DIRECTORATE	AUDIT AND STANDARDS COMMITTEE	20 MAY 2021	5
<b>CONSTITUTION AMENDMENT – TERMS OF REFERENCE - COMMITTEES</b>			

### PUBLIC ITEM

This item is for consideration in the public part of the meeting.

### SUMMARY

In line with its constitutional role to review and recommend amendments to Council, the Committee is asked to consider amendments to the terms of reference of several committees.

### RECOMMENDATIONS

1. To recommend the proposed amendments to the terms of reference of the committees (Part 2 and Part 3 of the Council's Constitution – Responsibility for Functions), as they appear at Appendix A, to Council.

### SUMMARY OF PREVIOUS DECISIONS

#### Council – 7 December 2020

Item 13. Constitution Amendment – Terms of Reference - Committees

It was RESOLVED to approve the recommended proposed amendments to the terms of reference of the committees (Part 2 and Part 3 of the Council's Constitution – Responsibility for Functions), as reported by Councillor Singleton.

#### Audit and Standards Committee – 26 November 2020

Item 12. Constitution Amendment – Terms of Reference – Committees

It was RESOLVED to recommend the proposed amendments to the terms of reference of the committees (Part 2 and Part 3 of the Council's Constitution – Responsibility for Functions), as they appear at Appendix A, to Council.

#### Audit and Standards Committee - 19 January 2017

Item 4. Governance Review

To add the following wording to the constitution under the remit of the Operational Management Committee; "Considering reports, reviewing and formulating where necessary policies relating to building control and land charges"

CORPORATE PRIORITIES	
Economy – To create a vibrant and healthy economy	✓
Environment – To deliver services customers expect	
Efficiency – By spending money in the most efficient way	✓
Tourism – To create a great place to live and visit	

## REPORT

1. At Council in December 2020, a number of changes were made to the terms of reference of the Council's committees. These amendments were the first substantial changes to the terms of reference for the programme committees since their inception in 2015
2. A number of further suggested amendments are put before Audit and Standards Committee for consideration relating to the Planning Committee and Finance and Democracy Committee with regards to Economic Development and Regeneration.
3. The Planning Committee currently has responsibility for Economic Development and Regeneration. Meanwhile the joint Committee/The Blackpool, Fylde and Wyre Economic Prosperity Board is a strategic forum for economic development issues on the Fylde coast as well as being the Programme Board for the Hillhouse and Blackpool Airport Enterprise Zones. The Leader represent Fylde on this Joint Committee but doesn't sit on the Planning Committee. The Joint Committee reports progress to the Finance and Democracy Committee, not the Planning Committee.

### Finance and Democracy Committee

4. Investment in economic development and regeneration is so vital to the recovery of the borough post pandemic it is proposed that this at a strategic level should sit within the remit of the Finance and Democracy Committee. This will sit with its links to the Economic Prosperity Board. The new term of reference would be;  
*To develop and establish a framework of strategic economic development policies that interface with national, regional and sub regional economic development initiatives.*

### Planning Committee

5. It is suggested that the Planning Committee has an advisory role in respect of Economic Development and Regeneration. Points 7 and 8 of the existing terms of reference for the Planning Committee would be replaced with;  
*To advise the Finance & Democracy Committee regarding the establishment of strategic economic development policies that align with the vision set out in the development plan and to oversee the delivery of regeneration projects set out in the council's Corporate Plan and Economic Development Strategy.*
6. A tracked changed version of the terms of reference is attached at Appendix A to assist members.

IMPLICATIONS	
Finance	No implications arising from this report
Legal	No implications arising from this report
Community Safety	No implications arising from this report
Human Rights and Equalities	No implications arising from this report
Sustainability and Environmental Impact	No implications arising from this report
Health & Safety and Risk Management	No implications arising from this report

LEAD AUTHOR	CONTACT DETAILS	DATE
Paul Walker	<a href="mailto:paul.walker@fylde.gov.uk">paul.walker@fylde.gov.uk</a> Tel 01253 658431	10 May 2021

BACKGROUND PAPERS		
Name of document	Date	Where available for inspection
Constitution	19/4/2021	<a href="https://fylde.cmis.uk.com/fylde/ConstitutionGovernanceMatters.aspx">https://fylde.cmis.uk.com/fylde/ConstitutionGovernanceMatters.aspx</a>

Attached documents

Appendix A – tracked changes of terms of reference

## SECTION 2

### Regulatory Committees

Council Functions which the Council has delegated to a Committee of the Council under Section 101 of the Local Government Act 1972

#### PLANNING COMMITTEE

1. The functions of the Council as Local Planning Authority and any planning control functions which, by virtue of agency arrangements between the County Council and the Borough Council, the Borough Council is authorised to discharge.
2. Determining applications for planning permission; for consent under the Town and Country Planning (Control of Advertisements) (England) Regulations 2007; for listed building consent; determining whether planning permission is required (including permitted development and prior notification); certificates of appropriate alternative development; matters relating to the Building Regulations 1991, the Building Act 1984, and the Building (Local Authority Charges) Regulations 1998; all matters relating to Tree Preservation or any amendment thereto.
3. Taking appropriate action in respect of dangerous dilapidated or ruinous buildings or structures seriously detrimental to the amenities of the neighbourhood; and land in such condition as to be injurious/detrimental to amenities.
4. To formulate and consider Strategic Housing policies/matters and the oversight of the provision of affordable housing (including affordable housing delivered through s.106 agreements).
5. To consider Development Management policies.
6. To formulate and oversee the relevant parts of the Development Plan (Local Plans and neighbourhood development plans).
- ~~6-7.~~ To advise the Finance & Democracy Committee regarding the establishment of strategic economic development policies that align with the vision set out in the development plan and to oversee the delivery of regeneration projects set out in the council's Corporate Plan and Economic Development Strategy.
- ~~7.~~ ~~Considering reports, reviewing, and formulating where necessary policies relating to Economic Development and associated matters.~~
- ~~8.~~ ~~Considering reports, reviewing, and formulating where necessary policies relating to Regeneration.~~
- ~~9-8.~~ To consider and scrutinise periodic revenue and capital budget monitoring reports on areas under the committee's remit.
- ~~10-9.~~ To establish any Working Group to consider, and make recommendations, on any issues within the remit of the committee's terms of reference.

Formatted: Font color: Auto

#### PUBLIC PROTECTION COMMITTEE

1. Hearing and determining any appeal made by a council employee, as permitted by the appropriate procedure, in respect of (i) disciplinary action taken against him or her (ii) the grading of his or her post or (iii) any grievance raised by him or her.
2. Revising a fee policy under section 10A(6) of the Caravan Sites and Control of Development Act



## PART 3 – RESPONSIBILITY FOR FUNCTIONS

1960 by making changes to the text, formatting or layout, but not including the revision of charges set out in the policy.

Exercising the council's functions in respect of the following:

3. Power to issue licences authorising the use of land as a caravan site ("site licences") under Section 3(3) of the Caravan Sites and Control of Development Act 1960.
4. Power to alter conditions attached to site licences under Section 8 of the Caravan Sites and Control of Development Act 1960.
5. Power to license the use of moveable dwellings and camping sites under Section 269(1) of the Public Health Act 1936.
6. Power to license hackney carriages and private hire vehicles under (a) as to hackney carriages, the Town Police Clauses Act 1847, as extended by section 171 of the Public Health Act 1875, and section 15 of the Transport Act 1985; and sections 47, 57, 58 60 and 79 of the Local Government (Miscellaneous Provisions) Act 1976; and (b) as to private hire vehicles, sections 48, 57, 58, 60 and 79 of the Local Government (Miscellaneous Provisions) Act 1976.
7. Power to license drivers of hackney carriages and private hire vehicles under sections 51, 53, 54, 59, 61 and 79 of the Local Government (Miscellaneous Provisions) Act 1976.
8. Power to license operators of hackney carriages and private hire vehicles under Sections 55 to 58, 62 and 79 of the Local Government (Miscellaneous Provisions) Act 1976.
9. Exercising the council's functions under section 65 of the Local Government (Miscellaneous Provisions) Act 1976 (fixing of fares for hackney carriages).
10. Power to license sex shops and sex cinemas under the Local Government (Miscellaneous Provisions) Act 1982, section 2 and Schedule 3.
11. Power to license performances of hypnotism under the Hypnotism Act 1952.
12. Power to license premises for acupuncture, tattooing, ear piercing and electrolysis under sections 13 to 17 of the Local Government (Miscellaneous Provisions) Act 1982.
13. Power to license pleasure boats and pleasure vessels under Section 94 of the Public Health Acts Amendment Act 1907.
14. Power to license market and street trading under part III of, and Schedule 4 to, the Local Government (Miscellaneous Provisions) Act 1982.
15. Power to license dealers in game and the killing and selling of game under sections 5, 6, 17, 18 and 21 to 23 of the Game Act 1831; sections 2 to 16 of the Game Licensing Act 1860, section 4 of the Customs and Inland Revenue Act 1883, sections 12(3) and 27 of the Local Government Act 1874, and section 213 of the Local Government Act 1972.
16. Power of register and license premises for the preparation of food under section 19 of the Food Safety Act 1990.
17. Power to license scrap metal dealers under section 1 of the Scrap Metal Dealers Act 2013.
18. Exercising the Councils functions relating to The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018
19. Power to license dangerous wild animals under section 1 of the Dangerous Wild Animals Act 1976.
20. Power to license knackers' yards under section 4 of the Slaughterhouses Act 1974 and the Animal

## PART 3 – RESPONSIBILITY FOR FUNCTIONS

By-Products Order 1999.

21. Power to license persons to collect for charitable and other causes under section 5 of the Police, Factories etc. (Miscellaneous Provisions) Act 1916 and section 2 of the House to House Collections Act 1939.
22. Power to grant consent for the operation of a loudspeaker under schedule 2 to the Noise and Statutory Nuisance Act 1993.
23. Power to sanction use of parts of buildings for storage of celluloid under Section 1 of the Celluloid and Cinematograph Film Act 1922.
24. Power to approve meat product premises under regulations 4 and 5 of the Meat Products (Hygiene) Regulations 1994.
25. Power to approve premises for the production of minced meat or meat preparations under regulation 4 of the Minced Meat and Meat Preparations (Hygiene) Regulations 1995.
26. Power to approve dairy establishments under regulations 6 and 7 of the Dairy Products (Hygiene) Regulations 1995.
27. Power to approve egg product establishments under regulation 5 of the Egg Products Regulations 1993.
28. Power to issue licences to retail butchers' shops carrying out commercial operations in relation to unwrapped raw meat and selling or supplying both raw meat and ready-to-eat foods under schedule 1A to the Food Safety (General Food Hygiene) Regulations 1995.
29. Power to approve fish products premises under Regulation 24 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998.
30. Power to approve dispatch or purification centre under regulation 11 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998.
31. Power to register fishing vessels on board which shrimps or molluscs are cooked under regulation 21 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998.
32. Power to approve factory vessels and fishery product establishments under regulation 24 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998.
33. Power to register auction and wholesale markets under regulation 26 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998.
34. Duty to keep register of food business premises under Regulation 5 of the Food Premises (Registration) Regulations 1991.
35. Power to register food business premises under regulation 9 of the Food Premises (Registration) Regulations 1991.
36. Power to register premises or stalls for the sale of goods by way of competitive bidding
37. Closing orders with respect to take-away food shops under section 4 of the Local Government (Miscellaneous Provisions) Act 1982.
38. Power to grant permission to use an object or structure in, on or over a highway for the provision of services or amenities, recreation or refreshment facilities or for purposes which will result in the production of income, for a centre for advice or information or for advertising under section 115E of the Highways Act 1980.
39. All matters in relation to pavement licences under the Planning and Business Act 2020.

### **LICENSING COMMITTEE**

1. All licensing functions under the Licensing Act 2003 (other than the functions conferred by section 5 of the act).
2. All functions of a licensing authority under part 8 of the Gambling Act 2005 except those that by virtue of section 154 cannot be delegated.

### **CHIEF OFFICERS EMPLOYMENT COMMITTEE**

1. The definition of those posts which are regarded as Chief Officer posts is listed in Part 7 of this Constitution.
2. The appointment of:
  - (i) The Officer designated as the Head of the Authority's Paid Service;
  - (ii) A statutory Chief Officer within the meaning of Section 2(6) of the Local Government and Housing Act 1989; and
  - (iii) A non-statutory Chief Officer
3. The dismissal of, or disciplinary action against, any Officer referred to in paragraph (i) to (iii) above or the consideration of any appeals, grievances or other matters in relation to any such officer where it should be expedient for the committee to deal with them.

### **AUDIT AND STANDARDS COMMITTEE**

The committee's activities and areas of responsibility are as follows:

1. **Function and Purpose**
  - (i) The Audit & Standards Committee is a key component of Fylde Council's corporate governance framework. It provides an independent and high-level focus on the audit, assurance and reporting arrangements that underpin good governance and financial standards.
  - (ii) The purpose of the Audit & Standards Committee is to provide independent assurance to the members of the adequacy of the risk management framework and the internal control environment. It provides independent review of Fylde Council's governance, risk management and control frameworks and oversees the financial reporting and annual governance processes. It oversees internal audit and external audit, helping to ensure efficient and effective assurance arrangements are in place.
  - (iii) The purpose of the committee in relation to standards is to promote and maintain the highest ethical standards and conduct by councillors. The committee is responsible for operating a locally based system for initial assessment of complaints that a member may have breached the Code of Conduct.

**2. Audit Activity**

- (i) To consider the head of internal audit's annual report providing:
  - a) The statement of the level of conformance with the Public Sector Internal Audit Standards and Local Government Application Note and the results of the Quality Assurance and Improvement Programme that supports the statement – these will indicate the reliability of the conclusions.
  - b) The opinion of the overall adequacy and effectiveness of the council's framework of governance, risk management and control together with the summary of the work supporting the opinion – these will assist the committee in reviewing the Annual Governance Statement.
- (ii) To approve the risk based internal audit plan including internal audit's resource requirements, the approach to using other sources of assurance and any work required to place reliance upon those other sources.
- (iii) To consider summaries of specific internal audit reports as requested.
- (iv) To consider reports from the head of internal audit of internal audit's performance during the year, including the performance of external provider of internal audit services.

These will include:

  - a) Updates on the work of internal audit including key findings of issues of concern and action in hand as a result of internal audit work.
  - b) Regular reports on the results of the Quality Assurance and Improvement Programme.
  - c) Reports on instances where the internal audit function does not conform to the Public Sector Internal Audit Standards and Local Government Application Note, considering whether non-conformance is significant enough that it must be included in the Annual Governance Statement.
- (v) To receive reports outlining the action taken where the head of internal audit has concluded that management has accepted a level of risk that may be unacceptable to the authority or there are concerns about progress with the implementation of agreed actions.
- (vi) To approve the Internal Audit Charter.
- (vii) To consider the external auditor's annual letter, relevant reports and the report to those charged with governance.
- (viii) To consider specific reports as agreed with the external auditor.
- (ix) To provide free and unfettered access to the Audit and Standards Committee chair for the head of internal audit including the opportunity for a private meeting with the committee.
- (x) To comment on the scope and depth of external audit work and to ensure it gives value for money.
- (xi) To support the independence of external audit through consideration of the external auditor's annual assessment of its independence and review of any issues raised by PSAA or the authority's auditor panel as appropriate.

## PART 3 – RESPONSIBILITY FOR FUNCTIONS

- (xii) To commission work from internal and external audit.
- (xiii) To advise and recommend on the effectiveness of relationships between external and internal audit and other inspection agencies or relevant bodies.
- (xiv) Meeting the external auditor and Chief Internal Auditor in private if deemed necessary.
- (xv) To review proposals made in relation to the appointment of external providers of internal audit services and to make recommendations.
- (xvi) To approve significant interim changes to the risk based internal audit plan and resource requirements.
- (xvii) To make appropriate enquiries of both management and the head of internal audit to determine if there are any inappropriate scope or resource limitations.
- (xviii) To consider any impairments to independence or objectivity arising from additional roles or responsibilities outside of internal auditing of the head of internal audit. To approve and periodically review safeguards to limit such impairments.
- (xix) To contribute to the Quality Assurance and Improvement Programme and in particular, to the external quality assessment of internal audit that takes place at least once every five years.
- (xx) To consider a report on the effectiveness of internal audit to support the Annual Governance Statement, where required to do so by the Accounts and Audit Regulations.

### 3. Regulatory framework

- (i) Maintaining an overview of the council's constitution in particular the Contracts Procedure Rules, Financial Regulations and Codes of Conduct.
- (ii) Advising the Council on changes to the Constitution.
- (iii) Reviewing any issue referred to it by the Chief Executive or a Director, or any council body.
- (iv) To monitor the effective development and operation of risk management in the council.
- (v) To monitor progress in addressing risk relating issues reported to the committee.
- (vi) To review the governance and assurance arrangements for significant partnerships or collaborations.
- (vii) To review the Annual Governance Statement prior to formal approval and consider whether it properly reflects the risk environment and supporting assurances, taking into account internal audit's opinion on the overall adequacy and effectiveness of the council's framework of governance, risk management and control.
- (viii) To review the council's corporate governance arrangements against the good governance framework, including the ethical framework and consider local code of governance.
- (ix) To consider the council's arrangements to secure value for money and review assurances and assessments on the effectiveness of these arrangements.
- (x) To review the assessment of fraud risks and potential harm to the council from fraud and corruption.
- (xi) To monitor the counter-fraud strategy, actions and resources.

## PART 3 – RESPONSIBILITY FOR FUNCTIONS

- (xii) Considering governance, risk or control matters at the request of other committees or statutory officers.
- (xiii) Considering the council's compliance with its own and other published standards and controls
- (xiv) Reviewing and monitoring treasury management arrangements in accordance with the CIPFA Treasury Management Code of Practice.
- (xv) To consider the council's framework of assurance and ensure that it adequately addresses the risks and priorities of the council.
- (xvi) To consider reports on the effectiveness of internal control and monitor the implementation of agreed actions.

### 4. Accounts

- (i) To review the Annual statement of accounts. Specifically, to consider whether appropriate accounting policies have been followed and whether there are concerns arising from the financial statements or from the audit that need to be brought to the attention of the Council.
- (ii) To consider the external auditor's report to those charged with governance in issues arising from the audit of the accounts.

### 5. Accountability

- (i) To report to those charged with governance on the committee's findings, conclusions and recommendations concerning the adequacy and effectiveness of their governance, risk management and internal control frameworks; financial reporting arrangements, and internal and external audit functions.
- (ii) To report to full council on a regular basis on the committee's performance in relation to the terms of reference and effectiveness of the committee in meeting its purpose.
- (iii) To publish an annual report on the work of the committee.

### 6. Standards

- (i) To assist the Council in fulfilling its duty under the Localism Act 2011 to promote and maintain high standards of conduct by members.
- (ii) To support ethical values and review the arrangements to achieve those results.
- (iii) To monitor and advise the Council about the adoption, revision and operation of its Code of Conduct in the light of best practice and any changes in the law.
- (iv) To keep under review the arrangements for dealing with allegations that a member of the Council or a member of a town or parish council within the Council's district has failed to comply with the relevant Code of Conduct.
- (v) To determine whether a member for the Council or a member of a town or parish council within its district has failed to comply with the relevant Code of Conduct.
- (vi) Where it finds that a failure to comply with the Code of Conduct has occurred, to determine what action, if any, to take.

## PART 3 – RESPONSIBILITY FOR FUNCTIONS

- (vii) To assist the Council with the appointment of an Independent Person(s) as required by the Localism Act 2011.
- (viii) To determine any request for a dispensation under Section 33 of the Localism Act 2011.
- (ix) To advise the Council on, and review as necessary, any local Protocols regulating the conduct of Members and to deal with allegations of breach of any such Protocol.
- (x) To consider reports referred by the Monitoring Officer.
- (xi) To respond on behalf of the Council to national reviews and consultations on standards related issues.
- (xii) To consider and make recommendations to the Council on any other matter that may be referred to the Committee relating to the conduct of Members within the Authority.

### **7. Arrangements**

The Committee will

- (i) meet a minimum of four times per year, (timetable to be agreed);
- (ii) have the authority to request the attendance of any elected Member or Officer of the Authority;
- (iii) have the right to report to all other committees, corporate risk groups and other strategic groups; and
- (iv) consider and assess the performance of the committee annually.

## SECTION 3

### Programme Committees

The Council has four programme committees.

#### Terms of Reference

The committees are the Tourism and Leisure Committee, the Operational Management Committee, the Environment, Health and Housing Committee and the Finance and Democracy Committee. The Environment, Health and Housing Committee is the crime and disorder committee for the purposes of the Police and Justice Act 2006. Subject to any matters reserved to the council by law or by any other part of this constitution, each programme committee has full delegated authority to take decisions on matters falling within its work area. The work areas of the committees are as follows:

#### (a) Tourism and Leisure Committee

1. To consider and scrutinise reports relating to performance of services under the remit of the committee
2. To consider and scrutinise periodic revenue and capital budget monitoring reports on areas under the committee's remit
3. Considering reports, reviewing, and formulating where necessary, policies relating to leisure management and community development
4. Considering reports, reviewing, and formulating where necessary policies in relation to recreation including parks and open spaces development and grounds maintenance in relation to areas under the jurisdiction of the council
5. Considering reports, reviewing, and formulating where necessary policies relating to arts, culture and heritage
6. Considering reports, reviewing, and formulating where necessary policies relating to sand dunes management
7. Considering reports, reviewing, and formulating where necessary, policies relating to tourism and events promotion
8. Considering reports, reviewing, and formulating where necessary policies relating to beach management
9. To review, and formulate where necessary, policies relating to coast and countryside
10. To deal with issues arising in relation to the Trust set up to manage Lowther Pavilion and Gardens
11. To consider swimming provision and deal with partnership issues arising in relation to the operation of swimming pools
12. To keep under review income generating activity and subsequent contractual arrangements with respect to parks and open spaces
13. To consider any management issues arising in relation to land or property within the remit of the committee
14. To keep the Council's sports development programme under review
15. To interface with partners involved in the work of the committee as necessary



## PART 3 – RESPONSIBILITY FOR FUNCTIONS

16. To establish any Working Group to consider, and make recommendations, on any issues within the remit of the committee's terms of reference

### **(b) Operational Management Committee**

1. To consider and scrutinise reports relating to performance of services under the remit of the committee
2. To consider and scrutinise periodic revenue and capital budget monitoring reports on areas under the committee's remit
3. To keep under review arrangements regarding depot arrangements with respect to operational services and consider issues relating to the Council's Vehicle Replacement Programme
4. Considering reports, reviewing, and formulating where necessary policies relating to waste management and recycling
5. Considering reports, reviewing, and formulating where necessary policies relating to public toilet provision
6. Considering reports, reviewing, and formulating where necessary policies relating to amenity cleaning
7. Considering reports, reviewing, and formulating where necessary policies relating to car parking
8. Considering reports, reviewing, and formulating where necessary policies relating to coastal defences
9. Considering reports, reviewing, and formulating where necessary policies relating to dog Control
10. Considering reports, reviewing, and formulating where necessary policies relating to Emergency Planning
11. Considering reports, reviewing and formulating where necessary policies relating to building control and land charges
12. To consider and review provision in relation to footway lighting and bus shelters
13. Considering reports, reviewing, and formulating where necessary policies relating to cemetery and crematorium
14. To consider any management issues arising in relation to land or property within the remit of the committee
15. To interface with partners involved in the work of the committee as necessary
16. To establish any Working Group to consider, and make recommendations, on any issues within the remit of the committee's terms of reference

### **(c) Environment, Health and Housing Committee**

1. To act as the crime and disorder committee for the purposes of the Police and Justice Act 2006
2. To make reports or recommendations to the council or any committee with respect to any matter which is a local crime and disorder matter in relation to a councillor
3. To consider and scrutinise reports relating to performance of services under the remit of the committee

### PART 3 – RESPONSIBILITY FOR FUNCTIONS

4. To consider and scrutinise periodic revenue and capital budget monitoring reports on areas under the committee's remit
5. Considering reports, reviewing, and formulating where necessary, policies relating to homelessness and housing advice
6. To consider any matters arising in relation to health development and promotion together with weight management
7. To keep under review matters relating to disabled facilities grants, housing standards and energy efficiency
8. Considering reports, reviewing, and formulating where necessary policies relating to community safety including CCTV provision
9. To fulfil the statutory overview and scrutiny role in terms of the Crime and Disorder Reduction Partnership
10. Considering reports, reviewing, and formulating where necessary policies relating to environmental health, protection and sustainability
11. Considering reports, reviewing, and formulating where necessary policies relating to Fylde Coast Bathing Waters
12. Considering reports, reviewing, and formulating where necessary, policies relating to Food hygiene
13. Considering reports, reviewing, and formulating where necessary, policies relating to Pest Control
14. Considering reports, reviewing, and formulating where necessary, policies relating to the Working Together for Families Partnership and the Health and Well-Being Partnership
15. To receive reports from partners who receive community grants from the council and to interface with partners involved in the work of the Committee including Fylde CAB, Age Concern, Care and Repair and Face to Face
16. To consider matters relating to Safeguarding
17. To establish any Working Group to consider, and make recommendations, on any issues within the remit of the committee's terms of reference

#### **(d) Finance and Democracy Committee**

1. To consider and scrutinise reports relating to performance of services under the remit of the committee
2. To consider and scrutinise periodic revenue and capital budget monitoring reports on areas under the committee's remit
3. To lead the budget setting process, in consultation with the other programme committees, and to put forward a draft budget package to the Council for approval
4. To consider Medium Term Financial Strategy updates and provide guidance and commentary to other committees as necessary
5. To consider the Financial Outturn report of the Council annually
6. To consider reports from the Head of Revenues and Benefits Services (Shared Service) as necessary in relation to the revenues and benefits service related matters including debt write offs

### PART 3 – RESPONSIBILITY FOR FUNCTIONS

7. Considering reports, reviewing, and formulating where necessary policies relating to customer access, ICT and website
8. To keep under review the Council tax reduction scheme and make recommendations to the Council on the same
9. To review the Pay Policy annually and make recommendations to the Council on the same
10. To consider any matters arising in relation to Strategic Procurement
11. To keep under review matters relating to the Council's Community projects fund
12. To consider any matters arising in relation to the mayoralty, civic functions and civic ceremonial
13. To monitor and evaluate progress towards achieving the objectives by the council within the Corporate Plan
14. Considering reports, reviewing, and formulating where necessary policies relating to public relations and communications
- ~~14-15.~~ **To develop and establish a framework of strategic economic development policies that interface with national, regional and sub regional economic development initiatives.**
- ~~15-16.~~ To manage any land and property owned by the council and not specifically held for the purposes of another committee
- ~~16-17.~~ To consider any matters in relation to the Lytham Institute in line with Charity Commission guidance
- ~~17-18.~~ To consider any community assets nominations
- ~~18-19.~~ All of the Council's functions relating to elections
- ~~19-20.~~ To interface with partners involved in the work of the committee as necessary
- ~~20-21.~~ To establish any Working Group to consider, and make recommendations, on any issues within the remit of the committee's terms of reference

## DECISION ITEM

REPORT OF	MEETING	DATE	ITEM NO
RESOURCES DIRECTORATE	AUDIT AND STANDARDS COMMITTEE	20 MAY 2021	6
<b>CONTRACTS PROCEDURE RULES</b>			

### PUBLIC ITEM

This item is for consideration in the public part of the meeting.

### SUMMARY

The committee is invited to recommend changes to the council's contract procedure rules for consideration by the next council meeting.

### RECOMMENDATION

1. Recommend to the next council meeting that the council adopts the changes to contract procedure rules set out in the appendix to the report.

### SUMMARY OF PREVIOUS DECISIONS

Rule 1.3 of the present contract procedure rules as adopted in the last year. No other changes have been made in the last few years to about 2012.

CORPORATE PRIORITIES	
Economy – To create a vibrant and healthy economy	✓
Environment – To deliver services customers expect	
Efficiency – By spending money in the most efficient way	✓
Tourism – To create a great place to live and visit	

### REPORT

1. The council's contracts procedure rules ("the Rules") form part 4b of the council's constitution. This report proposes a number of changes to update the Rules. Members who were able to attend the member briefing on procurement in February will be familiar with the changes proposed.
2. The Rules, together with the financial regulations (also found in the constitution) form the procedural framework for procurement exercises. They are supplemented by the council's procurement strategy, the Guide to Buying for the Council, an informal procedure note for low value contracts and the sustainable procurement policy.
3. The proposed changes update the Rules in accordance with current best practice. The Rules, incorporating the proposed changes are attached, incorporating commentary on the reasons for and effect for each proposed change.

4. The Government recently issued a procurement green paper, which may lead to significant changes in public sector procurement following the end of the EU exit transition period. Any such changes would be likely to require further changes to the contract procedure rules, which would be brought to the committee for consideration.

IMPLICATIONS	
Finance	
Legal	The council must comply with its own procedure rules.
Community Safety	None
Human Rights and Equalities	None
Sustainability and Environmental Impact	The council builds sustainability into its procurement practices through its sustainable procurement policy and procurement strategy.
Health & Safety and Risk Management	

LEAD AUTHOR	CONTACT DETAILS	DATE
Ian Curtis	<a href="mailto:ian.curtis@fylde.gov.uk">ian.curtis@fylde.gov.uk</a> & Tel 01253 658506	29 March 2021

BACKGROUND PAPERS		
Name of document	Date	Where available for inspection
Contract procedure rules		Town Hall, Lytham St Annes or <a href="https://fylde.cmis.uk.com/fylde/ConstitutionGovernanceMatters.aspx">https://fylde.cmis.uk.com/fylde/ConstitutionGovernanceMatters.aspx</a>

Attached documents  
Existing contracts procedure rules

PART 4b – CONTRACTS PROCEDURE RULES	
Effective from XXXX	Approved by Council on XXXX

## 1 GENERAL

1.1 Subject to rule 1.2, every contract made by or on behalf of the Council shall comply with:

- (i) these Rules;
- (ii) the Council's Financial Regulations;
- (iii) all relevant statutory provisions, including in particular the Local Government Act 1988, Part II, the Public Contracts Regulations 2015, ("the Regulations"), the Local Government (Contracts) Act 1997 and the Public Services (Social Value) Act 2012; and
- (iv) any direction by the Council or the relevant committee.

**Comment [IC1]:** Omits reference to European directives

1.2 These Rules shall not apply or may be varied where or to the extent that:

- (i) the Council or the relevant committee so resolves;
- (ii) statute or subordinate legislation prescribes otherwise;
- (iii) subject to rule 18, the contract is for consultancy services;
- (iv) the contract is for the services of counsel, professional witnesses or external solicitors in relation to a specific matter;
- (v) The contract has been dealt with by another public authority under a procedure that complies with that authority's contracts procedure rules for contracts of that kind and the relevant director holds written confirmation of such compliance;
- (vi) the contract relates to goods bought at an auction; or
- (vii) the contract is for goods, works or services of a sensitive nature (such as security) where publication of the tender documents would constitute a security breach and undermine the effectiveness of the final product; or
- (viii) The contract is covered by the Land Transaction Procedure Rules

1.3 Buyers should normally follow the guidance in the "Guide to Buying for the Council", which is available on the council's [intranet](#). They should record and be able to explain the reason for any decision to not follow the Guide.

1.4 In these rules, "bid" is used to refer to tenders and quotations, and the "bidder" is to be construed accordingly.

**Comment [IC2]:** New interpretation provision

## PART 4b – CONTRACTS PROCEDURE RULES

### 2 PROCEDURES

- 2.1 All contracts will be dealt with under one of the procedures available for that type of contract as set out in the table below.

Type of contract	Definition	Available procedures
Exempt contract	A contract where the estimated value of goods and services to be supplied is £25,000 or more and other procedures cannot practicably be followed because: <ul style="list-style-type: none"> <li>(i) the contract is an extension of an existing contract;</li> <li>(ii) the goods, materials or works desired are of a proprietary or special character or for other reasons there would be no genuine competition; or</li> <li>(iii) in the opinion of the Chief Executive the need for the goods materials or works is urgent.</li> </ul>	Qualified informal procedure
Small contract	A contract where the estimated value of goods and services to be supplied is less than £25,000.	Informal procedure Request for quotation Open tendering Restricted tendering Framework agreement
Mid-range contract	A contract (other than an exempt contract) where the estimated value of goods and services to be supplied is £25,000 or more, but less than £100,000.	Request for quotation Open tendering Restricted tendering Framework agreement
Large contract	A contract (other than an exempt contract) where the estimated value of goods and services to be supplied is £100,000 or more	Open tendering Restricted tendering Framework agreement

- 2.2 The buying officer must decide which one of the available procedures to use unless the Council, a meeting of the relevant committee, or the Chief Executive has directed otherwise.

- 2.3 Descriptions of procedures referred to in the table above are set out in rule 3.

**Comment [IC3]:** Threshold raised from £10,000. Spot purchasing fuel is no longer exempt and therefore not allowed.

**Comment [IC4]:** Reference to electronic auction removed from the rules: Procedure is never used.

**Comment [IC5]:** Choice of procedures now up to buying officer, not director

## PART 4b – CONTRACTS PROCEDURE RULES

- 2.4 Before entering into a contract for the purchase of any goods or services or the execution of any work, the buying officer must determine a realistic pre-estimate of the anticipated costs associated with the contract, including any maintenance costs, and satisfy himself that budgetary provision exists to cover them.

### 3 DESCRIPTION OF PROCEDURES

- 3.1 The table below contains descriptions of the procedures referred to in rule 2.1

Procedure	Description
Qualified informal procedure	The procedure is that the relevant director must be satisfied that the arrangements made secure the best available terms to the Council commensurate with the contract risk and value and provide adequate protection against fraud and collusion and must report the circumstances to the next available meeting of the relevant committee.
Informal procedure	The procedure is that the buying officer must be satisfied that the arrangements made secure the best available terms to the Council, commensurate with the contract risk and value and provide adequate protection against fraud and collusion.
Request for quotation	The procedure is the buying officer must invite at least three quotations using an approved procurement portal in accordance with rule 6.
Open tendering	The procedure is that the buying officer must advertise the opportunity on the approved procurement portal, including a link to express interest to the opportunity and allow for at least 14 days to submit a tender, in accordance with rule 6.
Restricted tendering	<p>The procedure is the same as open tendering, except that tenders are only to be invited from at least three, but no more than six, prospective tenderers who have been pre-qualified in accordance with rule 5 and;</p> <ul style="list-style-type: none"> <li>(i) If the list contains less than three prospective tenderers, all must be invited to tender;</li> <li>(ii) If the buying officer, after consulting the Procurement Officer, considers a prospective tenderer unsuitable they need not be invited to tender and the Procurement Officer must record in writing the reasons why they were not so invited</li> </ul>

**Comment [IC6]:** Constructionline now not included.

**Comment [IC7]:** Reference to fraud and collusion is new: similar in the informal procedure.

**Comment [IC8]:** Revised to refer to rule 6 instead of setting out elements of the procedure here; reference to hard copy tendering removed. Same for open tendering.

**Comment [IC9]:** Refers now to "pre-qualification" rather than to a list.



## PART 4b – CONTRACTS PROCEDURE RULES

Framework agreement	<p>The procedure is that the buying officer must satisfy himself that the framework agreement has been let in compliance with all relevant legislation and can lawfully be accessed by the council.</p> <p>Goods, services or works supplied through a framework agreement must be ordered in compliance with the specific rules and procedures for accessing that framework.</p>
---------------------	---

- 3.2 “Approved procurement portal” means a procurement portal approved for the time being by the Director of Resources.

### 4 **CONTRACTS SUBJECT TO THE REGULATIONS: ABOVE THE THRESHOLDS**

- 4.1 Where the estimated value of a contract exceeds any relevant threshold in the Regulations then the buying officer **must** consult the Procurement Officer or Head of Governance prior to commencing the procurement and must have regard to any guidance given by them during the procurement process.

**Comment [IC10]:** New requirement.

### 5 **RESTRICTED TENDERING**

- 5.1 A pre-qualification stage is not permitted in any procurement below the threshold set out in the Regulations for goods and services. However, suitability assessment questions relating to a potential tenderer may be asked provided that the questions are relevant and proportionate to the subject matter of the procurement.
- 5.2 When a pre-qualification stage is used, expressions of interest must be sought on the approved procurement portal and tenderers must complete a standard selection questionnaire. The questionnaire must be evaluated in accordance with the criteria notified to tenderers and a list compiled of tenderers to be invited to the second stage.

**Comment [IC11]:** Replaces previous provision about the compilation of lists, which are not now allowed.

### 6 **INVITATION TO TENDER**

- 6.1 An invitation to tender for a contract whose value is estimated to exceed £25,000 must include:
- (i) a description of the services, supplies or works being procured;
  - (ii) the procurement timetable including the tender return date and time, which shall allow a reasonable period for the applicants to prepare their tenders;
  - (iii) instructions for completing and returning the tender documentation
  - (iv) notification that tenders received after the closing date and time will not be considered
  - (v) a specification and instructions on whether any variants are permissible;
  - (vi) the Council’s terms and conditions of contract
  - (vii) the evaluation criteria including any weightings;
  - (viii) pricing mechanism and instructions for completion;

**Comment [IC12]:** Rules 8 to 10 rewritten to be in a more logical order.

## PART 4b – CONTRACTS PROCEDURE RULES

- (ix) whether the Council is of the view that TUPE may apply;
- (x) form and content of method statements to be provided
- (xi) rules for tender submission;
- (xii) any further information which will inform or assist tenderers in preparing tenders.
- (xiii) contract finder notice(s)

### **7 TENDER/QUOTATION CLARIFICATION**

- 7.1 Bidders may request clarification on aspects of the competition documentation prior to submission by submitting a clarification question through the approved procurement portal. The buying officer must ensure equal treatment of all bidders, and where relevant should anonymise the question and publish that together with the response to all potential bidders through the approved procurement portal. Care should be taken not to reveal the identity of the bidder or any information which may be deemed to be commercially confidential to them during the clarification process.

### **8 RECEIVING TENDERS AND QUOTATIONS**

- 8.1 The buying officer must ensure that (unless the Head of Government has agreed otherwise) no bid is considered for acceptance unless it has been received on the approved procurement portal no later than the time and date specified for submission.

### **9 ERRORS IN BIDS**

- 9.1 Errors in bids must be dealt with by asking the bidder to confirm the bid as submitted or withdraw their bid. However, where a bidder has made a visible and genuine arithmetical error, they may be given an opportunity to correct that error. Other than where specifically provided for in the Regulations (e.g. when using the Competitive Dialogue procedure) no other adjustment, revision or qualification is permitted.
- 9.2 Careful consideration must be given to the effect of any procedure adopted when dealing with errors in bids and the reflection which any such procedure may have on the integrity of the Officers and Members of the Council. It is essential that whatever procedure is adopted is transparent and fair and equitable to all bidders.

### **10 EVALUATION AND AWARD**

- 10.1 The competition documentation for any contract must include evaluation criteria for the award of the contract.
- 10.2 The evaluation criteria must be intended to ensure that the contract is awarded to a suitable bidder whose bid is the most economically advantageous to the council
- 10.3 All bids shall be evaluated in accordance with the evaluation criteria notified to bidders in the competition documentation.
- 10.4 A contract must only be awarded and signed by a person authorised to do so, who must ensure that the

Part 4b, Page 5 of 8

Updated: July 2018

## PART 4b – CONTRACTS PROCEDURE RULES

appropriate budget holder has the funds in place to sustain the contract prior to award.

- 10.5 Heads of Service should ensure that proper records of all procurement activity are retained in electronic or hard copy format as appropriate.
- 10.6 The highest standards of probity are required of all officers and members involved in the procurement, award and management of Council contracts. It is essential to maintain effective audit trails at all stages throughout the procurement procedure particularly where approval or agreement is required.

### 11. STANDSTILL PERIOD

- 11.1 For all contracts under the Regulations, a ten-calendar day 'standstill period' must be observed between the decision to award and contract conclusion. Although the Standstill period is counted in calendar days, it must end on a working day. Buying officers should consult the Procurement Officer for advice of the specific detail which must be included in Standstill Letters under the Regulations. The Standstill Period is an express requirement in the Regulations and must be followed.

### 12. POST-TENDER NEGOTIATIONS

- 12.1 Where a procurement is conducted pursuant to the Regulations through either the Open or Restricted procedures no post tender negotiations are permitted. However, the Council may seek clarification from bidders where appropriate.
- 12.2 At all times during the procurement (whether subject to the Regulations or not), the Council shall consider and implement the principles of non-discrimination, equal treatment and transparency.

**Comment [IC13]:** Wording revised to emphasise that post-tender negotiations not normally allowed.

### 13. CONTRACT AWARD NOTICE

- 13.1 All contracts awarded under the Regulations must be announced by means of a Contract Award Notice on Find a Tender, transmitted no later than 30 calendar days after the date of the award.
- 13.2 All contracts awarded above £25,000 in value whether openly advertised or not must be published on Contracts Finder in accordance with the Regulations and published Crown Commercial Service (CCS) guidance.

**Comment [IC14]:** New provision to reflect current requirements.

### 14. NOMINATED SUB-CONTRACTORS

- 14.1 This Rule applies where a sub-contractor or supplier is to be nominated to a main contractor.
- 14.2 If the estimated amount of a sub-contract exceeds £25,000, bids for the nomination must be invited and dealt with in accordance with these Rules as if the bids invited were for a contract with the Council, unless the relevant director considers that it is not reasonably practicable to obtain competitive tenders or quotations.
- 14.3 Any invitation for nomination under Rule 14.2 must require the bidder to agree that if selected they will enter into a contract with the main contractor which indemnifies the main contractor in relation to the works or goods included in the sub-contract.

**Comment [IC15]:** Threshold raised from £10,000

## PART 4b – CONTRACTS PROCEDURE RULES

### 15. STANDARDS

- 15.1 The contract must require goods and materials to comply with any relevant specification issued by a relevant standards agency, unless the buying officer considers it inappropriate.

**Comment [IC16]:** Used to refer to “relevant British and European standards”

### 16. PREVENTION OF BRIBERY

- 16.1 Every contract that exceeds £50,000 in value must include a clause allowing the Council to cancel the contract and to recover from the contractor the amount of any loss resulting from such cancellation if:
- 16.2 the contractor has offered or given or agreed to give to any person any gift or consideration of any kind as an inducement or reward for doing or not doing anything relating to the contract or any other contract with the Council or for favouring or not favouring any person in relation to such contract;
- 16.3 similar acts have been done by any person employed by the contractor or acting on their behalf; or
- 16.4 the contractor or any person employed by them or acting on their behalf has committed any offence under the Bribery Act 2010 or given any fee or reward the receipt of which is an offence under Section 117 of the Local Government Act 1972.

### 17. DATA PROTECTION

- 17.1 As part of evaluation, the buying officer is required to make an assessment of whether there are any data protection implications to the Council, and if there are, to seek guidance from the Council’s Data Protection Officer and Procurement Officer.
- 17.2 Notwithstanding anything else in these rules, where a contract will require or allow the contractor to process personal data on behalf of or held by the council, the contract will only be awarded to a bidder who the council is satisfied will implement appropriate technical and organisational measures to ensure processing will meet the requirements of the Data Protection Act 2018 and protect data subjects’ rights and who is willing to enter into any contractual terms required by any competent authority to be included in a contract between a processor and controller.
- 17.3 Where a contract is not awarded to the leading bidder because the council is not satisfied as required by rule 17.2, or because the leading bidder is unwilling to enter into any such contractual terms, the council may exclude the leading bidder and award the contract as if the leading bidder had not made its bid.
- 17.4 In this rule, “controller” “processor” and “personal data” have the same meaning as in the Data Protection Act 2018.

**Comment [IC17]:** New provision intended to protect the council’s position if leading bidder not willing to comply with the data protection requirements.

### 18. CONSULTANTS

- 18.1 These Rules apply to the engagement of consultants, with the proviso that in circumstances requiring flexibility or where there are specialised needs, the relevant director may agree alternative arrangements with the Chief Executive.

PART 4b – CONTRACTS PROCEDURE RULES

**19. BREACH OF CONTRACTS PROCEDURE RULES**

- 19.1 In the event of a significant breach of these Rules, the Chief Financial Officer shall report details to the next meeting of the Finance and Democracy Committee, with any proposals for remedial action.

# INFORMATION ITEM

REPORT OF	MEETING	DATE	ITEM NO
RESOURCES DIRECTORATE	AUDIT AND STANDARDS COMMITTEE	20 MAY 2021	7
<b>REGULATION OF INVESTIGATORY POWERS ACT 2000: AUTHORISATIONS</b>			

## PUBLIC ITEM

This item is for consideration in the public part of the meeting.

## SUMMARY OF INFORMATION

Councillors are obliged to review the use of covert surveillance and covert human intelligence sources by the council at least quarterly. In the quarter to May 2021, there were no authorised operations.

## SOURCE OF INFORMATION

Director of Resources

## INFORMATION

1. The Regulation of Investigatory Powers Act 2000 ("RIPA") regulates covert investigations by a number of bodies, including local authorities. It was introduced to ensure that individuals' rights are protected while also ensuring that law enforcement and security agencies have the powers they need to do their job effectively.
2. Fylde Council is therefore included within RIPA framework with regard to the authorisation of both directed surveillance and of the use of covert human intelligence sources.
3. Directed surveillance includes the covert surveillance of an individual in circumstances where private information about that individual may be obtained. A covert human intelligence source ("CHIS") is a person who, pretending to be someone that they are not, builds up a relationship of trust with another person for the purpose of obtaining information as part of an investigation.
4. Directed surveillance or use of a CHIS must be authorised by the chief executive or a director and confirmed by a Justice of the Peace. All authorisations are recorded centrally by the Head of Governance.
5. This is the required quarterly report on the use of RIPA. The information in the table below is about authorisations granted by the council during the quarter concerned.

Quarter	Directed surveillance	CHIS	Total	Purpose
March 2021 – 20 May 2021	0	0	0	

Figures correct when report published. Officers will verbally update members if the figures have changed by the date of the meeting.

## WHY IS THIS INFORMATION BEING GIVEN TO THE COMMITTEE?

Regulations under the Regulation of Investigatory Powers Act 2000 ("RIPA") require councillors to consider a report on the use of RIPA at least quarterly.

## FURTHER INFORMATION

Contact Ian Curtis on 01253 658506 or at [ian.curtis@fylde.gov.uk](mailto:ian.curtis@fylde.gov.uk).