



**TRAFFORD**  
**COUNCIL**

**AGENDA PAPERS FOR  
STOCKPORT, TRAFFORD AND ROCHDALE (STAR) JOINT  
COMMITTEE MEETING**

**Date: Wednesday, 20 July 2016**

**Time: 2.00 p.m.**

**Place: 1st Floor Conference Suite, Number One Riverside, Rochdale OL16 1XU**

<b>A G E N D A</b>	<b>PART I</b>	<b>Pages</b>
1. <b>ATTENDANCES</b>		
To note attendances, including Officers and any apologies for absence.		
2. <b>MEMBERSHIP OF THE COMMITTEE 2016/17, INCLUDING CHAIRMAN AND VICE-CHAIRMAN</b>		
To note the membership including Chairman and Vice-Chairman of the STAR Joint Committee for the Municipal Year 2016/17.		
3. <b>TERMS OF REFERENCE</b>		
To note the Committee's Terms of Reference.		1 - 2
4. <b>MINUTES</b>		
To receive and if so determined, to approve as a correct record the Minutes of the meeting held on 19 January, 2016.		3 - 8
5. <b>DECLARATIONS OF INTEREST</b>		
Members to give notice of any interest and the nature of that interest relating to any item on the agenda in accordance with the adopted Code(s) of Conduct.		

**Stockport, Trafford and Rochdale (STAR) Joint Committee - Wednesday, 20 July 2016**

**6. PERFORMANCE FRAMEWORK - CORPORATE REPORTS**

To receive the following reports of the Director of STAR Shared Procurement and the Business Improvement Manager:

- |     |   |         |
|-----|---|---------|
| (a) | STAR Revenue Budget Monitoring Report - 2015/16 Outturn     | 9 - 10  |
| (b) | STAR Revenue Budget Monitoring Report - Period 1-2, 2016/17 | 11 - 12 |
| (c) | HR Statistics - Quarter 4 2015/2016                         | 13 - 16 |
| (d) | HR Statistics - 2016/17 Quarter 1                           | 17 - 20 |
| (e) | STAR Risk Register - Q1                                     | 21 - 24 |

**7. PERFORMANCE FRAMEWORK - MILESTONE REPORTS**

To receive the following reports of the Director of STAR Shared Procurement and the Head of Strategic Procurement:

- |     |                            |         |
|-----|----------------------------|---------|
| (a) | STAR Business Plan 2016/17 | 25 - 28 |
| (b) | Contract Procedure Rules   | 29 - 76 |
| (c) | STAR Awards Plan           | 77 - 80 |

**8. BALANCED SCORECARD**

To receive the following reports of the Director of STAR Shared Procurement and the Head of Strategic Procurement:

- |     |  |           |
|-----|--|-----------|
| (a) | 2015/16 Balanced Scorecard Final Position            | 81 - 84   |
| (b) | Balanced Scorecard Performance - Quarter 1 2016/17   | 85 - 92   |
| (c) | Social Value Current Position and Future State       | 93 - 100  |
| (d) | Manchester City Council's Ethical Procurement Policy | 101 - 118 |

**9. NEW BUSINESS / CLIENT UPDATE**

To receive a verbal update of the Director of STAR Shared Procurement. Verbal Report

**10. URGENT BUSINESS (IF ANY)**

Any other item or items which by reason of special circumstances (to be specified), the Chairman of the meeting is of the opinion should be considered at this meeting as a matter of urgency.

**Stockport, Trafford and Rochdale (STAR) Joint Committee - Wednesday, 20 July 2016**

**11. DATE AND TIME OF NEXT MEETING**

To confirm the arrangements for the next meeting(s).

**THERESA GRANT**

Chief Executive

Membership of the Committee

Councillors A. Brett, P. Myers and D. Sedgwick.

Further Information

For help, advice and information about this meeting please contact:

Chris Gaffey, Democratic and Scrutiny Officer

Tel: 0161 912 2019

Email: [chris.gaffey@trafford.gov.uk](mailto:chris.gaffey@trafford.gov.uk)

This agenda was issued on **Tuesday, 12 July 2016** by the Legal and Democratic Services Section, Trafford Council, Trafford Town Hall, Talbot Road, Stretford M32 0TH.

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## Terms of Reference

1. To manage the procurement operations of the Councils except for any procurement activity carried on by each Council that is specifically excluded by each Council from being dealt with by the STAR on its behalf.
2. To agree any changes to the cost and income sharing arrangements set out in the inter-authority agreement.
3. To agree the organisational structure of the STAR to carry out those operations.
4. To recommend to Trafford Council the person to be appointed as Director of STAR and the salary for the post.
5. To consider the policies and procedures for procurement activities carried out by the STAR recommended to it by its Board including the contract procedure rules under which it will operate for each of the Councils.
6. To recommend the business plans and budgets of the STAR for approval by the Councils.
7. To monitor the budget and performance of the STAR.
8. To approve major changes to standard tender documentation and procedures.
9. Such other matters as the Councils (for non-executive matters) and/or the Executive Leaders jointly agree.
10. To the extent that the activities of the STAR joint committee are not executive functions the council delegates to the joint committee the power to do anything which is calculated to facilitate, or is conducive or incidental to, the discharge of the procurement functions delegated to it – in particular the power to make staffing appointments and the power to make standing orders as to contracts but not the power to set budgets.

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# Agenda Item 4

## STOCKPORT, TRAFFORD AND ROCHDALE (STAR) JOINT COMMITTEE

19 JANUARY 2016

### PRESENT

Councillor A. Brett (in the Chair).

Councillors P. Myers and I. Roberts (Vice-Chairman)

#### Also Present

Councillor Mrs Laura Evans (Trafford)

#### In attendance

Ian Duncan	- Director of Finance (Trafford)
Steve Houston	- Director of Corporate and Support Services (Stockport)
Pauline Kane	- Director of Finance (Rochdale)
Habib Khan	- Head of Legal (Trafford)
Sharon Robson	- Director of Procurement (STAR Shared Procurement)
Lynda Brookes	- Interim Senior Category Manager (People) (STAR)
Lesley Hilton-Duncan	- Head of Strategic Procurement (People) (STAR)
Chris Gaffey	- Democratic and Scrutiny Officer

### 20. MINUTES

RESOLVED: That the minutes of the STAR Joint Committee meeting held on Wednesday 28 October 2015, be approved as a correct record.

### 21. DECLARATIONS OF INTEREST

No declarations of interests were made by Members.

### 22. PERFORMANCE FRAMEWORK - CORPORATE REPORTS

#### (a) Revenue Budget Monitor - Period 8 2015/16

The Committee received a report of the Director of Procurement (STAR Shared Procurement) providing an update on the STAR Budget for Period 8, 2015/16.

RESOLVED: That the report be noted.

#### (b) Proposed Budget 2016/17

The Committee received a report of the Director of Procurement (STAR Shared Procurement) detailing the proposed core budget for the 2016/17 financial year. A correction was made in relation to 'Note 1': the 'regraded' post was in fact downgraded.

RESOLVED: That the report be noted.

**Stockport, Trafford and Rochdale (STAR) Joint Committee**  
**19 January 2016**

**(c) Human Resources Statistics**

The Committee received a report of the Business Improvement Manager (STAR Shared Procurement) outlining the Human Resources statistics for STAR Procurement staff for the period April 2015 to December 2015.

RESOLVED: That the report be noted.

**(d) Risk Register**

The Committee received a report of the Business Improvement Manager (STAR Shared Procurement) providing an update on the organisational Risk Register for STAR Procurement. The report highlighted the movement of risk items as well as risk items added to / removed from the register.

Members discussed the risks involved with income generation, noting the competition from academies and the private sector for school services.

RESOLVED: That the report be noted.

**23. PERFORMANCE FRAMEWORK - MILESTONE REPORTS**

**(a) STAR Audit Report (i) - STAR Procurement Service**

The Committee received a report of the STAR Board summarising the outcome of the audit review of STAR Procurement Service. The report provided an update on the actions taken to date, as well as further recommended activities.

RESOLVED:

- (1) That the report be noted.
- (2) That the Committee approve the proposed actions.

**(b) STAR Audit Report (ii) - Contract Register**

The Committee received a report of the STAR Board summarising the outcome of the audit review of the STAR Contracts Register. The report provided an update on the actions taken to date, as well as further recommended activities.

RESOLVED:

- (1) That the report be noted.
- (2) That the Committee approve the proposed actions.

**(c) Ethical Procurement**

The Committee received a verbal update of the Director of Procurement (STAR Shared Procurement) regarding a new forum headed by Manchester City Council aiming to bring AGMA authorities together to discuss ethical procurement.



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**19 January 2016**

The Committee was advised that ethical procurement differed to the 'Social Value' aspect of the balanced scorecard, and STAR did not currently have an ethical procurement policy. Members agreed on the benefits of sharing good practice, but questioned whether the attendance of a full Committee Member was required at these meetings. It was agreed that the Director of Procurement (STAR Shared Procurement) would attend as the Committee's representative and report back accordingly.

RESOLVED:

- (1) That the verbal update be noted.
- (2) That the Director of Procurement (STAR Shared Procurement) be named as the STAR Joint Committee representative on the new ethical procurement forum.

**(d) New Business Partners**

The Committee received a verbal update of the Director of Procurement (STAR Shared Procurement) on STAR's new business partners. STAR had just secured its first tender with confirmed contracts to supply the Business Growth Hub at an expected value of £150,000. It was hoped this success could be used as a catalyst for securing future contracts.

RESOLVED: That the verbal update be noted.

**(e) iNetwork Awards**

The Committee received a verbal update of the Director of Procurement (STAR Shared Procurement) on STAR's recent success at the iNetwork awards. STAR successfully claimed the award for Connecting Procurement in Greater Manchester. The Director of Procurement (STAR Shared Procurement) thanked the STAR Board and the Committee for their continued support which enabled this success.

Members were advised that STAR was in contention for another national award, with confirmation of nominations as finalists expected by the end of January 2016.

RESOLVED: That the verbal update be noted.

**24. BALANCED SCORECARD**

**(a) Quarter 3 Performance**

The Committee received a verbal update of the Director of Procurement (STAR Shared Procurement) on STAR's quarter 3 performance against the key performance indicators of the balanced scorecard.

RESOLVED: That the verbal update be noted.

**Stockport, Trafford and Rochdale (STAR) Joint Committee**  
**19 January 2016**

**(b) Proposed 2016/17 Scorecard**

The Committee received a report of the STAR Board providing a revised Balanced Scorecard for review, as well as providing the rationale behind the proposed changes.

A 5 per cent increase in Social Value weighting (from 15% to 20%) and a relative 5 per cent reduction in Performance / Customer Satisfaction (from 15% to 10%) was proposed. With the intention of separating strategic and operational measures, the report recommended the downgrading of some Key Performance Indicators (KPIs) to Performance Indicators (PIs). KPIs would continue to be reported to the Joint Committee on a quarterly basis, whereas the PIs would be reported monthly to the STAR Board.

Members discussed the proposed revisions and the rationale behind these. It was agreed that even though S3 and S4 (of appendix 1) were to be downgraded to PIs, these would be reported to the Joint Committee periodically.

RESOLVED: That the proposed changes to the Balanced Scorecard for 2016/17 be agreed.

**25. MEETING DATES TO BE AGREED**

The Joint Committee discussed future meeting arrangements. Going forward, it was agreed that meetings would start at the earlier time of 2:00pm. It was also agreed that the next meeting would be postponed until the end of May 2016 to allow for the election period. The Director of Procurement (STAR Shared Procurement) advised dates for future meetings would be agreed with the appropriate Executive Assistants from each authority and circulated to Members.

RESOLVED:

- (1) That meetings of the STAR Joint Committee be held at the earlier time of 2:00pm going forward.
- (2) That the next meeting of the STAR Joint Committee be held after the 2016 local elections in May.
- (3) That the dates of future meetings be arranged and circulated to Members.

**26. EXCLUSION RESOLUTION**

RESOLVED: That the public be excluded from this meeting during consideration of the remaining item of business because of the likelihood of disclosure of "exempt information" which falls within Paragraph 4 of schedule 12A of the Local Government Act 1972, as amended.

**27. NEW PARTNERS AND STAR CONSTITUTION**

The Committee received a report of the Director of Procurement (STAR Shared Procurement) providing a summary of the legal advice on the governance issues

**Stockport, Trafford and Rochdale (STAR) Joint Committee**  
**19 January 2016**

for integration with outside organisations. The STAR Board wished to discuss with, and ascertain the views of, Joint Committee Members in respect of the potential implications for the STAR governance arrangements of bringing in new partners.

The Head of Legal (Trafford) advised the Committee of the options available for incorporating new partners, including formal and informal arrangements.

Members discussed the potential implications of incorporating new partners (including potential costs and benefits both to existing STAR authorities and any new partners), in the context of the desire to grow the STAR brand whilst continuing to deliver benefits for the founding members. It was agreed that the Director of Procurement (STAR Shared Procurement) would provide a progress update to the Committee at a future meeting.

RESOLVED: That the report be noted and that the Director of Procurement (STAR Shared Procurement) would provide a progress update to the Committee at a future meeting.

**28. MARKET MANAGEMENT**

The Committee received a verbal update of the Director of Procurement (STAR Shared Procurement) on market management and how changes in Government policy could affect STAR and its partners.

RESOLVED: That the report be noted.

**29. ACKNOWLEDGEMENTS**

The Committee was informed that this would be Ian Duncan's (Director of Finance – Trafford) and Steve Houston's (Director of Corporate and Support Services – Stockport) final STAR Joint Committee meeting. Members thanked both for their services and commitment to the work of STAR Procurement, acknowledging that they had been instrumental to its creation and success to date.

The meeting commenced at 5.30 pm and finished at 7.10 pm

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## TRAFFORD COUNCIL

**Report to:** STAR Procurement Joint Committee  
**Date:** 20<sup>th</sup> July 2016  
**Report for:** Information  
**Report author:** Sharon Robson, Director of STAR & Peter Carr, Finance Manager

### STAR Revenue Budget Monitoring Report – 2015/16 Outturn

#### 1 Summary Outturn

- 1.1 The approved expenditure revenue budget for the year is £1,276k. An additional £54k was transferred from Reserve in July 2015 making the revised budget £1,330k.
- 1.2 The 2015/16 outturn (April 15 to March 16) is £1,281k, which is an underspend of £(49)k compared to the revised budget. This will be transferred back into the Reserve to support procurement related activity in 2016/17.
- 1.3 The £54k from Reserves has been utilised as requested in July 2015 but there has been a number of other subsequent underspends and additional income leading to the overall £(49)k favourable variance as detailed below and in Appendix 1.

#### 2 Summary of Variances for the Year

- 2.1 The main items contributing to the £(49)k underspend are as follows:
  - **Staffing £5k adverse;** there is £5k relating to interim staff costs covering vacancies, absences, agency staff, staff training and advertising of staff posts.
  - **Running costs, £(40)k favourable;** this includes a reduction in subscription costs for The Chest following a recent procurement exercise, and further small underspends across premises, transport, catering and other expenditure areas.
  - **External Income, £(14)k favourable;** funding streams are above expectations following a number of successful bids for chargeable third party work.
  - **Earmarked reserve £49k;** the overall underspend for the year has been carried forward to 2016/17 through the earmarked reserve.

	Original Full Year Budget £000's	Revised Full Year Budget £000's	2015/16 Total Outturn £000's	Over / (Under) Spend for Year £000's
Employees	1,038	1,054	1,042	(12)
Agency	0	33	44	11
Training	40	40	48	8
Staff Advertising	5	5	3	(2)
<b>TOTAL EMPLOYEE COSTS</b>	<b>1,083</b>	<b>1,132</b>	<b>1,137</b>	<b>5</b>
Premises	2	2	0	(2)
Transport	20	20	15	(5)
Equipment	1	1	0	(1)
Catering	3	3	0	(3)
Office Equipment	4	4	1	(3)
Consultants/Training Fees	10	10	11	1
ICT Costs including telephones	22	22	19	(3)
Subscriptions	24	24	1	(23)
Conference Expenses - Officers	2	2	1	(1)
<b>RUNNING COSTS</b>	<b>88</b>	<b>88</b>	<b>48</b>	<b>(40)</b>
<b>SUPPORT SERVICES COSTS</b>	<b>105</b>	<b>110</b>	<b>110</b>	<b>0</b>
<b>TOTAL EXPENDITURE</b>	<b>1,276</b>	<b>1,330</b>	<b>1,295</b>	<b>(35)</b>
External Income	0	0	(14)	(14)
<b>TOTAL INCOME</b>	<b>0</b>	<b>0</b>	<b>(14)</b>	<b>(14)</b>
<b>NET EXPENDITURE</b>	<b>1,276</b>	<b>1,330</b>	<b>1,281</b>	<b>(49)</b>

<b>STaR Reserve 2015/16</b>	
Balance 1st April 2015	136
Forecast Additional Spend 2015/16	(54)
Outturn Underspend 2015/16	49
<b>Balance 31st March 2016</b>	<b>131</b>

## TRAFFORD COUNCIL

**Report to:** STAR Procurement Joint Committee  
**Date:** 20<sup>th</sup> July 2016  
**Report for:** Information  
**Report author:** Sharon Robson, Director of Procurement & Peter Carr,  
Finance Manager

### STAR Revenue Budget Monitoring Report – Period 1 - 2 2016/17

#### **1 Outturn**

- 1.1 The approved net expenditure revenue budget for the year is £1,304k and the forecasted outturn at Period 2 (April to May 2016) is £1,304k, i.e. spend is currently forecast to be as budgeted for the year.
- 1.2 The budget has been realigned to reflect the revised staffing establishment planned for the year. The staffing budget has increased by £6k, with the transport budget reduced by the same amount to keep the overall budget the same as approved in February 2016.
- 1.3 The STAR earmarked reserve has a balance of £131k carried forward from previous year which be utilised to support future procurement related activity. There are currently no commitments against this reserve.

#### **2 Summary of Variances for the Year**

- 2.1 There are no forecasted variances to report at this early stage of the financial year. A summary of the budget, spend to date and forecasted spend is detailed Appendix 1.

**STaR Procurement Service Budget Monitoring**  
**April 2016 - May 2016 Period 1-2**

**Appendix 1**

	Original Full Year Budget £000's	Revised Full Year Budget £000's	Total Months 1 to 2 £000's	Projection Months 3 to 12 £000's	2016/17 Forecasted Outturn £000's	Over / (Under) Spend for Year £000's
Employees	1,122	1,128	171	957	1,128	0
Agency	0	0	0	0	0	0
Training	21	21	0	21	21	0
Staff Advertising	5	5	0	5	5	0
<b>TOTAL EMPLOYEE COSTS</b>	<b>1,148</b>	<b>1,154</b>	<b>171</b>	<b>983</b>	<b>1,154</b>	<b>0</b>
Premises	2	2	0	2	2	0
Transport	18	12	2	10	12	0
Equipment	1	1	0	1	1	0
Catering	4	4	0	4	4	0
Office Equipment	3	3	1	2	3	0
Consultants/Training Fees	10	10	0	10	10	0
ICT Costs including telephones	17	17	1	16	17	0
Subscriptions	14	14	1	13	14	0
Other	2	2	1	1	2	0
<b>RUNNING COSTS</b>	<b>71</b>	<b>65</b>	<b>6</b>	<b>59</b>	<b>65</b>	<b>0</b>
<b>SUPPORT SERVICES COSTS</b>	<b>105</b>	<b>105</b>	<b>0</b>	<b>105</b>	<b>105</b>	<b>0</b>
<b>TOTAL EXPENDITURE</b>	<b>1,324</b>	<b>1,324</b>	<b>177</b>	<b>1,147</b>	<b>1,324</b>	<b>0</b>
External Income	(20)	(20)	(20)	0	(20)	0
<b>TOTAL INCOME</b>	<b>(20)</b>	<b>(20)</b>	<b>(20)</b>	<b>0</b>	<b>(20)</b>	<b>0</b>
<b>NET EXPENDITURE</b>	<b>1,304</b>	<b>1,304</b>	<b>157</b>	<b>1,147</b>	<b>1,304</b>	<b>0</b>

<b>STaR Reserve 2016/17</b>	
Balance 1st April 2016	131
Forecast Additional Spend 2016/17	0
<b>Balance 31st March 2016</b>	<b>131</b>



**Report to:** STAR Joint Committee  
**Date:** 20<sup>th</sup> July 2016  
**Report for:** Review and Discussion  
**Report of:** Business Improvement Manager

**Report Title**

**HR Statistics – Quarter 4 2015/2016**

**Purpose**

The purpose of this report is to:

- Advise Joint Committee Members on the HR statistics for STAR Procurement staff for the financial year April 2015 to March 2016 inclusive

**Recommendations**

- STAR Procurement Joint Committee notes the content and of the statistical information provided

**Contact person for access to background papers and further information:**

Name: Mark Pearson Phone 07875 635562

**Background**

Financial Impact:	None
Legal Impact:	None
Human Resources Impact:	Subject matter of the report comprises the cumulative quarterly statistical information relating to HR matters within STAR Procurement
Asset Management Impact:	None
E-Government Impact:	None
Risk Management Impact:	None
Health and Safety Impact:	None

## **Consultation**

No public consultation required

## **Reasons for Recommendation(s)**

The HR Statistics update is issued for information and the Joint Committee is asked to note its contents. The Joint Committee will be able to query any aspect of the report during the course of the Joint Committee Meeting

### **1. Summary**

- 1.1 TMBC HR Service has provided its final quarterly report of 2015-16 on the STAR Procurement team's HR performance
- 1.2 Key movement between the information provided in Appendix 1 to this report and the previous Q1-3 statistics are:
  - 1.2.1 One member of staff has left STAR Procurement
  - 1.2.2 Average FTE days lost has increased from 10.66 to 11.19 days
  - 1.2.3 Average long term sickness has decreased in the period from 9.45 days to 9.27 days
- 1.3 The sickness absence statistics have been skewed by two individual employees, accounting for 258 of the 291 (89%) days lost in the period 1st April 2015 to 31 March 2016. This has been discussed in previous reports to the Joint Committee. In accordance with our previous comments, the average long term absence has reduced slightly in Q4
- 1.4 Short term sickness absence has increased slightly in Q4 from 1.21 to 1.92.
- 1.5 STAR Senior Management Team will continue to focus on reducing sickness absence levels by following Trafford absence policy and raising the issue through various team meetings.

### **2. Recommendations**

- 2.1 It is recommended that STAR Procurement Joint Committee notes the content of the information provided

## Appendix 1: HR Statistics 2015-16 Q1 to Q4

### Part 1 – Leavers and New Starters

Starters/Leavers FTE & Headcount by Department (01/04/2015 – 31/03/2016)				
	Starters		Leavers	
	Headcount	FTE	Headcount	FTE
STaR	9	9	8	8

### Part 2 – Sickness Absence by Reason

Short Term/Long Term & Absence by Reason			
Reason	Days Lost (headcount)	Short Term (headcount)	Long Term (headcount)
Anxiety/Stress/Depression/Other Psychiatric Illness	107 (1)	0 (0)	107 (1)
Cold, Cough, Flu Influenza	20 (5)	20 (5)	0 (0)
Ear, Nose, Throat	2 (1)	2 (1)	0 (0)
Gastrointestinal Problems (Abdominal Pain, Gastroenteritis, <u>Vomiting, Diarrhoea</u> )	59 (8)	17 (8)	42 (1)
Other Musculoskeletal Problems (Exclude Back Problems)	92 (1)	0 (0)	92 (1)
Other Known Causes - Not Elsewhere Classified, E.g. Malaise, Poorly	5 (2)	5 (2)	0 (0)
Third Party Accident	6 (1)	6 (1)	0 (0)

### Part 3 – Sickness Absence Summary

Absence				
Days Lost/Trigger by Directorate 01/04/2015 – 31/03/2016				
	Average FTE Days Lost	Total FTE Days Sick	Short Term Average	Long Term Average
STaR	11.19	291	1.92	9.27

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**Report to:** STAR Joint Committee  
**Date:** 20<sup>th</sup> July 2016  
**Report for:** Review and Discussion  
**Report of:** Business Improvement Manager

**Report Title**

**HR Statistics – 2016/17 Quarter 1**

**Purpose**

The purpose of this report is to:

- Advise Joint Committee Members on the HR statistics for STAR Procurement staff for Q1 of the financial year April 2016 to March 2017

**Recommendations**

- STAR Procurement Joint Committee notes the content of the statistical information provided

**Contact person for access to background papers and further information:**

Name: Mark Pearson Phone 07875 635562

**Background**

Financial Impact:	None
Legal Impact:	None
Human Resources Impact:	Subject matter of the report comprises cumulative quarterly statistical information relating to HR matters within STAR Procurement
Asset Management Impact:	None
E-Government Impact:	None
Risk Management Impact:	None
Health and Safety Impact:	None

## **Consultation**

No public consultation required

## **Reasons for Recommendation(s)**

The HR Statistics update is issued for information and the Joint Committee is asked to note its contents

### **1. Summary**

- 1.1 TMBC HR Service has provided its first quarterly report of 2016-17 on the STAR Procurement team's HR performance
- 1.2 Key movement between the information provided in Appendix 1 to this report and the previous 2015-16 Q4 statistics are:
  - 1.2.1 One member of staff has left STAR Procurement
  - 1.2.2 Three members of staff have joined STAR Procurement
  - 1.2.3 Average FTE days lost is 1.64 days
  - 1.2.4 Average long term sickness is 1.11 days
- 1.3 The long term sickness absence statistics for Q1 comprise one individual absence due to a fractured limb and the reduction in mobility resulting from the injury. This was mitigated by the member of staff working from home when appropriate
- 1.4 It is noted that a member of staff has recently commenced treatment for cancer and whilst this is not reflected in absence figures to date this will have a negative impact on the long term sickness data in future reports

### **2. Recommendations**

- 2.1 It is recommended that STAR Procurement Joint Committee notes the content of the statistical information provided

## Appendix 1: HR Statistics 2016-17 Q1

### Part 1 – Leavers and New Starters

Starters/Leavers FTE & Headcount by Department (01/04/2016 –30/06/2016)				
	Starters		Leavers	
	Headcount	FTE	Headcount	FTE
STaR	3	2.8	1	1

### Part 2 – Sickness Absence by Reason

Short Term/Long Term & Absence by Reason			
Reason	Days Lost (headcount)	Short Term (headcount)	Long Term (headcount)
Cold, Cough, Flu Influenza	10 (2)	10 (2)	0 (0)
Gastrointestinal Problems (Abdominal Pain, Gastroenteritis, Vomiting, Diarrhoea)	3 (1)	3 (1)	0 (0)
Injury, Fracture	31 (1)	0 (0)	31 (1)
Other Known Causes – Not Elsewhere Classified, E.g. Malaise, Poorly	1 (1)	1 (1)	0 (0)
Skin Disorders	1 (1)	1 (1)	0 (0)

### Part 3 – Sickness Absence Summary

Absence				
Days Lost/Trigger by Directorate 01/04/2016 – 30/06/2016				
	Average FTE Days Lost	Total FTE Days Sick	Short Term Average	Long Term Average
STaR	1.64	46	0.54	1.11

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**Report to:** STAR Joint Committee  
**Date:** 20<sup>th</sup> July 2016  
**Report for:** Review and Discussion  
**Report of:** Business Improvement Manager

**Report Title**

**STAR Risk Register – Q1**

**Purpose**

The purpose of this report is to:

- Provide an update on the organisational Risk Register for STAR Procurement
- Advise Joint Committee members of movement in risk items
- Advise Joint Committee members of any new risk items added to the register

**Recommendations**

- Joint Committee notes the content of the Risk Register provided

**Contact person for access to background papers and further information:**

Name: Mark Pearson Phone 07875 635562

**Background**

Financial Impact:	None
Legal Impact:	None
Human Resources Impact:	None
Asset Management Impact:	None
E-Government Impact:	None
Risk Management Impact:	Subject matter of the report comprises the quarterly risk management status for STAR Procurement
Health and Safety Impact:	None

## **Consultation**

No public consultation required

## **Reasons for Recommendation(s)**

The risk register is issued for information and the Joint Committee is asked to note its contents.

### **1. Summary**

1.1 In the period, one new risk has been added and one risk has been downgraded

1.2 The new risk is:

1.2.1 P011 – Information Governance. This new risk centres on the management of data held by STAR Procurement and use of that data in providing responses to Freedom of Information Requests that each Council receives on a regular basis. The risk is one of releasing inappropriate information and is considered to be a low scoring risk. STAR maintains strong links with each Council's Information Governance Team, receives support from STAR Legal in respect of FOI/IG case law and has a review mechanism in place for all FOIR responses prior to issue by the relevant Council. The Director of Procurement and relevant STAR Board member provide final oversight of responses before they are sent.

1.3 The downgraded risk is:

1.3.1 Risk item S047 – The Chest (Procurement Portal) performance issues. The STAR Board has noted an improved position with the resolution of issues and the continued work of the AGMA Procurement Hub in conjunction with Proactis, owners of Due North (the platform provider). STAR Procurement is represented on the Chest User Groups and participates in all training sessions provided by Proactis

### **2. Recommendations**

2.1 It is recommended that the STAR Procurement Joint Committee notes the content of the Risk Register provided

## Appendix 1: STAR Risk Register



Risk Register

Revision: 09

Issue Date: 20 July 2016

Document Owner: Mark Pearson, Business Improvement Manager

Summary				Risk Description & Impact			Preventative Actions		
ID	Date Raised	Status	Type	Description of risk / impact	Prob (1-3)	Impact (1-3)	Score (P x I)	Mitigating actions / Countermeasures	Risk Owner
F005	17 Sep 14	On going	Finance	Not able to balance cost savings against "local agenda" aspirations	3	2	6	Market engagement with local and sub-regional suppliers has increased, to connect with companies capable of providing services to the STAR Authorities from within the localities. STAR continues to give training to Commissioners in respect of Social Value and the GMCA Social Value policy. STAR Authorities need to consider what specific Social Value requirements they require in their localities, to inform both STAR Procurement and individual Commissioners for the pre-procurement process	DoP / STAR Team
P009	17 Sep 14	On going	Finance	Do not identify and deliver enough savings opportunities	2	3	6	STAR Procurement allocates savings under three headings - Contract Renewal Savings; Targeted Budget Reduction; and New Savings Opportunities. STAR has agreed with each Authority, the savings target for 2016-17	HoSPs / CMs
P003	17 Sep 14	On going	Process & Resources	STAR Procurement Contract Register does not include all contracting activity	3	2	6	STAR is working with Stockport Council to identify processes for increasing accuracy of the Contracts Register and will roll-out best practice identified, across Trafford Council and Rochdale Council. Category Managers are engaging with Commissioners and also analysing spend data provided by Finance Managers to identify all contracting activity	HoSPs / CMs
P008	30 Sep 15	On going	Process & Resources	Ability to recruit and retain suitably qualified staff at all levels	2	3	6	STAR Procurement has developed a 'Grow Your Own' policy to enable officers within the organisation to progress from Trainee Procurement Officers (TPOs) to Procurement Officers to Category Managers and beyond. In house and external training course provision will ensure officers maintain CPD and assist in maintaining STAR Procurement's intention to be an employer of choice. STAR Procurement is recruiting a fourth TPO; each TPO will work across all parts of the Service in rotation. In addition, STAR Procurement has appointed to the vacant Head of Strategic Procurement position	DoP / HoSPs / BIM
P009	7 Jan 16	On going	Process & Resources	Changes in legislation impacting on both procurement and local authorities	2	3	6	Horizon scanning to plan policies and strategies in advance. Liaison with regional partners and stakeholders to ensure parity of approach and shared learning. Incorporation of best practice from UK Government and Local Government Association advice, policy notes, codes of practice and Regulations	DoP / HoSPs / BIM
F010	7 Jan 16	On going	Finance	STAR Procurement is not able to deliver against the income generation target	2	2	4	STAR Procurement has reviewed all Service Level Agreements (SLAs) in place with existing partner organisations and is introducing quarterly reporting to those partner organisations, demonstrating value derived. STAR Procurement is also discussing with other Authorities, the STAR 'offer' with the intention of widening participation in this shared service	DoP / HoSPs
C007	17 Sep 14	On going	Comms	STAR Procurement fails to consider the corporate priorities of each of the three STAR Authorities when carrying out procurement	1	3	3	STAR Procurement has captured the three Authorities' corporate priorities in its new Business Plan and these requirements will be embedded in the team's approach to procurement for each Authority. STAR Board to continue to advise any change in corporate priorities when identified by each Authority's Corporate Management Team, to ensure that STAR Procurement remains informed of any change in priorities	DoP / HoSPs / CMs
F008	17 Sep 14	On going	Finance	Not able to achieve targets	1	3	3	Monthly verification of savings between HoSPs and each Authority Finance Teams continue to provide savings certainty. Key Performance Indicators for 2016-17 and the Balanced Scorecard have been agreed with both STAR Board and Joint Committee. In addition, a series of Management Indicators for SMT and STAR Board have been developed	DoP / HoSPs / CMs
P007	30 Sep 15	On going	Process & Resources	Future partner integration impacts on STAR Procurement ability to deliver to existing Authorities	1	3	3	STAR Procurement has identified resourcing, governance and financial impacts of proposed new Partner organisation; HoSP (Professional) has separately identified risks and is managing a separate partner-specific risk register. Joint Committee retains ultimate decision-making powers in respect of any new partners	DoP / HoSPs / BIM
C010	7 Jan 16	On going	Comms	Reputational impact of not delivering promises; e.g. Availability of website, responsiveness and following processes	1	3	3	STAR Procurement launched its website in February 2016 and this acts as a central communications resource together with the STAR Twitter account and dissemination of information via the three Authorities intranets (the latter having been updated following launch of the website). The website contains information for Buyers within each Authority, held in a secure area, which is regularly updated. The new STAR Procurement Business Plan details the introduction of a Quality Management System for STAR Procurement	BIM / HoSPs

Summary				Risk Description & Impact			Preventative Actions		
ID	Date Raised	Status	Type	Description of risk / impact	Prob (1-3)	Impact (1-3)	Score (P x I)	Mitigating actions / Countermeasures	Risk Owner
S047	16 Mar 15	On going	Systems & Tools	Risk of performance issues arising from a change of procurement portal provided following AGMA re-procurement of The Chest portal in 2015	1	3	3	The Chest (NW England Procurement Portal) has been rolled-out across all participating Authorities. The AGMA Procurement Hub continues to work with Proactis, owners of Due North (the provider of the portal) to resolve user issues. STAR Procurement is working closely with the AGMA Procurement Hub to manage both expectations and quality of product	AGMA
S046	17 Sep 14	On going	Systems & Tools	ICT systems prohibit / constrain STAR Procurement from working across the three STAR Authorities	1	2	2	Access, via VPN, to both Rochdale and Stockport systems has now been arranged and the STAR Procurement team have the ability to access the intranets, printing, scanning and room booking systems of each Authority	BIM
P010	21 Apr 16	On going	Process & Resources	New data capture and reporting systems	1	2	2	HoSPs to ensure continuous review of statistics from new reporting to ensure that new systems are adopted, updated and provide the required reporting solutions	HoSPs
P011	20 Jun 16	New	Process & Resources	Release of inappropriate information from tenders to competitors which compromises both the originating tenderer and the Council's ability to ensure competitiveness in future tender exercises	1	2	2	Tender submissions are stored securely on the Councils' eProcurement Portal (The Chest) and are not accessible by tenderers. FOI requests for release of such information are reviewed by the Director of Procurement and the relevant Council's STAR Board Member (or authorised representative) prior to release of such information to the relevant Council's FOI team. In addition, STAR maintains strong links with the Information Governance Teams in each Council and, with the assistance of STAR Legal, continues to review case law governing this matter	BIM
C006	17 Sep 14	On going	Comms	Services/Commissioners across the three STAR Authorities do not engage fully with STAR Procurement, limiting ability to deliver against KPIs	1	2	2	HoSPs are refreshing the communications plan regarding senior stakeholders across the STAR Authorities; Category Managers continue to engage with Commissioners to ensure visibility of STAR Procurement at officer level within the STAR Authorities	HoSPs / CMs
C009	17 Sep 14	On going	Comms	Standardisation of documentation and processes across the three STAR Authorities and STAR Procurement	1	2	2	Business Improvement Manager is leading a new Standards Group comprising BI and Procurement Officers; this is reviewing all requirements for standardised documentation and processes. STAR Legal has provided new legal documentation, including aligned terms and conditions for use across all three Authorities. STAR continues to liaise with Client leads from all three Authorities to determine further priorities and timescales for implementation	BIM

KEY:

- = New Risk Added
- = Downgraded Risk
- = Upgraded Risk
- Text = Risk to be removed

- DoP** = Director of Procurement
- HoSPs** = Heads of Strategic Procurement (People, Place, Professional)
- CMs** = Category Managers
- BIM** = Business Improvement Manager
- AGMA** = AGMA Procurement Hub



**Report to:** STAR Joint Committee  
**Date:** 20<sup>th</sup> July 2016  
**Report for:** Decision  
**Report of:** Head of Strategic Procurement

**Report Title**

**STAR Business Plan 2016/17**

**Summary**

The purpose of this report is to:

- Provide a summary of the process that has been followed to develop the STAR Business Plan for 2016/17
- Provide a summary of the vision and objectives

**Recommendations**

The recommendation of this report is that the Joint Committee:

- Approve the final version of the STAR Business Plan for 2016/17 to be posted on the STAR website and circulated to stakeholders

**Contact person for access to background papers and further information:**

Name: Nichola Cooke  
 Phone: 07711 454555

**Background**

Financial Impact:	None
Legal Impact:	None
Human Resources Impact:	None
Asset Management Impact:	None
E-Government Impact:	None

Risk Management Impact:	None
Health and Safety Impact:	None

## **Consultation**

No public consultation required

## **Reasons for Recommendation(s)**

The STAR Business Plan 2016/17 sets out the strategic direction and priorities for procurement for the participating partners of STAR. It is recommended that the Business Plan is approved and that STAR promote this via the STAR website and through our stakeholders

### **1. Introduction**

- 1.1 The STAR Business Plan 2016/17 sets out the strategic direction and priorities for procurement for the participating partners of STAR. This is the first Business Plan for STAR Procurement and is an indication of how we are now establishing ourselves as a proactive service that is planning for the future. It has been developed in conjunction with all STAR staff the Board and Joint Committee.
- 1.2 The Business Plan will help STAR Procurement build on the positive work we have done to date and set out what we plan to achieve over the coming year. This is a positive message to present to both internal and external stakeholders. The Business Plan also aims to help stakeholders understand the vision and objectives for STAR, our priorities and how we intend to address them in practice.
- 1.3 The Business Plan states that the last two years have been challenging but ultimately successful for STAR. The Business Plan will help us to continue to develop, improve and strive towards our vision. As such, for 2016/17 the key themes for STAR will be "proactivity" and "value for money", and these themes runs through all our objectives for the year ahead.
- 1.4 The associated action plan is an ambitious plan as to how we are going to deliver the vision and objectives. The action plan will be used by STAR Management Team to monitor progress, maintain momentum and focus so that we are able to achieve the best possible results for STAR, Partner

Councils, Clients and the boroughs which we serve. Given the detailed nature of the action plan will be available to internal stakeholders only.

## **2. Business Plan Development**

- 2.1 The process of developing this business plan has been interesting and thought provoking as we worked through where are we now?, where do we what to be? and fundamentally, what do we need to do to get there? Reflection and learning in terms of what has worked well and what has not, has further informed our thinking.
- 2.2 The process was initiated with high level discussions with the Board in November 2015 regarding the purpose of the Business Plan and overall timescales for development. As well as input from the Board, Customer Satisfaction and Staff Survey results were used to inform decision making. Key themes / objectives were developed by the Director of Procurement and the Senior Management Team in January 2016. These ideas were shared with all members of the STAR Team via workshop sessions. The workshops were interesting and interactive, and worked as team development sessions as well as business planning.
- 2.3 The outputs from these sessions, along with feedback from the Board were used to develop a final draft Business Plan and Action Plan which was subject to staff consultation in April 2016. The results of this feedback have been used to inform the final version. The plan now very much reflects the thoughts, ideas and input of the Board and the full STAR team. The process of developing this Business Plan has encouraged and enabled all team members to become more actively involved in determining the future for STAR Procurement.

## **3. Vision & Objectives**

- 3.1 The STAR Business Plan includes a vision for the future, the values of STAR and the objectives for the coming year. This is supported by a detailed action plan.
- 3.2 The **STAR vision** is articulated below:  
"STAR will be a recognised centre of excellence for collaborative procurement providing a professional, proactive service which delivers demonstrable value for customers".

3.3 The **STAR Values** are:

- ★ Commercial and commitment to value for money
- ★ Customer focussed
- ★ Collaborative
- ★ Being innovative and solutions focussed

3.4 Business Plan will help us to continue to develop, improve and strive towards our vision. As such, for 2016/17 the key theme for STAR will be proactivity and value for money, and this theme runs through all our objectives for the year ahead. The proposed **STAR objectives for 16/17** are:

- ★ Deliver the Procurement Strategy in practice
- ★ Proactive Procurement Delivery
- ★ Team Development to improve competency and productivity
- ★ Improved Communications
- ★ Implement robust quality management system
- ★ Secure New Partners

3.5 An Action Plan has been created which lists actions required, an associated implementation plan, key milestones and a lead identified. The action plan will be reviewed on a quarterly basis to ensure that momentum is maintained and to ensure it remains relevant and appropriate.

3.6 Once approved the Business Plan will be published on the STAR website and promoted to key stakeholders, both internally and externally. It will be used as part of the STAR promotional material and will help to provide evidence of the successes to date and the ambitious plans for the future. Given the detailed nature of the action plan it will be available to internal stakeholders only.

#### **4. Recommendations**

4.1 It is recommended that:

- 4.1.1 Approve the final version of the STAR Business Plan for 2016/17 to be posted on the website and circulated to stakeholders

#### **Report Appendices**

1. STAR Business Plan 2016/17



STAR Business Plan -  
Final Draft for JCM.px





P R O C U R E M E N T

**Report to:** STAR Joint Committee  
**Date:** 20<sup>th</sup> July 2016  
**Report for:** Discussion and Decision  
**Report of:** Director of Procurement

**Report Title**

**Revision to the harmonised Contract Procedure Rules (CPRs) for each STAR Council**

**Summary**

The purpose of this report is to set out proposed amendments to the harmonised CPRs currently adopted into each Council Constitution and the request agreement to these revisions

**Recommendations**

The recommendation of this report is that the Joint Committee approves the revised CPRs provided at Appendix 2 and recommends that the revised CPRs are incorporated into the relevant Constitution of each Council

**Contact person for access to background papers and further information:**

Name: Sharon Robson  
Phone: 07817 882169

## **Background**

Financial Impact:	None
Legal Impact:	Amendments to the Contract Procedure Rules will need to be formally adopted by each Council in accordance with its procedures for amendment of its Constitution
Human Resources Impact:	None
Asset Management Impact:	None
E-Government Impact:	None
Risk Management Impact:	None
Health and Safety Impact:	None

## **Consultation**

No public consultation required

## **Reasons for Recommendation(s)**

### **1. Background**

- 1.1 The harmonised CPRs were adopted into the Constitution of each Council in 2015 and the Joint Committee requested a review of the CPRs in 2016. The project to adopt harmonised rules was a substantial and significant piece of work completed by the CPR working group which consisted of Legal and Finance Offices from each of the three Councils. .
- 1.2 Response to the CPRs as adopted in 2015 has been overwhelmingly positive and reflects the rigour with which the initial review was undertaken. It was always planned to have an overview after the initial year of operation. STAR Procurement has canvassed opinion from key users and has collated feedback from customer surveys to inform the proposed revisions.
- 1.3 STAR Legal, in conjunction with STAR Procurement, has reviewed all suggested amendments and condensed these into a series of proposals that are provided in Appendix 1 and has then made the required amendment to the text of the CPRS and this amended text with tracked changes is provided in Appendix 2
- 1.4 In some instances we have proposed that the CPRs are amended, in others and in order to ensure that the CPRs are "future proof" we propose to add

further guidance to the Procurement Handbook. We have also amended the Procurement Policy referenced in the original document to the Procurement Handbook where all supporting information is contained for users.

- 1.5 The Joint Committee is empowered to consider the CPRs under which the participating Councils will operate. Subject to agreement by the Joint Committee, each Council will separately consider the proposed amendments and decide whether to alter its Constitution to incorporate the revised Rules. Until each Council has adopted the revised Rules, STAR will operate on the existing harmonised rules (Appendix 1 lists the proposed changes via tracked changes).

## **2. Key Proposed CPR Amendments**

- 2.1 **Authority to procure.** This amendment will reinforce the requirement for officers to ensure that they have the authority to procure from the outset, as the procurement process commences with submission of a Procurement Initiation Document (PID) and STAR Procurement acts on this PID
- 2.2 **Framework Agreements.** The CPRs are unclear as to whether an exemption report is required when calling off goods services or works from a framework contract. The original intention was that call off from a properly procured framework would fall within the Rules and therefore not require the completion of an exemption form. The proposed amendment removes the ambiguity.
- 2.3 The PID will confirm that the requisite authority to undertake the procurement exercise, and authority is provided to enter into the resultant Framework Agreement.
- 2.4 **Exemptions.** Exemptions are currently dealt with in two sections of CPRs. Section 5 which sets out "Contracts which do not require full competition" and section 10 "Exemptions and Modifications". There was a clear rationale for setting out the document in this way however feedback from users is that it is confusing and time consuming to have to review both rules and they would find it easier to navigate the rules if all clauses relating to Exemptions were included in the Exemptions and Modification section of the document.
- 2.5 **Procurement Values.** Users felt that additional guidance regarding the manner in which the overall procurement value shall be calculated would be useful. This should ensure that there are no potential issues such as

disaggregation of spend to avoid certain tender processes and incorrect use of the sub-£5,000 / one quote process. The amendment reinforces the procedure for calculating total estimated contract value to ensure the correct procurement procedures are then followed.

- 2.6 **Procurement Thresholds.** When setting the procurement thresholds for open tender it was agreed by the STAR Board and Joint Committee that CPRs represented the minimum requirement (i.e. selected number of bidders) however, where ever possible the intention is to encourage officers to move to full open competition. Splitting the value thresholds into spend bands allows for reference to the Procurement Handbook which will have guidance / information promoting the use of open competition where possible. Similarly allows for guidance regarding the procurement procedure which should be used.
- 2.7 **Procurement Initiation Document.** It has been determined that a single PID document is required for all procurement activities, removing the need to differentiate between a PID for a Request for Quotation and a PID for a full Tender process
- 2.8 **Modifications.** Further updating has been provided to reflect the Public Contracts Regulations in respect of modifications of existing contracts and the amendment will ensure parity between the CPRs and the Regulations. Additionally, the amendments will ensure that contracts with inbuilt extension periods will not simply be extended without due regard for best value
- 2.9 **Dynamic Purchasing Systems and Concession Contracts.** Proposed update to include specific guidance for use of DPS and introduces rules for Concession Contracts following introduction of specific Regulations arising from a new separate EU Directive on Concession Contracts
- 2.10 **STAR Brand.** CPRs currently reference the previous "STaR" brand and have been updated with the new brand accordingly.

### 3. Next Steps

- 3.1 Pending agreement and adoption of the proposed revisions (and any amendment thereto), the proposed amendment will need to be incorporated into The Constitution of each Council.
- 3.2 STAR Procurement will undertake a programme of updating the Procurement Handbook to provide guidance as necessary.

#### **4. Recommendations**

- 4.1 It is recommended that the Joint Committee approves the revised CPRs provided at Appendix 2 and recommends that the revised CPRs are incorporated into the relevant Constitution of each Council

#### **Report Appendices**

1. Proposed amendments
2. Proposed wording of revision to the Contract Procedure Rules

## Appendix 1: Proposed amendments

PROPOSED AMENDMENT	RATIONALE	ACTION	PROPOSED AMENDMENT	CPRs OR HANDBOOK
Rule 3.2.2 Responsibilities	Additional wording around agents and consultants, etc.		Rule 3.2.2	CPRs
New Rule 5  With regards to tracing the origins of authority to begin procurement. Under the current CPRs it states that procurement activity can begin once the PID has been initiated so is at this point that confirmation is required that the correct authority to commence procurement has been received	Rule 5.1.1 Authority to procure  As drafted, deals with the delegated authority of officers under the scheme of delegation – which allows the officers to instruct STAR or undertake the procurement exercise	Additional provision which indicates that STAR may request demonstration of authority / decision linked to the source of the authorisation	Rules 5.1 and 5.1.1	CPRs  CPRs
Remove the requirement for an exemption form to be completed for call-off from a framework agreement	Agreed by all parties	To be reviewed and Frameworks removed from exemption process	OLD Rules 5.1 & 5.1.1 deleted  New Rule 5.3.1 amended	CPRs  CPRs
Rule 6.5 Value  Table 1 after 6.5.4 Remove choice for band 5	Additional clarity around calculation of contract value  Users have requested further clarity around which option is chosen. Further, this allows for reference to the Procurement Handbook to encourage ASOs to move to fully open competitive procedure rather than the minimum requirement of a limited number of quotes set out by CPRs. Similarly provides for further guidance regarding the choice of procurement procedure.	Add in link to further guidance around choices of procedure	Intro inserted New Rules 5.5.1 & 5.5.2  TABLE 1 Additional Column added to Table 1 to allow for further clarification around choice of activities  New Rule 5.5.6 – Reference to Procurement Handbook	CPRs  CPRs  Handbook

PROPOSED AMENDMENT	RATIONALE	ACTION	PROPOSED AMENDMENT	CPRs OR HANDBOOK
Reference to PID Remove reference to separate "quote" and "tender" PIDs and just state "PID"	Agreed that the reference to a Tender PID and a Quote PID is not needed in Rule 5.1.1	Reference to separate documents be removed to leave one PID document	Removed	CPRs
Roles between Rule 7 and Rule 8 aren't clear	Agreed that the roles need to be more defined to add clarity	STAR Procurement to highlight roles and identify owner of tasks  STAR Legal to subsequently review and amend the rules	Minor amendment made to Rule 7.2.3	CPRs
Modifications New Rule 9.3.1	Definition of Modification  Modification grounds are update to reflect of all grounds determined by the Regulations  CPRs silent on Contracts with built-in extension provisions	Means any variation to a Contract, including an extension  Sections to be amended  Need to link to a trigger for review to avoid automatic extension	Amended to include FW/DPS  Regulations inserted verbatim – To be consistent with Modification document which is used. Additional guidance to be included in the Procurement Handbook  New Rule 9.3.6 added. Options appraisal to be included and linked to additional guidance to be included in the Procurement Handbook	CPRs  Handbook  Handbook

PROPOSED AMENDMENT	RATIONALE	ACTION	PROPOSED AMENDMENT	CPRs OR HANDBOOK
Exemptions: Old Rule 10 - New Rule 9	<p>Feedback from users that having Exemptions covered in Rules 5 and 10 is confusing</p> <p>Provided additional contract type where contracts do not apply i.e Qualifying Contracts between entities within the public sector and specify that guidance should be sought if in doubt</p>	<p>Propose re-position rule 5 to New Rule 9 so that users can reference the Exemptions section of CPRs in their entirety</p> <p>Propose insert detail</p>	<p>Old Rule 5 deleted and included at the List at New Rule 9.1.3</p> <p>New rule</p>	<p>CPRs</p> <p>CPRs</p>



<b>SUGGESTED ADDITIONAL PROVISIONS</b>				
DPS	Currently CPRs do not mention Dynamic Purchasing Systems	Incorporate in similar way to Framework Agreements (use and contract value)	Definition of DPS Added. Call Off Contract Definition amended. CPR Rule 6.3 amended  Guidance to be incorporated into the Procurement Handbook	CPRs  Handbook
Concession Contracts	To be referenced throughout CPRs		Definition of Concessions amended to link to further guidance in the Procurement Handbook	Handbook
Schools	CPRs don't address the application of the CPRs to Schools		Rule 1.5 Amended to include additional wording to clarify application of CPRs to Schools	CPRs
<b>OTHER AMENDMENTS</b>				
Number Referencing			Number referencing amended to reflect the removal of rules	CPRs
STaR Brand amended to revised STAR Brand				CPRs

## Appendix 2: Proposed wording of revision to the Contract Procedure Rules

### CPRs including local rules listed under Schedule One

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## 1. Introduction

- 1.1 Stockport Council, Trafford Council and Rochdale Council have agreed, through an Inter Authority Agreement (“IAA”) to facilitate the joint delivery of Procurement Functions with a view to the attainment of a more economical, efficient and effective discharge of its Procurement Functions via a shared procurement service to be identified as “[STaRSTAR](#)”. Each of the [STaRSTAR](#) members have agreed to establish and participate in a joint committee (the “Joint Committee”) and have agreed to delegate their Executive and Non-Executive functions relating to the operation of [STaRSTAR](#) to the Joint Committee. Other authorities may, from time to time, join the IAA.
- 1.2 These Rules are standing orders made pursuant to Section 135 of the Local Government Act 1972. Compliance with the Rules and observance of European and domestic law from which they emanate (in particular the principles relating to non-discrimination, equal treatment and transparency) is mandatory for all Officers and Members. The Rules ensure that procurement activity is undertaken in a legally compliant, transparent, fair and competitive manner.
- 1.3 Decisions relating to procurement are among the most important decisions that can be made by the Council its Members and Officers because the money involved is public money and the Council is concerned to ensure that high quality Goods, Services and the execution of Works are procured. Efficient use of resources in order to achieve Best Value is therefore an imperative.
- 1.4 These Rules shall apply to all procurement activity where the Council is to procure any Goods, Services or the execution of Works, or enters into a Concessions Contract as either a contracting authority or commissioner of such, regardless of the origin of funding (such as external grants, partnership funding, pooled or joint budgets for example).
- 1.5 For the avoidance of doubt, these Rules shall apply to Framework Agreements, [DPS and to any arrangement made by, or on behalf of the Council \(including Schools\) for the carrying out of Works or for the supply of Goods or Services.](#)
- 1.6 Where relevant, the Council shall have regard to the Public Services (Social Value) Act 2012 (“the Act”). This requires commissioners and procurers at the pre-procurement stage to consider how what is to be procured may improve social, environmental and economic well-being of the Council’s relevant area, how it might secure any such improvement and to consider the need to consult. The Council and Officers should refer to the Procurement [Handbook Policy](#) for further guidance.

Comment [DA1]: Deletion agreed

1.7 The Joint Committee shall monitor compliance with the Rules and undertake an annual review of the Rules. The Joint Committee may present recommendations for amendments to the Rules to the Council from time to time and any such amendments shall be subject to the Council's own ratification procedures. Any failure to comply with any of the provisions of these Rules must be reported immediately to the SRO for Legal. Failure by any Officer or Member to comply with the provisions of these Rules may lead to disciplinary action being taken against them.

1.8 These Rules must be read in conjunction with the Council's Constitution and in particular the Financial Procedure Rules/Regulations, ~~the Procurement Policy~~, [Procurement Handbook](#), any relevant guidance documents endorsed by the Council and the Council's local Rules as identified in section 1.9 below.

1.9 A number of local Rules can be found in the attached [Schedule 1](#) and which form part of these Rules.

#### Further Information

Further advice can be sought from [STaRSTAR](#):

General Enquiries - email: [procurement@starSTAR-procurement.gov.uk](mailto:procurement@starSTAR-procurement.gov.uk)

tel: 0161 9121616

Legal Enquiries - email: [starSTARlegal@trafford.gov.uk](mailto:starSTARlegal@trafford.gov.uk)

tel: 0161 9124229

## 2. Interpretations and Definitions

- 2.1 In the event of any conflict between EU law, English law and these Rules and Council Policy, the requirements of EU law shall prevail over English law and the requirements of English law shall prevail over these Rules and Council Policy.
- 2.2 Any reference to legislation, primary or secondary, shall include any amendments/replacements made from time to time.
- 2.3 All figures specified in these Rules are exclusive of VAT.
- 2.4 In the event of any doubt as to the interpretation of these Rules, or as to proper procedure to be followed, advice should be sought from [STaRSTAR](#) in the first instance.
- 2.5 In these Rules the words and phrases below have the following meanings:

“APO”	means Authorised Procurement Officer and is the relevant <a href="#">STaRSTAR</a> Officer who is responsible for the Goods, Services, execution of Works or Concessions Contract for which the Specification relates.
“ASO”	means Authorised Service Officer and is any Officer, within a directorate of the Council, who has delegated authority to undertake Procurement Functions.
“Best Value”	has the same meaning as that defined in the Local Government Act 1999 as amended from time to time.
“Bidder”	means any Economic Operator that submits a Quote.
“Call-off”	means an order made/call-off Contract entered into under a Framework Agreement <u>or</u> <a href="#">DPS</a> and are subject to the application of <a href="#">Rule 5.1</a> .
“CM”	means the Category Manager or similar role with equivalent experience and seniority within <a href="#">STaRSTAR</a>

“Concessions”

means the granting of a right (exclusive or otherwise) to an economic operator to exploit works or services provided for their own gain with or without payment. [Further guidance on Concession Contracts can be found in the Procurement Policy Handbook.](#)

“Contract”

means a legally binding agreement between the Council and the Contractor for the procurement by the Council of all Goods, Services, the execution of Works and which incorporates the terms and conditions under which the Goods, Services, execution of Works and Concessions will be provided.

“Contractor”

shall mean the Bidder or Tenderer who the Council enters into a Contract with following the submission of a Quote or Tender and who is appointed by the Council to provide the Goods, Services, execution of Works or Concessions Contract. They may also be referred to as ‘suppliers’, ‘providers’ or ‘service providers’ within certain Council departments.

“Contracts Finder”

means the web-based portal provided for the purposes of Part 4 of the Regulations by or on behalf of the Cabinet Office.

[“DPS”](#)

Means **Dynamic Purchasing System** which is an electronic system procured using the restricted procedure for the purchase of commonly used goods services or works which are generally available on the market and objectively defined to which all bidders who meet the requirements of the selection criteria must be admitted during the entire period of the validity of the system.



“Economic Operator”	means any natural or legal person or public entity or group of such persons and/or entities, including any temporary association of undertakings, which offers the execution of Works and/or a work, the supply of Goods or the provision of Services on the market
“EIR”	means the Environmental Information Regulations 2004
“Electronic Purchasing System”	means purchases made online or via a telephone system
“EU Procurement Directives”	means the Public Contracts Directive 2014/24/EU, the Concessions Directive 2014/23/EU and other relevant Directives in force from time to time
“Exemption”	means the release of the obligation to comply with these Rules
“Financial Procedure Rules/Regulations”	means the written code of procedures forming part of the Council’s constitution which provide a framework for proper financial management and which set out the rules on accounting, audit, administrative procedures and budgeting systems.
“FOIA”	means the Freedom of Information Act 2000
“Framework Agreement”	means an agreement between one or more authorities and one or more economic operators, the purpose of which is to establish the terms governing Call-off Contracts to be awarded during a given period, in particular with regard to price and, where appropriate, the quantity envisaged.
“Goods”	means an inherently useful tangible item required by the Council, from time to time.
“Invitation to Tender”	means an invitation issued by the Council to Tenderers to submit a Tender or a quote for the provision of Goods, Services, the execution of Works or a Concessions Contract in accordance with the Specification or request for those Goods, Services, execution of Works or Concessions Contract.

“Key Decision”	has the same meaning as set out in the Council’s constitution
“Modification”	means any variation to a Contract, <a href="#">DPS or Framework Agreement</a> , including an extension.
“Modification Form”	means the form supplied by <a href="#">STaRSTAR</a> for the purpose of recording the authorisation of a Modification.
“Officer”	means any employee of the Council which shall include any person engaged by the Council to act as an agent or consultant on its behalf
“OJEU”	means the Official Journal of the European Union
“PID”	means a Procurement Initiation Document providing details of the procurement activity and the authority to commence it as required in accordance with <a href="#">Rule 6.1</a> .
“Post Tender Report”	means a summary of the outcomes delivered by the procurement activity
“PQQ”	means “pre-procurement questionnaire” and is the document used by the Council to screen potential Tenderers in accordance with the Regulations.
“Procurement Functions”	means the Delegated Functions as defined by the IAA
<a href="#">“Procurement Handbook”</a>	<a href="#">means the document which STAR Procurement may issue after having obtained the consent of the SRO Legal of each authority from time to time to set out the procedure to achieve the Council’s procurement objectives</a>
“Procurement Policy”	means the document which the Council may issue from time to time to set out how it will achieve its procurement objectives
“Purchasing Cards”	means charge cards which work in a similar way to credit cards and can be used by and ASO to purchase Goods and/or Services.
“Quote”	means a formal offer submitted by a Bidder to supply Goods, Services, execute Works or operate a Concessions Contract at a defined price
“Regulations”	means the Public Contracts Regulations 2006 SI2006/5, as amended or replaced from time to time,

which implement the EU public procurement directives.

“Regulations Threshold”

means the financial threshold identified by the EU Procurement Directives, as amended from time to time, and where applicable, requires the procurement activity to be subject to the Regulations.

“Rules”

means these Contract Procedure Rules

“Scheme of Delegation”

means the scheme identified within the Council’s constitution which delegates powers and duties of the Council to Officers under Section 101 of the Local Government Act 1972 and all other powers enabling such delegation necessary for the discharge of the Council’s functions.

“SCM”

means the Senior Category Manager or similar role with equivalent experience and seniority within [STaRSTAR](#)

“Services”

means the time, effort and expertise required by the Council, from time to time, and supplied by a Contractor.

“Specification”

means the outputs, outcomes and the scope and nature of Goods, Services, execution of Works or Concessions Contract required by the Council from a procurement activity.

“SRO”

means “Senior Responsible Officer” and is the Officer delegated in the Council’s Scheme of Delegation for the relevant service with the responsibility for the award of the Contract.

“SRO for Legal”

means the “Senior Responsible Officer for Legal” and is the most senior Officer delegated in the Council’s Scheme of Delegation for Legal Services or in default of such delegation, the Council’s Monitoring Officer.

“SRO for Finance”

means the “Senior Responsible Officer for Finance” and is the most senior Officer delegated in the Council’s Scheme of Delegation for the Finance Services or in default of such delegation, the Officer appointed by the Council pursuant to s151 of the Local Government Act 1972.

“[STaRSTAR](#) Legal Officer”

means a member of the legal team jointly funded by all participating Council’s in accordance with the IAA,

“[STaRSTAR](#)”

whose role is to provide legal support to [STaRSTAR](#).

means the shared procurement service hosted by Trafford Borough Council on behalf of Trafford Borough Council, Rochdale Metropolitan Borough Council and Stockport Metropolitan Borough Council and other public authorities as determined from time to time whose function and remit is described in these Rules, the IAA and the Councils’ constitutions

“[STaRSTAR](#) Councils”

means those local authorities who have resolved to delegated their Procurement Functions to the [STaRSTAR](#) Joint Committee.

“Tender”

means a formal offer submitted by a Tenderer to the Council at a stated price in response to a Specification to supply Goods, Services, execute Works or operate a Concessions Contract.

“Tenderer”

means any Economic Operator that submits a Tender.

“The Chest”

means the Council’s eProcurement system.

“TUPE”

means the Transfer of Undertakings (Protection of Employment) Regulations 2006 as amended from time to time together with any EU Directives including but not limited to the Acquired Rights Directive 2001/23/EC, as amended from time to time.

“Value for Money”

means the optimum combination of whole-life costs, price, quality and benefits to meet the Council’s requirement. Such a term equates to the EU procurement requirement of most economically advantageous offer as well as the duty of Best Value as defined by the Local Government Act 1999 as amended from time to time.

“Works”

means the provision of physical activity which is directed toward the production or accomplishment of something by the Contractor, from time to time.

“Writing”

the requirement that any document should be in writing is satisfied where (apart from the usual meaning of that expression) the text of it is created and transmitted by electronic means, in legible form, and capable of being used for subsequent reference.

### 3. Basic Principles and Responsibilities

#### 3.1 Basic Principles

3.1.1 All procurement activity must comply with all of the following principles of European Union (EU) Law:

- a. free movement of Goods and Services;
- b. non-discrimination;
- c. openness/transparency;
- d. equal treatment for all; and
- e. proportionality

3.1.2 All procurement activity must be compliant with the latest EU laws, national legislation, the Council Constitution and the local policies in [Schedule 1](#), and have regard to:

- a. **The need to achieve accountability** through effective mechanisms which enable Officers and Members of the Council to maintain the highest standards of integrity and honesty and to enable them to discharge their responsibility on issues of procurement risk and expenditure of public money;
- b. **The need to provide consistent procurement policy to suppliers and achieve competitive supply;**
- c. **The need to meet commercial, regulatory and Corporate Priorities of the Council;**
- d. **The need to achieve efficiencies** by administering procurement processes which are cost effective;
- e. **The need to ensure Value for Money**
- f. **The need to ensure fair-dealing** by ensuring that suppliers are treated fairly and without unfair discrimination, including protection of commercial confidentiality where compatible with the Council's obligations under FOIA and EIR;
- g. **The need to maintain integrity** by excluding corruption or collusion with suppliers or others from procurement processes;
- h. **The need to ensure informed decision-making** based on accurate information;
- i. **The need to ensure legality** in the administration of procurement processes and award of contracts;
- j. **The need to promote responsiveness** by endeavouring to meet the aspirations, expectations and needs of the community served by the procurement processes;

- k. **The need to provide transparency** by ensuring that there is openness and clarity on the Council's procurement policy and its delivery.
- l. **The need to create and retain an audit trail in relation to each procurement activity**

### 3.2 The Responsibilities of Officers and Members

- 3.2.1 Officers and Members involved in procurement activity must comply with these Rules, the Council's Financial Procedure Rules/Regulations, the Council's Employees Code of Conduct/Members Code of Conduct. They must also have due regard to any guidance provided by [STaRSTAR](#).
- 3.2.2 [Officers must ensure that any agents, consultants and contractual partners acting on their behalf, also comply with these Rules.](#)

## 4. Contracts to which these Rules do not apply

- 4.1 [Where there is any doubt regarding the application of these Rules, Officers must seek guidance from STAR.](#)
- 4.2 These Rules **do not** apply to the following:
  - a. employment contracts for Officers engaged on a PAYE basis;
  - b. Contracts relating solely to the disposal or acquisition of securities;
  - c. Contracts for the acquisition of an interest in land and property;
  - d. Contracts for the appointment of Counsel or the appointment of experts for the purpose of legal, or potential legal proceedings by the SRO for Legal Services;
  - e. [qualifying Contracts between entities within the public sector.](#)

## 5. ~~Contracts which do not require full competition~~

### ~~5. Contracts which do not require full competition~~

- ~~5. The following circumstances may be exempt from the requirement of Rule 7 (Quotes) and Rule 8 (Tenders). The ASO must complete an Exemption Form in accordance with Rule 10.2 where any of these circumstances are applicable.~~

### ~~5. Call-Off Contracts~~

- ~~5. Call-off Contracts where a suitable Framework Agreement has been identified in accordance with Rule 6.3.~~

## 5. **No competitive market**

5. Where any of the following circumstances apply and subject to Rule 5.2.2:

5. Proprietary or patented goods or services are proposed to be purchased which, in the opinion of the ASO, are only obtainable from one person, and it can be demonstrated that no reasonably satisfactory alternative to those proprietary or patented goods is available; or

5. The ASO can demonstrate that no genuine competition can be obtained in respect of the purchase of particular Goods, Services or execution of Works; or

5. The ASO is satisfied that the Services or execution of Works are of such a specialist nature that they can only be carried out by one person (e.g. statutory undertakers); or

5. Goods are proposed to be purchased by or on behalf of the Council at a public auction; or

5. Goods or Services are proposed to be purchased which are of a specialist or unique nature (such as antiquities for museums or a particular performance artist); or

5. Any other exceptional circumstances.

5. Further guidance can be provided by STaR and an ASO must seek advice where there is any doubt.

5. The ASO, in conjunction with STaR and a STaR Legal Officer, shall ensure that the Contract terms and conditions are appropriate taking into account all relevant factors (such as benefit and risk to the Council) and ensure that the Contract complies with [Rule 9](#).

## 5. **Exemptions as prescribed by legislation**

5. Certain other arrangements contained in European or domestic legislation may permit an exemption from the requirement for competition.

## 5. **Pre-Procurement Process**

### 5.1 **Authority to carry out procurement activity**

5.1.1 [The ASO must ensure that all necessary decisions have been made and that the correct authorisation to procure has been properly obtained prior to the initiation of any procurement activity.](#) Any procurement activity carried out on behalf of the Council must be carried out by an ASO with the appropriate delegated authority as set out in the Scheme of Delegation. [The ASO may be required to provide evidence of any decisions made, any reports concerning and all authorisations granted in respect of the relevant procurement activity.](#) The ASO must submit ~~either a Quote or Tender~~ a PID to

STaR prior to starting the relevant procurement activity. By submitting the PID the ASO confirms that they have the authority to carry out the procurement activity.

## 5.2 Appraisal of the procurement activity

5.2.1 The ASO, together with the APO, must conduct an options appraisal of the route to market and consider the following:

- a. Value for Money;
- b. The need for the expenditure and its priority;
- c. The objectives of the purchase;
- d. Whether it is a Key Decision
- e. Any risks associated with the purchase and how to manage them;
- f. The market;
- g. TUPE and pensions;
- h. Which procurement method is most likely to achieve the purchasing objectives;
- i. Existing and compliant Framework Agreements, [DPS](#) or other arrangements; and
- j. The economic, social and environmental wellbeing of the borough and the benefit which the procurement process can bring to the community and have regard to the duty to secure continuous improvement in accordance with Best Value.

5.2.2 Where award for a Contract for services may result in employees of the Council or its Contractor transferring to a new employer, the advice of the SRO for Human Resources and the SRO for Legal must be obtained before the commencement of the procurement activity to ensure compliance with TUPE, and other related legislation, and to assess the implications in respect of pension arrangements.

5.2.3 The APO must ensure that an appropriate Specification or request for a Quote commensurate to the scope of the Goods, Services, execution of Works or Concessions Contract required is written prior to the commencement of any procurement activity. Advice from [STaRSTAR](#) must be sought where it is proposed that a Specification or request for a Quote is not used.

5.2.4 For procurement under the Regulations Thresholds, the use of PQQs is no longer permitted by the Regulations. However, the Regulations do permit the use of suitability assessment questions where they are relevant to the subject matter of the procurement and are proportionate. Further guidance on suitability assessment questions may be sought from [STaRSTAR](#) but in any event, advice must be sought from [STaRSTAR](#) where it is proposed that such questions are to be used.



### 5.3 **Framework Agreements [and DPS](#)**

5.3.1 Where, following an options appraisal as required by [Rule 56.2](#), a suitable Framework Agreement [or DPS](#) is identified, [the requirements of Rule 6 \(Quotes\) and Rule 7 \(Tenders\) will not be applicable and](#) the ASO must ensure that:

- a. Any Call-off Contract is entered into in accordance with the terms of the relevant Framework Agreement [or DPS](#); and
- b. Where applicable, a mini-competition (the tender process required by the Framework Agreement) is held in accordance with rules of the Framework Agreement [or DPS](#).

5.3.2 For the avoidance of doubt, a Framework Agreement [or DPS](#) is considered suitable where it has either been entered into by:

- a. the Council in compliance with these Rules; or
- b. another local authority, a local authority purchasing consortium or central government where the Framework Agreement [or DPS](#) has been tendered and awarded in accordance with EU public procurement legislation, and the Council is identified as a contracting authority.

5.3.3 Where a Framework Agreement [or DPS](#) has been set up following an EU Tender, there must be full compliance with EU rules when awarding Call-off Contracts under it.

### 5.4 **Pre-Procurement Market Research and Consultation**

5.4.1 The ASO and APO responsible for the procurement activity:

- a. may consult potential Bidders or Tenderers in general terms about the nature, level and standard of the supply, contract packaging and other relevant matters, prior to a request for a Quote or an Invitation to Tender provided this does not prejudice any potential Bidders or Tenderers; and
- b. must not seek or accept technical advice on the preparation of a request for a Quote or an Invitation to Tender from anyone who may have a commercial interest in the tender, as this may prejudice the equal treatment of all potential Bidders and Tenderers or distort competition.

Advice must be sought from [STaRSTAR](#) in all instances.

## 5.5 Estimating the Total Value of a Contract, ~~or~~ Framework Agreement or DPS

5.5.1 Officers must calculate the total value of the Contract, DPS or Framework Agreement in order to determine which procurement activities should be commenced in accordance with these Rules. The procurement activity that must be followed is prescribed in Table 1 below.

5.5.2 The Council must not split Contracts, DPS or Framework Agreements ~~Contracts or Framework Agreements in order~~ to avoid public procurement rules or calculate the value of the Contract, DPS or Framework Agreement ~~Contracts~~ in such a way as to deliberately avoid exceeding the Regulation Thresholds or any threshold identified in these Rules. Therefore, unless otherwise agreed by the SRO Legal all Contracts, DPS or Framework Agreements ~~Contracts~~ should be dealt with according to their total value and all Officers must calculate the total value (excluding VAT) of any Contract. The value of a Contract, DPS or Framework Agreement ~~Contract~~ should be calculated as follows and applies to the aggregate value of the Contract, DPS or Framework Agreement ~~Contract~~:

***Yearly contract value X Contract Period in years (including any option to extend) = Total value.***

5.5.3 The value of a Framework Agreement and DPS means the maximum estimated amount payable by the users of the Framework Agreement or DPS for the Goods, Services or execution of Works (excluding VAT) under Call-off Contracts entered into over the entire possible duration of the Framework Agreement or DPS.

5.5.4 Framework Agreements must not be for more than four years (including options to extend) unless otherwise authorised by the SRO for Legal.

5.5.5 The value of the Contract, DPS or Framework Agreement ~~Contract or Framework Agreement~~ will determine which procurement activity to follow in accordance with Table 1 below subject to Rules 56.5.6 and 56.5.7:

**Table 1: Procurement Activities**Goods, Services and Concessions

<u>Value Band</u>	<b>Value</b>	<b>Procurement Activity</b>	<b>Minimum Requirement for advertising the opportunity</b>
<u>A</u>	£0 - £4,999.99	Minimum one Quote in accordance with <a href="#">Rule 76</a> - Quotes	N/A*
<u>B</u>	£5,000 - £49,999.99	Minimum three Quotes in accordance with <a href="#">Rule 76</a> - Quotes	N/A*
		In accordance with <a href="#">Rule 87</a> – Tenders	The Chest (and Contracts Finder over £25k)
<u>C</u>	£50,000 and up to the Regulation Thresholds	In accordance with <a href="#">Rule 87</a> - Tenders	The Chest and Contracts Finder
<u>D</u>	Above the Regulation Thresholds	Most appropriate procedure permitted by the Regulations	OJEU Notice and Contracts Finder

Works and Public Works Concessions

<u>A</u>	<b>Value</b>	<b>Procurement Activity</b>	<b>Minimum Requirement for advertising the opportunity</b>
<u>B</u>	£0 - £4,999.99	Minimum one Quote in accordance with <a href="#">Rule 76</a> - Quotes	N/A*
	£5,000 - £74,999.99	Minimum three Quotes in accordance with <a href="#">Rule 76</a> - Quotes	N/A*

<a href="#">C</a>	£75,000 - £249,999.99	Minimum six Quotes in accordance with <a href="#">Rule 76</a> – Quotes	N/A*
		In accordance with <a href="#">Rule 87</a> – Tenders	The Chest and Contracts Finder
<a href="#">D</a>	£250,000 up to the Regulation Thresholds	In accordance with <a href="#">Rule 87</a> - Tenders	The Chest and Contracts Finder
<a href="#">E</a>	Above the Regulation Thresholds	Most appropriate procedure permitted by the Regulations	OJEU notice and Contracts Finder

**\*WHERE ANY OPPORTUNITY OVER £25K IS OPENLY ADVERTISED, IT MUST BE PLACED ON CONTRACTS FINDER**

5.5.6 [Where the Contract value falls within Value B or D for Goods, Services and Concession Contracts or Value Band C or E D for Works and Public Works Concession Contracts, the ASO shall determine which procurement activities should be undertaken by reference to the Procurement Handbook.](#)

5.5.7 Where the value of the Contract is above the Regulation Thresholds, the ASO and the APO will determine which procurement activity to follow in accordance with the Regulations.

5.5.8 Irrespective of the value in Rule [56.5.54](#) Contracts and Framework Agreements that are subject to European Union grant funding requirements shall be advertised in accordance with published guidance, ERDF National Procurement Requirements (ERDF-GN-1-004) as amended from time to time.

5.5.9 The ASO and APO shall ensure that, where proposed Contracts or Framework Agreements, irrespective of their value, might be of interest to potential Economic Operators located in other member states of the European Union, a sufficiently accessible advertisement is published.

## 5.6 Standards and Award Criteria

5.6.1 Before inviting Quotes or Tenders, the ASO, with support from the APO, must ascertain any relevant British, European or international standards which apply to the subject matter of the Contract. The ASO must include those standards or equivalent where they are necessary to describe the required quality. In any instances of uncertainty, [STaRSTAR](#) can be consulted if it is proposed to use standards other than European standards.

5.6.2 The ASO must define award criteria that is appropriate to the procurement activity and designed to secure an outcome giving Value for Money for the Council. The basic award criteria shall include one of the following:

- a. Most economically advantageous tender (“MEAT”) - where considerations other than price also apply;
- b. Lowest price - where payment is to be made by the Council;
- c. Highest price - if payment is to be received.

If MEAT is the chosen award criteria, advice must be obtained from [STaRSTAR](#) to ensure that it is compatible with the EU Directives and the Regulations.

5.6.3 The ASO must seek advice from [STaRSTAR](#) to ensure any award criteria are compliant with relevant legislation and best practice.

## 6. Quotes

### 6.1 Requests for Quotes

6.1.1 All Quotes, including those in mini-competitions under Framework Agreements, must be confirmed in writing before a decision to award can be made and all Quotes must be stored on The Chest.

6.1.2 When requesting a Quote, an appropriate description of the Goods, Services, execution of Works or Concessions (commensurate with the value of the Contract) setting out the Council’s requirements in sufficient detail must be provided to prospective Bidders to enable the submission of competitive Quotes.

6.1.3 The request for a Quote shall also make reference to or include the following as a minimum:

- a. the terms and conditions of Contract that will apply; and
- b. notification that Quotes are submitted to the Council on the basis that they are compiled at the Bidder’s expense; and

- c. a description of the award criteria as appropriate and in accordance with [Rule 56.6](#); and
- d. the date and time by which a Quote is to be submitted by; and
- e. that the Council is not bound to accept any Quotes submitted.

6.1.4 The proposed form of Contract must comply with [Rule 89](#) and where possible the Council's standard terms and conditions of Contract must be used. Advice must be sought from a [STaRSTAR](#) Legal Officer and approval given by the SRO for Legal where alternative terms and conditions are used.

6.1.5 Where requests for a Quote are sought from more than one prospective Bidder, where possible, the request must be sent to each Bidder at the same time and contain the same conditions. Any supplementary information must be given on the same basis.

## 6.2 Submission and Receipt of Quotes

6.2.1 Bidders must be given a reasonable period in which to prepare and submit a proper Quote, consistent with the complexity of the Contract requirement.

6.2.2 In the event that an abnormally low Quote is received, the ASO must take advice from [STaRSTAR](#) on how to proceed.

6.2.3 Any Quote (including all associated documents) submitted after the specified date and time for submission of Quotes shall only be accepted or considered by the Council in exceptional circumstances and only with agreement from the SRO for Legal Services.

6.2.4 If fewer than the minimum number of Quotes is received as stipulated in Table 1 in [Rule 65.5](#), then advice must be sought from the Director of Procurement ([STaRSTAR](#)) as to whether to proceed. Any decision must be recorded in writing and stored on The Chest.

## 6.3 Amendments to Quotes

6.3.1 The Council may accept amendments to Quotes, including those in mini-competitions under Framework Agreements, providing they are received prior to the closing date for submissions. In such circumstances, any alterations must be made by resubmitting a new Quote and clearly highlighting which Quote (and associated documents) is correct and which should be considered as part of the procurement activity.

6.3.2 A Quote may be amended after the closing date for submission if the amendment is made only in order to correct an arithmetical error. Such amendments may only be made with the prior approval of the Director of Procurement ([STaRSTAR](#)).

## 6.4 Evaluation of Quotes

6.4.1 All compliant Quotes, including those in mini-competitions under Framework Agreements, must be checked by the ASO to ensure they are arithmetically correct. The ASO may seek advice from [STaRSTAR](#) if there is any doubt. If arithmetical errors are found they should be notified to the Bidder, who should be requested to confirm or withdraw their Quote. Alternatively, if the rates in the Quote prevail over the overall price, an amended Quote may be requested to accord with the rates given by the Tenderer.

6.4.2 Where MEAT is used as the award criteria, all evaluations including an explanation of the reasons for the scores should be recorded on The Chest. The ASO must then confirm to [STaRSTAR](#) that the Contract can be awarded in accordance with [Rule 76.5](#) by updating the PID.

6.4.3 Officers must ensure transparency and fairness during the evaluation process.

## 6.5 Contract Award – through a Quotation Process

6.5.1 The Contract will be awarded in accordance with the award criteria used.

6.5.2 Where the Quote is not within the relevant approved budget but additional budgetary provision is available, the relevant ASO, with the approval of the SRO for Finance, may accept the Quote ensuring compliance with the Financial Procedure Rules/Regulations.

6.5.3 The approval to award the Contract must be given in accordance with the Council's Scheme of Delegation.

6.5.4 All award decisions must be recorded in the PID, signed and dated by the ASO, the APO and the SRO for the relevant service.

6.5.5 Once the decision has been made and the approval given to award the Contract, the ASO must send a Contract award letter to the winning Bidder(s).

6.5.6 Prior to commencement of the Contract, the Contract must be completed in accordance with [Rule 98.2](#) unless [Rule 89-2.5](#) applies.

- 6.5.7 [STaRSTAR](#) will, where necessary, advise on the formalities for completion of the contract by parties other than the Council and how to ensure that the Contract is legally binding.

## 7. Tenders

### 7.1 Invitations to Tender

- 7.1.1 All Tender opportunities must be placed on The Chest and, where appropriate, Contracts Finder in accordance with Table 1 at [Rule 65.5](#).

- 7.1.2 The Invitation to Tender, shall include the following where appropriate:

- a. A form upon which the Tenderer can provide details of its bid (“Form of Tender”);
- b. A reference to the Council’s ability to award in whole, in part or not at all;
- c. A Specification that describes the Council’s requirements in sufficient detail to enable the submission of competitive offers;
- d. the terms and conditions of Contract that will apply;
- e. A requirement for Tenderers to declare that the Tender content, price or any other figure or particulars concerning the Tender have not been disclosed by the Tenderer to any other party (except where such a disclosure is made in confidence for a necessary purpose);
- f. A requirement for Tenderers to fully complete and sign all Tender documents including the Form of Tender and certificates relating to canvassing and non-collusion;
- g. Notification that Tenders are submitted to the Council on the basis that they are compiled at the Tenderer’s expense;
- h. A description of the award procedure and the evaluation criteria to be used to assess Tenders including any weightings as considered appropriate and in accordance with [Rule 65.6](#). The evaluation criteria must be clear, concise and unambiguous and must be approved by the APO in consultation with the ASO. The evaluation criteria cannot be amended once published in the Invitation to Tender;
- i. The method by which any arithmetical errors discovered in the submitted Tenders are to be dealt with and in particular, whether the overall price prevails over the rates in the Tender or vice versa;
- j. Whether the Council is of the view that TUPE will be applicable in relation to the procurement activities;
- k. Whether additional arrangements will be required in relation to pension provision;
- l. Provisions relating to the Council’s termination rights in the event that corruption is discovered;
- m. The relevance and application of any parent company guarantees and/or bonds;
- n. That the Council is not bound to accept Tenders; and
- o. Any matters required by local polices in [Schedule 1](#).



7.1.3 The proposed form of Contract must comply with [Rule 98](#) and where possible the Council's standard terms and conditions of Contract must be used. Advice must be sought from the [STaRSTAR](#) Legal Officer and approval given by the SRO for Legal where alternative terms and conditions are used.

7.1.4 All Tenderers invited to Tender must be issued with the same information at the same time and contain the same conditions. Any supplementary information must be given on the same basis.

7.1.5 All communications relating to Tenders must be recorded on The Chest.

## 7.2 Pre and Post Tender Clarification Procedures

7.2.1 Providing pre-Tender clarification to potential or actual Tenderers, or seeking clarification of a Tender, is permitted subject to Rule [87.2.3](#).

7.2.2 Post-tender clarification may be undertaken with Tenderers only where it is essential in order to be completely clear about any fundamental aspect of the Tender submission before the completion of the Tender evaluation process and subject to Rule [87.2.3](#).

7.2.3 All pre- and post- tender communication must be conducted either in writing or in a meeting recorded by the ASO or APO. All correspondence or meetings must be documented and retained on The Chest. Where a meeting is required, there must always be more than one Officer present.

7.2.4 At all times during the clarification process, the Council shall consider and implement the principles of non-discrimination, equal treatment and transparency.

7.2.5 Unless otherwise permitted by the Regulations, in no circumstances are post-award negotiations permitted.

## 7.3 Submission and Receipt of Tenders

7.3.1 Tenderers must be given a reasonable period in which to prepare and submit a proper Tender, consistent with the complexity of the Contract requirement and in accordance with the Regulations.

7.3.2 Any Tender (including all associated documents) submitted after the specified date and time for submission of Tenders shall only be accepted or considered by the Council in exceptional circumstances and only with agreement from the SRO for Legal Services.

7.3.3 All Tenders received, including those in mini-competitions under Framework Agreements, must remain unopened until the specified closing date and time has passed.

7.3.4 If less than the minimum number of Tenders is received as stipulated in Table 1 in [Rule 65.5](#), then advice must be sought from the Director of Procurement ([STaRSTAR](#)) on how to proceed. Any decision must be recorded in writing and stored on The Chest.

#### 7.4 Verifying and Opening Tenders

7.4.1 Tenders are to be verified by an APO who is independent of the procurement activity to which the Tender relates.

7.4.2 Once verified, Tenders are to be opened in accordance with the following Table 2:

**Table 2**

Value of Contract	Officers required to be present:	Expected Duration
£0 - £49,999.99	APO	Within 2 working days of the deadline for submission
£50,000 and above	CM or SCM	Within 2 working days of the deadline for submission

#### 7.5 Amendments to Tenders

7.5.1 The Council may accept amendments to Tender submissions, including those in mini-competitions under Framework Agreements, providing they are received prior to the closing date for submissions.

7.5.2 A Tender may be amended after the closing date for submission if the amendment is made only in order to correct an arithmetical error. Such amendments may only be made with the prior approval of the Director of Procurement ([STaRSTAR](#)).

## 7.6 Evaluation of Tenders

- 7.6.1 If a PQQ or an expression of interest prior to PQQ was used, all those Tenderers must be given feedback at the relevant stage.
- 7.6.2 In the event that an abnormally low Tender is received, the ASO must take advice from [STaRSTAR](#) on how to proceed.
- 7.6.3 All compliant Tenders, including those in mini-competitions under Framework Agreements, must be checked by the ASO and the APO to ensure they are arithmetically correct. If arithmetical errors are found they should be notified to the Tenderer, who should be requested to confirm or withdraw their Tender. Alternatively, if the rates in the Tender prevail over the overall price, an amended Tender price may be requested to accord with the rates given by the Tenderer.
- 7.6.4 Where MEAT is used as the award criteria, all evaluations including an explanation of the reasons for the scores should be recorded on The Chest. The ASO must then confirm to [STaRSTAR](#) that the Contract can be awarded by updating the PID.
- 7.6.5 Officers must ensure transparency and fairness during the evaluation process.

## 7.7 Contract Award – through a Tender process

- 7.7.1 The winning Tender shall be awarded the Contract in accordance with the award criteria used.
- 7.7.2 Where the Tender is not within the relevant approved budget but additional budgetary provision is available, the relevant ASO, with the approval of the SRO for Finance, may accept the Tender ensuring compliance with the Financial Procedure Rules/Regulations.
- 7.7.3 The approval to award the Contract must be given in accordance with the Council's Scheme of Delegation.
- 7.7.4 All award decisions must be recorded in the PID, signed and dated by the ASO, the APO and the SRO for the relevant service.

- 7.7.5 A Contract which has a contract value above the Regulation Thresholds, can only be awarded after a notice of the proposed award has been given to all unsuccessful Tenderers and the 10 day standstill period has elapsed from the date the notice was given. If the 10 days expire on a non-working day, then the notice period will be deemed to have lapsed on the next working day.
- 7.7.6 Once the decision to award a Contract is made, each Tenderer must be notified by either the ASO or the APO in writing of the outcome. All Tenderers must be notified simultaneously and as soon as possible of the intention to award the Contract to the successful Tenderer(s) and this should be done via The Chest. The letters must include a description of the relative advantages of the successful Tenderer.
- 7.7.7 Prior to commencement of the Contract, the Contract must be completed in accordance with [Rule 98.2](#) unless Rule [98.2.5](#) applies.
- 7.7.8 A [STaRSTAR](#) Legal Officer will, where necessary, advise on the formalities for completion of the contract by parties other than the Council and how to ensure that the Contract is legally binding.
- 7.7.9 The APO must publish a contract award notice in the OJEU and on the Council's website no later than 48 days after the date of award of the Contract where a Contract value exceeds the Regulation Threshold and has been tendered pursuant to the Regulations or is subject to the relevant provision of the Regulations relating to Contract award.
- 7.7.10 Contract award letters, feedback to Tenderers and the contract Terms and Conditions, including any incidental documentation must be approved by the APO prior to sending where the value of the Contract is over the Regulation Thresholds.
- 7.8 Enquiries about the Tender process**
- 7.8.1 The confidentiality of Tenders and the identity of Tenderers must be preserved at all times insofar as this is compatible with the Councils' obligations under FOIA and EIR.
- 7.8.2 If the Council receives a request for information under the FOIA as a result of the de-briefing process, the request must be referred to both the Director of Procurement ([STaRSTAR](#)) and the relevant

Officer of the Council who deals with such requests. The Council will be responsible for responding to the request.

- 7.8.3 Any challenges, complaints or requests for feedback, clarification or further information must be referred to the Director of Procurement ([STaRSTAR](#)) who will advise on how to respond and notify the SRO for Legal.

## 8. Contract Provisions and Contract Formalities

### 8.1 Contract Provisions

- 8.1.1 All Contracts must be in writing and must set out the parties' obligations, rights and risk allocations. Advice must be sought from [STaRSTAR](#) as to the appropriate form of Contract to be used and where possible, be on the Council's standard terms and conditions.

- 8.1.2 All Contracts, irrespective of value, shall, where appropriate, clearly specify as a minimum:
- a. What is to be supplied (i.e. the Works, materials, services, matters or things to be furnished, had or done)
  - b. The provisions for payment (i.e. the price to be paid and when)
  - c. The time, or times, within which the contract is to be performed
  - d. The provisions for the Council to terminate the Contract and break clauses.
  - e. The provision for collateral warranties from sub-contractors.

- 8.1.3 [STaRSTAR](#) can provide advice on Contract specific terms and conditions.

### 8.2 Contract Formalities

- 8.2.1 Once a decision to award has been made in accordance with Rule [76.5.3](#) or [87.7.3](#), the Contract must either be signed by the Officer authorised to award the Contract under the Council's Scheme of Delegation, or signed by the SRO for Legal, or sealed in accordance with Rule 9.3.2.

- 8.2.2 Where the Contract is to be in writing, the ASO or APO must arrange for the Contract including all schedules and appendices to be signed by all parties. This can be done in two ways:

- a) Sending bound hard copies of the Contract to the winning Bidder(s) or Tenderer(s) for signing; or
- b) Sending electronic copies of the Contract to the winning Bidder(s) or Tenderer(s) for printing, binding and signing.

- 8.2.3 Before arranging for the Contract to be signed or sealed on behalf of the Council, the ASO must check that the returned signed Contract has not been amended or altered by the winning Bidder(s) or Tenderer(s) without prior written agreement by the Council.
- 8.2.4 Rules [98.2.1](#) to [98.2.3](#) do not apply to purchases made through an Electronic Purchasing System (EPS).
- 8.2.5 All Contracts which are to be formally completed in writing must be completed before the Goods are supplied, or the Service, execution of Works or Concessions Contract begins, except in exceptional circumstances, and then only with the prior approval from the SRO for Legal.
- 8.2.6 A purchase order must be raised in the appropriate eProcurement system for all goods, services and works requirements to be acquired through an EPS and for all Contracts. The purchase order must attach the terms and conditions of Contract between the Council and the Contractor.
- 8.2.7 The ASO must ensure that the person signing on behalf of the Contractor has requisite legal authority to bind the Contractor. Where there is any doubt, the ASO must seek advice from the [STaRSTAR](#) Legal Officer.

### 8.3 **Contracts under Seal**

- 8.3.1 A Contract must be sealed where:
- a. The Council wishes to extend the liability period under the Contract and enforce its terms for up to 12 years; or
  - b. The price to be paid or received under the Contract is a nominal price and does not reflect the value of the goods or services; or
  - c. There is any doubt about the authority of the person signing for the other contracting party; or
  - d. The Contract value is £250,000 or above.
- 8.3.2 The seal must be affixed in accordance with the provisions of the Council's Constitution.

### 8.4 **Transfer of Contracts**

- 8.4.1 No Contract should be transferred from one Contractor to another without first consulting [STaRSTAR](#). Contracts can only be transferred if approved in accordance with the table below:

Value of Contract/Quote	Decision Maker
All values	SRO for Finance and SRO for Legal or their nominees in accordance with the Council's Scheme of Delegation and consultation in with the Director of Procurement ( <a href="#">STaRSTAR</a> )

## 9. Exemptions and Modifications

### 9.1 Exemptions

9.1.1 In limited circumstances, it may be necessary to seek an Exemption from the Rules and guidance from [STaRSTAR](#) must be sought before any procurement activity commences.

9.1.2 An Exemption cannot be given where this would contravene the Regulations.

9.1.3 Exemptions will only be considered in exceptional circumstances. Examples of circumstances which may be considered exceptional could include the following:

- a. ~~Any of the circumstances identified in [Rule 5](#);~~
- a. ~~To comply with legal requirements;~~
- a. ~~The Contract is for Goods, Services or the execution of Works which are required in circumstances of extreme urgency;~~
- a. ~~Repairs or parts — if the only option is to repair or buy new parts for existing equipment or buildings, and there is only one supplier;~~
- a. ~~Where a Service review includes the intention to co-terminate relevant Contracts.~~
- a. ~~[The arrangement is a permitted exemption from the requirement for competition contained in European or domestic legislation;](#)~~
- b. ~~[To comply with legal requirements;](#)~~
- c. ~~[The Contract is for Goods, Services or the execution of Works which are required in circumstances of extreme urgency or unforeseeable emergency involving risks to persons, property or serious disruption to Council services;](#)~~
- d. ~~[Repairs or parts — if the only option is to repair or buy new parts for existing equipment or buildings, and there is only one supplier;](#)~~
- e. ~~[Where a Service review includes the intention to co-terminate relevant Contracts;](#)~~

- f. [Proprietary or patented goods or services are proposed to be purchased which, in the opinion of the ASO, are only obtainable from one person, and it can be demonstrated that no reasonably satisfactory alternative to those proprietary or patented goods is available; or](#)
- g. [The ASO can demonstrate that no genuine competition can be obtained in respect of the purchase of particular Goods, Services or execution of Works; or](#)
- h. [The ASO is satisfied that the Services or execution of Works are of such a specialist nature that they can only be carried out by one person \(e.g. statutory undertakers\); or](#)
- i. [Goods are proposed to be purchased by or on behalf of the Council at a public auction; or](#)
- j. [Goods or Services are proposed to be purchased which are of a specialist or unique nature \(such as antiques for museums or a particular performance artist\); or](#)
- k. [Any other exceptional circumstances.](#)

## 9.2 Procedure for Exemptions

- 9.2.1 To apply for an Exemption the ASO must fill in the Exemption Form and submit it to the [STaRSTAR](#) for consideration and recommendation. This Exemption Form must then be signed (electronically or by hand) in accordance with the table below (unless Rule [109.2.2](#) applies).

Value of Contract/Quote	Decision Maker
All values	SRO for Finance and SRO for Legal or their nominees in accordance with the Council's Scheme of Delegation and in consultation with the Director of Procurement ( <a href="#">STaRSTAR</a> )

- 9.2.2 If an Exemption requires a Key Decision, then that Key Decision must be made in accordance with the Council's Constitution. Guidance from [STaRSTAR](#) must be sought if there is any doubt as to whether a decision is a Key Decision.
- 9.2.3 The ASO must ensure that the Exemption Form provides full details of the request and any supplementary documentation to support the request.



- 9.2.4 No commitment should be made to a potential Contractor prior to authorisation.
- 9.2.5 The Director of Procurement ([STaRSTAR](#)) is responsible for ensuring a complete record of all Exemptions. A record of the decision approving an Exemption and the reasons for it must be stored electronically on The Chest.
- 9.2.6 In circumstances of extreme urgency, the relevant decision maker in [109.2.1](#) above may authorise an Exemption in writing without the need to complete an Exemption Form. The written authorisation provided in accordance with this Rule [109.2.6](#) must be submitted to [STaRSTAR](#) to be stored electronically on The Chest.
- 9.2.7 The ASO, in conjunction with STAR and a STAR Legal Officer, shall ensure that the Contract terms and conditions are appropriate taking into account all relevant factors (such as benefit and risk to the Council) and ensure that the Contract complies with Rule 8

### 9.3 Modifications to a Contract or Framework Agreement

~~A Modification may be permitted if any of the limited criteria below applies and the Modification is not considered a substantial Modification as defined in Rule 10.3.4:~~

~~The proposed Modification is for an increase in price of less than 10% of the initial Contract value where there is sufficient budgetary provision and such a Modification is in compliance with the Financial Procedure Rules/Regulations and subject to 10.3.2; or~~

~~The proposed Modification is for an extension for a particular period where there is sufficient budgetary provision and such an extension is in compliance with the Financial Procedure Rules/Regulations and subject to 10.3.3; or~~

~~The proposed Modification meets the following conditions:~~

~~the need for the Modification has been brought about by circumstances which the Council, acting diligently, could not have foreseen; and~~

~~the Modification does not alter the overall nature of the Contract; and~~

~~any increase in price is not higher than 50% of the value of the original Contract or Framework Agreement.~~

~~Where criterion 10.3.1(a) is applicable, if several successive Modifications are made, the value shall be assessed on the basis of the net cumulative value of the successive Modifications.~~

~~Where criterion 10.3.1 (b) is applicable, the extension is not permitted where it would take the Contract value above the Regulation Thresholds.~~

**9.3.1** Contracts and Framework Agreements may be modified during their term without a new procurement procedure in accordance with this Rule 9.3 in any of the following cases:

- (a) where the Modifications, irrespective of their monetary value, have been provided for in the initial procurement documents in clear, precise and unequivocal review clauses, which may include price revision clauses or options, provided that such clauses
  - (i) state the scope and nature of possible modifications or options as well as the conditions under which they may be used, and
  - (ii) do not provide for modifications or options that would alter the overall nature of the Contract or the Framework agreement;
- (b) for additional works, services or supplies by the original contractor that have become necessary and were not included in the initial procurement, where a change of contractor:
  - (i) cannot be made for economic or technical reasons such as requirements of interchangeability or interoperability with existing equipment, services or installations procured under the initial procurement, or
  - (ii) would cause significant inconvenience or substantial duplication of costs for the Council,

provided that any increase in price does not exceed 50% of the value of the original Contract or Framework Agreement;
- (c) where all of the following conditions are fulfilled:
  - (i) the need for Modification has been brought about by circumstances which a diligent Council could not have foreseen;
  - (ii) the modification does not alter the overall nature of the Contract or Framework Agreement;
  - (iii) any increase in price does not exceed 50% of the value of the original Contract or Framework Agreement.
- (d) where a new Contractor replaces the one to which the Council had initially awarded the Contract or Framework Agreement as a consequence of:
  - (i) an unequivocal review clause or option in conformity with sub-paragraph (a), or

- (ii) universal or partial succession into the position of the initial contractor, following corporate restructuring, including takeover, merger, acquisition or insolvency, of another economic operator that fulfils the criteria for qualitative selection initially established, provided that this does not entail other substantial modifications to the contract and is not aimed at circumventing the application of the Regulations;
- (e) where the Modifications, irrespective of their value, are not substantial within the meaning of Rule 9.3.5; or
- (f) where ~~paragraph~~ Rule 9.3.3 applies.

9.3.2 Where several successive Modifications are made:—

- (a) the limitations imposed by the proviso at the end of Rule 9.3.1 (b) and by Rule 9.3.1 (c)(iii) shall apply to the value of each Modification; and
- (b) such successive Modifications shall not be aimed at circumventing the Regulations.

9.3.3 This Rule 9.3.3 applies where the value of the Modification is below both of the following values:

- (a) the relevant OJEU Threshold and
- (b) 10% of the initial Contract or Framework Agreement value for service and supply Contract or Framework Agreement and 15% of the initial Contract or Framework Agreement value for works contracts,

provided that the Modification does not alter the overall nature of the Contract or Framework Agreement

9.3.4 For the purposes of Rule 9.3.3 where several successive Modifications are made, the value shall be the net cumulative value of the successive modifications.

9.3.5 A Modification of a Contract or a Framework agreement during its term shall be considered substantial for the purposes of Rule 9.3.1(e) where one or more of the following conditions is met:

- (a) the Modification renders the Contract or Framework Agreement materially different in character from the one initially concluded;

- (b) the Modification introduces conditions which, had they been part of the initial procurement procedure, would have:
  - (i) allowed for the admission of other Tenderer than those initially selected,
  - (ii) allowed for the acceptance of a Tender other than that originally accepted, or
  - (iii) attracted additional participants in the procurement procedure;
- (c) the Modification changes the economic balance of the Contract or Framework Agreement in favour of the Contractor in a manner which was not provided for in the initial Contract or Framework Agreement; or
- (d) the Modification extends the scope of the Contract or Framework Agreement considerably;
- (e) a new Contractor replaces the one to which the Council had initially awarded the Contract or Framework Agreement in cases other than those provided for in paragraph Rule 9.3.1(d).

~~A Modification of a Contract or Framework Agreement during its term is considered substantial if one of the following conditions is met:~~

~~the Modification introduces conditions which, had they been part of the initial procurement procedure, would have allowed for the admission of other candidates than those initially selected or for the acceptance of an offer other than that originally accepted or would have attracted additional participants in the procurement procedure;~~

~~the Modification changes the economic balance of the Contract or the Framework Agreement in favour of the Contractor in a manner which was not provided for in the initial Contract or Framework Agreement;~~

~~the Modification extends the scope of the Contract or Framework Agreement considerably to encompass supplies, services or works not initially covered.~~

~~A Contract must not be modified without consulting the Director of Procurement (STaR).~~

9.3.6 For the avoidance of any doubt, an extension of the term of a Contract or Framework Agreement should be treated as a Modification where the original Contract or Framework Agreement make provisions for such an extension of term;

- (a) a Contract or Framework Agreement term should not be automatically extended where the Contract or Framework Agreement contains provisions to extend the term, Further guidance

[on extensions of terms should be sought by reference to the Procurement Policy Handbook and STAR.](#)

#### 9.4 Procedure for Modifications

- 9.4.1 To apply for a Modification the ASO must fill in the Modification Form and submit it to the [STaRSTAR](#) for consideration and recommendation. This Modification Form must then be signed (electronically or by hand) in accordance with the table below.

Value of Contract/Quote	Decision Maker
All values	SRO for Finance and SRO for Legal or their nominees in accordance with the Council's Scheme of Delegation and in consultation with the Director of Procurement ( <a href="#">STaRSTAR</a> )

- 9.4.2 The ASO must ensure that the Modification Form provides full details of the request and any supplementary documentation to support the request.
- 9.4.3 No commitment should be made to a potential Contractor prior to authorisation.
- 9.4.4 The Director of Procurement ([STaRSTAR](#)) is responsible for ensuring a complete record of all Modifications is kept and a record of the decision approving a Modification and the reasons for it must be submitted to [STaRSTAR](#) to be stored electronically on The Chest.

## 10. Declarations of Interest and Anti-Bribery and Corruption

- 10.1 The Council's reputation with regards to procurement activity is important and should be safeguarded from any imputation of dishonesty or corruption. All elected Members of the Council and Officers are reminded of their responsibilities in relation to gifts, hospitality and any conflicts of interest and should ensure they comply with the obligations set out in the Council's Members' Code of Conduct and the Officers' Code of Conduct respectively and any other relevant policies, guidance or strategies relating to bribery, fraud and corruption issued or endorsed by the Council from time to time

- 10.2 Any Officer or Member must declare any interest which could influence their judgement in relation to procurement activity in accordance with the Council’s Codes of Conduct.
- 10.3 No gifts or hospitality should be accepted from any Bidders or Tenderers involved in procurement activity except in accordance with the Council’s Codes of Conduct.

## 11. Contract Management

- 11.1 All Contracts must have a Council Contract Manager (“Contract Manager”) for the entirety of the Contract. In the event that there is no named Contract Manager the ASO will fulfil the role of Contract Manager.
- 11.2 The Contract Manager will be responsible for reviewing monitoring and evaluating the contract to ensure that its provisions and the services within it are being followed and performed as they should be.
- 11.3 During the life of the Contract, the Contract Manager should monitor the Contract in respect to the following:
- a. Performance (against agreed KPIs where relevant);
  - b. Compliance with specification and contract;
  - c. Cost;
  - d. Any Best Value duties ;
  - e. Continuous Improvement;
  - f. User satisfaction; and
  - g. Risk management.
- 11.4 Where the Contract is to be re-let, this information should be available early enough to inform the approach to re-letting the next contract.
- 11.5 [STaRSTAR](#) can provide advice and support on good practice in performance management of Contracts.
- 11.6 All Contracts must be included and published on the Contracts Register maintained by [STaRSTAR](#) in line with the Local Government Transparency Code 2014. This is a mandatory requirement and it is the responsibility of the SRO for each Service to ensure that they have informed [STaRSTAR](#) of the

Contracts they are responsible for and provided them with the information necessary to update the Contracts Register accordingly.

## 12. Retaining Relevant Documents

12.1 All records in relation to the award of Contracts and the associated procurement process, including supporting documentation, shall be stored by [STaRSTAR](#) in an electronic filing system to be available for inspection by the Council's internal and external auditors, or Officer, immediately upon request. Records will be retained in accordance with relevant regulations applicable to electronic record retention.

12.2 Hard copies of all written contracts shall be retained as follows:

Contracts with a value between £5,000 and £249,999.99	for six years after the end of the Contract
all sealed Contracts and Contracts with a value of £250,000 and above	for twelve years after the end of the Contract
Contracts that are grant funded regardless of value	Must comply with retention period above or the terms and conditions of the grant, whichever is the longer

12.3 If legislation related to any individual Contract stipulates a longer retention period than this, then the legislation requirements takes precedence over the Council's minimum periods.

12.4 Once executed, the Council shall retain one original of the complete Contract documents in line with the timescales in the table above and one copy of the complete Contract documents shall be provided to the Contractor.

**SCHEDULE 1**

**Local arrangements for Trafford Council**

There are no local arrangements.

**Comment [RS2]:** No proposed changes to Schedule 1 for any of the Councils



**Report to:** STAR Joint Committee  
**Date:** 20 July 2016  
**Report for:** Decision  
**Report of:** Head of Strategic Procurement

**Report Title**

**STAR Awards Plan**

**Summary**

The purpose of this report is to:

- Highlight to Board the awards success of STAR Procurement to date
- Agree a targeted plan for future Award Submissions

**Recommendations**

The recommendation of this report is that the Joint Committee:

- Note the award successes of STAR procurement to date
- Agree the targeted plan for future Award Submissions

**Contact person for access to background papers and further information:**

Name: Nichola Cooke  
 Phone: 07711 454555

**Background**

Financial Impact:	Minimal costs for some submissions and attendance at award events
Legal Impact:	None
Human Resources Impact:	None
Asset Management Impact:	None
E-Government Impact:	None

Risk Management Impact:	None
Health and Safety Impact:	None

## **Consultation**

No public consultation required

## **Reasons for Recommendation(s)**

STAR have had a number of successful award submissions to date and there are new awards that we currently have entries in for. The awards have been beneficial in adding value to the STAR brand and promoting STAR at a regional and national level, as well as more locally with Stakeholders.

It is important that in the future we focus resources on a targeted number of awards submissions to ensure that the integrity and prestige of the awards remains high.

### **1. Award Successes**

1.1 During 2015/16 STAR became a recognised multiple award winning service, with a number of award successes at both a regional and national level. The awards were procurement specific as well as more generic public sector awards.

1.2 In March 2016 STAR Procurement were winners at the National **Go Award for Procurement Leadership of the Year**. The Government Opportunities (GO) Excellence in Public Procurement Awards are national awards that recognise and reward excellence and achievement in procurement. The award was all the more of an achievement considering the other finalists who were generally large and mature organisations including:

- Aberdeen City and Aberdeenshire Councils
- Counties of Chester Hospital NHS Foundation Trust
- Nottingham City Council
- Scottish Water
- Aintree University Hospitals NHS Foundation Trust
- The Christie NHS Foundation Trust
- The City of Edinburgh Council
- The Hyde Group

1.3 STAR Procurement were also **Go Award finalists** in the following categories:

- 1.3.1 Procurement innovation and Initiative of the Year – Local Government.  
This was submitted regarding the Trafford ONE procurement process.

- 1.3.2 Procurement innovation and Initiative of the Year – Social Care. This was submitted regarding the public health procurement process for Rochdale and other GM Authorities
- 1.3.3 Procurement Team of the Year
- 1.4 In November 2015, STAR Procurement won the **I-Network Award** for Connected Procurement in collaboration with the AGMA Procurement Hub. This was for the work carried out to develop and implement the GMCA Social Value Framework.
- 1.5 In February 2016, STAR Procurement were awarded a Certificate of Excellence from the national **Improvement & Efficiency Awards 2016**. The panel deemed that STAR procurement was an excellent example of a high quality service in the sector. These awards were national awards and were not procurement-specific.
- 1.6 In April 2016, STAR Procurement were shortlisted for the **PPMA Excellence in People Management Awards** under the 'Most Effective Partnership' category. The PPMA is the Public Sector People Managers Association. STAR were shortlisted but did not win the award.
- 1.7 In July 2016, STAR were shortlisted for the **Association for Public Service Excellence (APSE) Service Awards 2016**, which are being run in conjunction with **the Management Journal (MJ)**. These are national awards that cover all aspects of local government services. There are 11 categories and STAR have entered the "Best Public / Public Partnership Working Initiative" category. The results of this Award will be announced at the APSE Annual Seminar on 8<sup>th</sup> September 2016 in Derry.
- 1.8 STAR Procurement has also submitted an entry for the **CIPS Supply Management Awards 2016**. We were not shortlisted for the awards and have asked for feedback as these are prestigious awards for procurement professionals across all market sectors.

## **2. Future Plan for Award Submissions**

- 2.1. STAR have had a very good run on the award submissions to date. The awards have been successful in adding value to the STAR brand and promoting STAR at a regional and national level, as well as more locally with Stakeholders.

- 2.2. The awards have also been beneficial in terms of staff motivation in that all the hard work that has been undertaken since STAR was established has been recognised at a regional and national level. This supports our ambition to be an employer of choice for aspiring procurement professionals and this seems to be delivering results by our recent successful recruitment of three posts. Further it is good to promote our business with potential new clients and potential partners.
- 2.3. The STAR Board is keen that we focus resources on a targeted number of awards submissions to ensure that the integrity and prestige of the awards remains high. Therefore it is recommended that STAR focusses future award submissions to:
- **Chartered Institute Purchasing & Supply (CIPS), April 2017**  
As CIPS is the professional body for procurement, these awards have the highest profile within the procurement industry, and represent both the public and private sector
  - **I-Network, October 2016**  
STAR's Director of procurement is the deputy chair of the I-Network, and STAR actively supports this organisation. These awards are helpful in raising our profile within the wider North West region.
  - **Go Awards Excellence in Public Procurement Awards, December 2016**  
These awards are national high profile awards that are focused on public sector procurement.
  - **Management Journal (MJ) Achievement Awards, February 2017**  
These awards are national high profile awards that are focused on all aspects of local government
- 2.4. In addition, we will continue to support all award submissions which STAR Councils are going for themselves, where applications refer to procurement operations.

### **3. Recommendations**

- 3.1. It is recommended that:
- 3.1.1 Note the award successes of STAR procurement to date
  - 3.1.2 Agree the targeted plan for future Award Submissions

End.

**Report to:** STAR Joint Committee  
**Date:** 20<sup>th</sup> July 2016  
**Report for:** Information  
**Report of:** Head of Strategic Procurement

### Report Title

**15/16 Balanced Scorecard Final Position**

### Purpose

The purpose of this report is to:

- Provide a final position statement on the balanced scorecard for the Financial Year 2015/2016

### Recommendations

- For Information only

Contact person for access to background papers and further information:

Name: Elizabeth McKenna

Phone 07811983687

## **1. Full Year Position**

### 1.1 Position

The final full year position on the Balanced Scorecard for 15/16 is very positive, STAR have met either the targets set in April 15 by the Board and Joint Committee or the October 15 revised targets.

### 1.2 Revised Targets

- C3 (planned exemptions) is a target increased from 50% to 60% in October 15, the final position for STAR is 71.6%
- C4 (filed contractual documents) is a target that was reduced in October 15 from 100% to 80%, the final position for STAR is 88.4%
- F2 (PIDS representing Savings) is a target that was increased in October 15 from 90 % to 100%, the final position for STAR is 100%
- S1 (social value (SV)) is a target that was reduced in October 15 from 50% to 40%, the final position for STAR is 58.2%

- S4 (Spend with SME's) is a target that was reduced in October 15 from 10% to 9%, the final position for STAR is 34%
- S5 (tender exercises with measureable SV outcomes) is a target that was reduced in October 15 from 40% to 30%, the final position for STAR is 32%
- P1 (Customer Satisfaction) is a target that was increased in October 15 from 50% to 85% , the final position for STAR is 85%

### 1.3 Original Targets

All targets that were not revised in October 15 have been met or exceeded, highlights for STAR are:

- C5 (planned procurements) the target set in April 15 was 65%, the final position for STAR is 88.2%
- S3 (local spend) the target set in April 15 was 30%, the final position for STAR is 34.3%

1.4 The DOP (Director of Procurement) and SMT (Senior Management Team) are very proud of the performance for 15/16 in particular the improvements made in the final quarter of the year.

1.5 The new balanced scorecard for financial year 16/17 is now established the new metric and measuring systems are being utilised. The revised metrics being measured are:

Finance 40%  
 Compliance 30%  
 Social Value 20%  
 Performance/Customer service 10%

## 2 Summary

2.1 The final position reflects the progress made by STAR on delivering the objectives of the Joint Committee and the STAR Board. All targets have been met or exceeded.

2.2 STAR have taken some learning from the 15/16 scorecard and enhanced the reporting going into 16/17 in terms of Social Value and how the report is presented.

## Appendix 1: April 16 Balanced Scorecard

Compliance (Weighting 30%)						STAR	
Ref	Metric	Measure ment Period	Target	Revised Forecast October 2015	Weighting	Achieved	Score
C1	Number of contracts in the work plan awarded without a successful legal challenge against the total number of	Annually	100%	100%	5%	100.0%	5.00
C2	% of 'live' / compliant contracts in the Contracts Register against the total number of contracts in the Contracts Register	Annually	90%	90%	10%	92.9%	10.00
C3	% of planned exemptions to the Contract Procedure Rules against the total number of exemptions	Annually	50%	60%	5%	71.6%	5.00
C4	% of signed contractual documents filed on The Chest within 12 weeks form Contract Award	Annually	100%	80%	5%	88.4%	5.00
C5	% of planned procurement activities in the work plan against the total number of work plan activities.	Annually	65%	65%	5%	88.2%	5.00
<b>Compliance Score &gt;</b>							<b>30/30</b>
Finance (Weighting 40%)							
F1	% of achieved savings against target	Annually	90%	100%	35%	100.0%	35.00
F2	% of PIDs with Savings represented against all signed PIDs	Annually	90%	100%	5%	100.0%	5.00
<b>Finance Score &gt;</b>							<b>40/40</b>

<b>Social Value (Weighting 15%)</b>							
Ref	Metric	Measure ment Period	Target	Revised Forecast October 2015	Weighting	Achieved	Score
S1	% of SV embedded in procurement documentation against the total number of work plan activities.	Annually	50%	40%	3%	58.2%	3.00
S2	Number of local employment opportunities created as defined in GMCA Social Value Policy (Comprising New Jobs & Apprenticeships)	Annually	TBA	100	3%	128	3.00
S3	% of overall spend that is spent in the Local area (based on the average between the three authorities)	Annually	30%	30%	3%	34.3%	3.00
S4	% of overall spend that is spent with SME's (based on the average between the three authorities)	Annually	10%	9%	3%	34.0%	3.00
S5	% Number of tender exercises resulting in a measurable SV outcome.	Annually	40%	30%	3%	32.0%	3.00
<b>Social Value Score &gt;</b>							<b>15/15</b>

<b>Performance (Weighting 15%)</b>							
P1	% of satisfaction (Good or above) on completed <b>Customer</b> satisfaction surveys forms.	Annually	50%	85%	5%	85.0%	15.00
<b>Performance Score &gt;</b>							<b>15/15</b>
<b>Overall Score &gt;</b>							<b>100/100</b>
<b>Variance Against Last Report</b>							

<b>Compliance (Weighting 30%)</b>	<b>30</b>
<b>Finance (Weighting 40%)</b>	<b>40</b>
<b>Social Value (Weighting 15%)</b>	<b>15</b>
<b>Performance (Weighting 15%)</b>	<b>15</b>
<b>Final Score &gt;</b>	<b>100.0</b>



# STAR PROCUREMENT Balanced Scorecard Performance

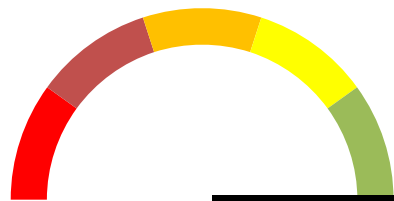
## Quarter One

# BALANCED SCORECARD

Slide	Reporting Area	Target Score %
1	Compliance	30
2	Finance	40
3	Social Value	20
4	Performance	10
5	Summary	100

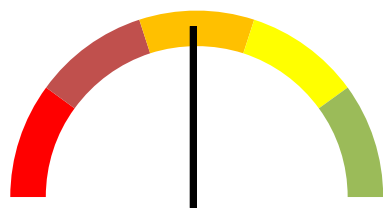
# 1. Balanced Scorecard COMPLIANCE

C1: Number of contracts in the work plan awarded without a successful legal challenge against the total number of contracts in the work plan



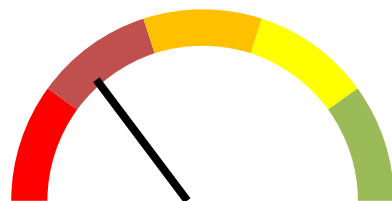
C1	TARGET	%	SCORE
<b>STAR</b>	<b>100%</b>	<b>100%</b>	<b>10</b>

C2: % of 'live'/ Compliant contracts in the Contracts Register against the total number of contracts in the Contracts Register in year



C2	TARGET	%	SCORE
<b>STAR</b>	<b>90%</b>	<b>84%</b>	<b>6</b>

C3: % of signed contractual documents filed on The Chest for contracts over three months



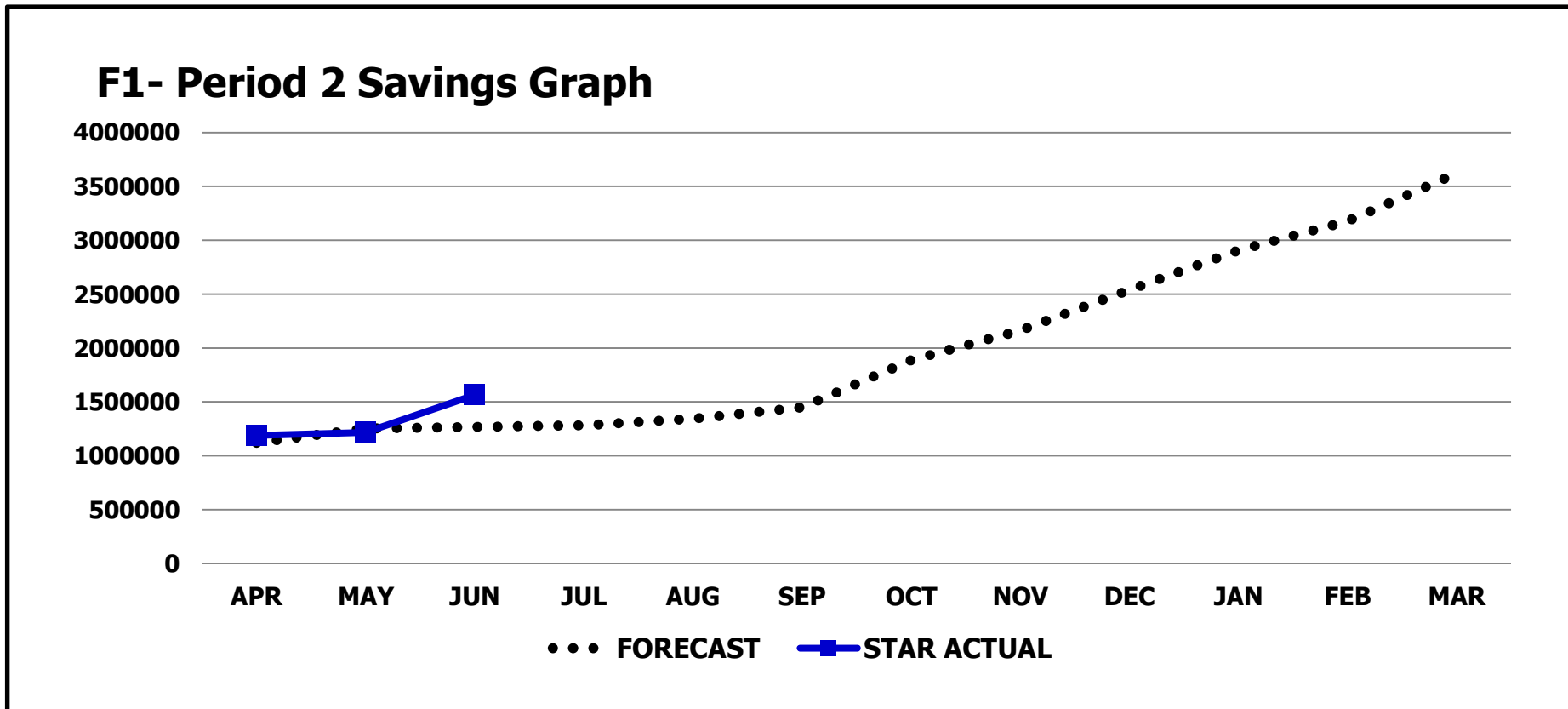
C3	TARGET	%	SCORE
<b>STAR</b>	<b>90%</b>	<b>63%</b>	<b>0</b>

## 2. Balanced Scorecard FINANCE

**F1: % Of savings achieved against target**

F1	Q1 TARGET	Q1 ACHIEVED	% OF TARGET	SCORE
STAR	1.26m	£1,540,517	121%	40

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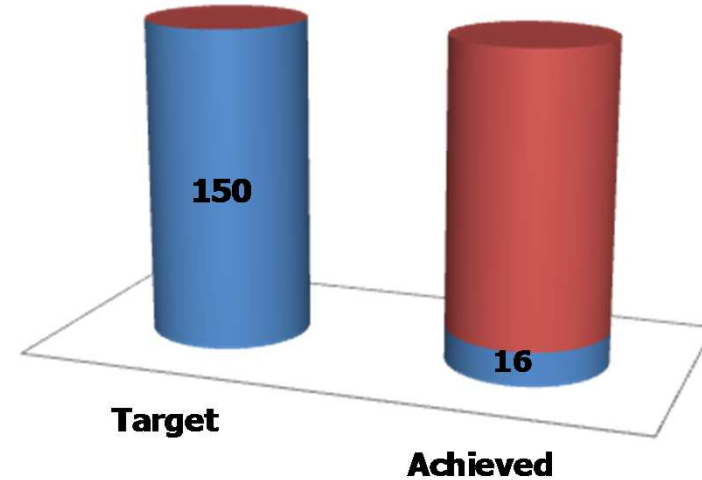


### 3. Balanced Scorecard SOCIAL VALUE

**S1: Number of local employment opportunities created as defined in GMCA Social Value Policy**

S1	TARGET	ACTUAL	SCORE
STAR	150	16	0

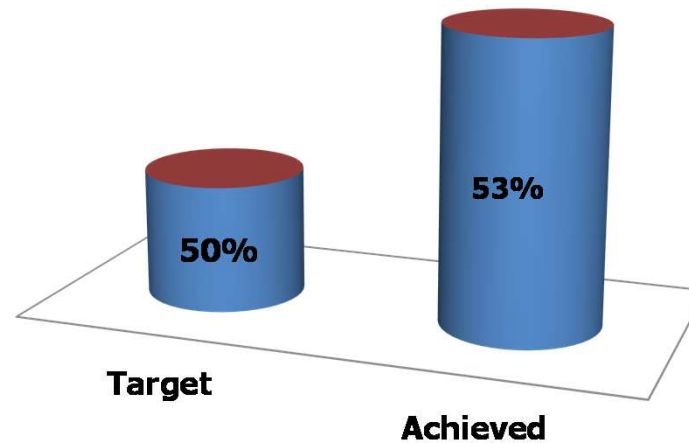
S1



**S2: % of tender exercises resulting in Social Value KPIs**

S2	TARGET	ACTUAL	SCORE
STAR	50%	53%	10

S2



# 4. Balanced Scorecard PERFORMANCE

	J		K	L		J	SCORE
	Strongly Agree	Agree	Neither Agree/ Disagree	Disagree	Strongly Disagree		
<b>STAR</b>	<b>56%</b>	<b>29%</b>	<b>12%</b>	<b>3%</b>	<b>1%</b>	<b>85%</b>	<b>10</b>

*"The STAR colleagues were both patient and helpful"*

*"I would like to firstly thank the star team for what was an excellently executed procurement activity - throughout the entire process I never once doubted that we would not deliver"*

*"Very knowledgeable and supportive throughout the tender process and awarding the contract."*

## 5. Balanced Scorecard SUMMARY

	Reporting Area	Target Score %	STAR Actual Q1
<b>1</b>	<b>Compliance</b>	<b>30</b>	<b>16</b>
<b>2</b>	<b>Finance</b>	<b>40</b>	<b>40</b>
<b>3</b>	<b>Social Value</b>	<b>20</b>	<b>10</b>
<b>4</b>	<b>Performance</b>	<b>10</b>	<b>10</b>
<b>5</b>	<b>Summary</b>	<b>100</b>	<b>76</b>

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**Report to:** STAR Joint Committee  
**Date:** 20<sup>th</sup> July 2016  
**Report for:** For Discussion  
**Report of:** Head of Strategic Procurement

**Report Title**

**Social Value Current Position and Future State**

**Summary**

The purpose of this report is to:

- Provide a summary of current Social Value implementation across Greater Manchester (GM) via independent review by the Centre for Local Economic Strategies (CLES)
- Provide a summary of current Social Value implementation at STAR
- Provide summary of further actions

**Recommendations**

The recommendation of this report is that the Joint Committee:

- Note current GM and STAR approach to Social Value
- Note the proposals for further rollout of Social Value
- Joint Committee approve 10% SV weighting to be included in a tender where it is relevant and proportionate

**Contact person for access to background papers and further information:**

Name: Nichola Cooke  
 Phone: 07711 454555

**Background**

Financial Impact:	None
Legal Impact:	None
Human Resources Impact:	None
Asset Management Impact:	None
E-Government Impact:	None
Risk Management Impact:	None
Health and Safety Impact:	None

## **Consultation**

No public consultation required.

## **Reasons for Recommendation(s)**

The report provides a summary of work undertaken to date on Social Value. It also includes a number of proposals for the further roll out of Social Value, to ensure we maximise the opportunities available to secure Social Value through our contracts and commissioning processes. The recommendation is that Joint Committee approve 10% SV weighting to be included in a tender where it is relevant and proportionate

### **1. Social Value Background**

- 1.1** Social Value (SV) is the additional community benefit that can be obtained from suppliers when the council is spending its money to buy the goods and services that it needs in order to function and deliver its obligations. SV is not what is bought by the contracts put in place, but what the suppliers can add, free of charge, in addition to these services, for the benefit of the community

### **2. Current GM Approach to Social Value**

- 2.1** The Greater Manchester Combined Authority (GMCA) is an association of all 10 Greater Manchester councils working together for the benefit of the region. It has published a [SV Policy](#) in response to the Public Services (Social Value) Act 2014. The Policy sets out how councils can increase the prosperity of their local communities through procurement activity.
- 2.2** The benefits from a common approach are:
- Ability to benchmark
  - Simplified for suppliers
  - Able to understand link between policy and achievements
- 2.3** The SV Policy was approved by GMCA in November 2014. It was proposed that GM should carry out a review Autumn 2015 to establish the baseline position. Further the consensus amongst procurement leaders in GM that external verification would be the most suitable way to create this baseline. CLES (Centre for Local Economic Strategies) are a think- tank which specialises in procurement and local economy issues and was commissioned to complete this piece of work.
- 2.4** The GMCA policy is currently being refreshed to ensure it reflects the priorities of Health, so they can also adopt the policy as part of the devolution agenda. Work is also underway at a GM level to identify the most appropriate and relevant way to monitor and report SV outcomes. This work is being done as a result of the recent Lord Young Review and the CLES Benchmarking Report (Attached at Appendix 1).

- 2.5 A report has been issued by Social Enterprise UK titled 'Procuring for Good – How Social value Act is being used by Local Authorities'. This report includes a number of recommendations which reflects STAR's current or planned activity. A copy of the report is included in Appendix 2.

### **3. STAR Approach to Social Value**

- 3.1 All STAR Councils have **adopted the GMCA SV Policy**. The policy is promoted via the STAR Website for suppliers and buyers.
- 3.2 SV is considered in all Requests For Quotation's and Tenders over £5k, and STAR recommends that it is **10% of the evaluation score**. The evidence of the consideration is included in the Procurement Initiation Document (PID) and the outcomes are reported through the Award Reports. SV is not included if it is deemed inappropriate or when existing framework agreements do not allow for its inclusion.
- 3.3 **Training has been rolled out to suppliers, commissioners and the STAR team**. This has been practical training which has focussed on how to implement and deliver, and top tips for both suppliers and buyers. **Top tips for suppliers** is available on the STAR website.
- 3.4 STAR staff have been delivering **SV on behalf of STAR Councils** including:
- Volunteering support for the Young Enterprise programme
  - Naming partner agencies in framework agreements at nil cost
  - Ensuring commissioners consider SV and advocating inclusion at 10% of evaluation score
  - Currently reviewing the option to support an Action for Blind placement within the team

### **4. CLES Independent Review Findings & Recommendations**

- 4.1 The study included a desktop analysis of spend data plus a survey of the top 300 suppliers across GM. They identified influencable spend with the top 30 suppliers for each authority producing a study which relates to top 300 suppliers across GM.
- 4.2 It should be noted that the data listed in the report cannot and should not be compared to existing data of a similar nature, this is because the data produced as a result of the survey only relates to the top 300 suppliers (by spend value) rather than the total spend data from each Council. The intention of the report is to create a common baseline against which trends and direction of travel can be compared in coming years.
- 4.3 The high level findings were as follows:
- 4.3.□.1 **Promote Employment and Economic Sustainability**

- 84.8% of the direct spend (£1bn) with GM based suppliers
- £487 million (48.5%) of total spend with SMEs
- 57% of suppliers' employees are resident in GM
- 93% of suppliers created 1060 jobs
- 69% of suppliers created 195 apprenticeships

#### 4.3.□.2 **Raise living standards of GM residents**

- 50% of suppliers paid all staff the Living Wage Foundation rate of £7.85 per hour (this is now £8.25)
- Lowest paid member of staff average £7.66 per hour
- 93% of employees are employed on a permanent basis

#### 4.3.□.3 **Participation and Citizen Engagement**

- 64% of suppliers encouraged staff participation in volunteering and community activities
- 14,051 hours of staff time were offered in GM

#### 4.3.□.4 **Capacity and Sustainability of the VCS**

- 64% of suppliers actively provide support to the VCS
- 10,159 hours in GM e.g. logistical support such as the provision of office space, provision and improvement of community facilities, employment support, such as work experience and CV and interview workshops

#### 4.3.□.5 **Equality and Fairness**

- 71% of suppliers created employment opportunities for individuals described as "hard to reach"
- 185 employment opportunities in Greater Manchester

#### 4.3.□.6 **Environmental Sustainability**

- 32% of suppliers actively measure carbon emissions
- 82% have an environmental management strategy, of which:
- 96% includes creating recycling, 89% include energy use, 60% include carbon emission reduction, 56% have transport type included, 80% have waste minimisation included and 40% having a cycle to work or walk to work scheme

### 4.4 **Recommendations**

**4.4.□.1** It is intended to use this for future benchmarking of performance against SV and recommendations from the report, agreed with the AGMA Heads of Procurement were:

- Ensure SV is considered as a matter of course and raise awareness in Pre-procurement
- Develop a process for continuous monitoring of SV
- Explore leakage out of the Greater Manchester economy
- Influence the behaviour of the supply chain
- Provide signposting for suppliers

## 5. **STAR Performance**

- 5.1** The Balanced Scorecard sets out the SV objectives for STAR. All targets in 2015/2016 have been met or exceeded.
- 5.2** STAR have taken learning from the 15/16 scorecard and in conjunction with the STAR Board and Joint Committee agreed enhanced the performance and reporting requirements for 16/17.
- 5.3** STAR will accommodate the recommendations agreed by AGMA Heads of Procurement referenced in item 4.4.1

## **6. STAR Proposals for Further Action**

- 6.1** In order to maximise the rollout of SV a number of proposals have been considered:

### **6.1.□.1 Proposal 1: For Agreement by JCM**

10% SV Weighting – there is some resistance from commissioners to allocate a full 10% weighting to Social Value. At present this is a recommendation and there is no mandated requirement to adhere to this value and there is no reference to this in Contract Procedure Rules. For purposes of context, Manchester City Council have moved to a mandated 20% (as long as it is relevant and proportionate to the contract as specified by Public Contract Regulation 2015). Salford also encourage up to 20% weighting. It is recommended that the Joint Committee agree that commissioners should include 10% SV weighting, where it is appropriate and relevant to do so.

### **6.1.□.2 Proposal 2: Council-specific Guidance - for Information**

Trafford Council are currently working with STAR procurement to develop Trafford-specific supporting documentation for Social Value. Trafford Council have taken each of the objectives of the SV Policy and mapped against that where the need exists and what current programmes are in place that potential bidders can support. The aim is to ensure that SV proposals do not replicate schemes that are already in place, that support is offered to existing initiatives, and that proposals are targeted on the areas of need for Trafford. The document also includes key contact information for the partnerships and Communities Team so bidders can contact them to discuss options. This is going to be trialled for Trafford and if successful, it is proposed that it is rolled out to the other STAR Authorities.

### **6.1.□.3 Proposal 3: Include SV as a consideration in modifications and exemptions - for Information**

Currently SV is not included on the exemption and modification forms. These both provide opportunities to extract SV from providers as they are either being awarded a contract with no competition or we are negotiating a change in the scope of the contract. It may not be possible to secure this every time, but the modification and exemption forms could be updated to ensure the commissioners and STAR consider SV at this stage.

**6.1.□.4 Proposal 4: Collection of case studies to be developed – for Information** In order to help commissioners, STAR officers will collate SV case studies so that they can be promoted via the STAR website. This would help to provide a diverse range of SV case studies and highlight how this can be done in a practical and proportionate way. This will also help to promote the SV work that is already taking place through STAR procurement and provide commissioners with real world examples of value which can be derived. An example of how local market knowledge can support the inclusion of local businesses is included in Appendix 3.

**6.1.□.5 Proposal 5: STAR SV Volunteering Policy – for Information** As stated above, there is already some volunteering taking place by STAR staff to support our communities. The proposal is that a more formalised policy is developed which may include our approach to staff leave to enable volunteering and options for STAR team away days that include volunteering. The policy should support the existing Trafford Volunteering Policy, but ensure that the benefit (days) are applied across STAR Authorities proportionately.

**6.1.□.6 Proposal 6: Develop Proposals for Contract Management & Monitoring – for Information** Further work is required with STAR staff and commissioners to equip them to implement, manage and report KPI's for Social Value. The case studies will help support this but more detailed work will be required to support this activity and agree reporting processes. This will also be supported by the work that is being undertaken at a GM level on monitoring and reporting of SV outcomes.

## **7. Recommendations**

**7.1** It is recommended that:

- Note current GM and STAR approach to Social Value
- Note the proposals for further rollout of Social Value
- Joint Committee approve 10% SV weighting to be included in a tender where it is relevant and proportionate

### **Report Appendices**

1. CLES Benchmarking Report
2. Social Enterprise UK 'Procuring for Good – How Social value Act is being used by Local Authorities'.
3. Example Case Study

## **Appendix 1: CLES Benchmarking Report**



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summary document.d

**Appendix 2:** Social Enterprise UK 'Procuring for Good – How Social value Act is being used by Local Authorities'.



procuringforgood1.p  
df

## **Appendix 3: Example Case Study**



Case Study.docx

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**Report to:** STAR Joint Committee  
**Date:** 20<sup>th</sup> July 2016  
**Report for:** For Information  
**Report of:** Director of Procurement

### **Report Title**

**Manchester City Council's Ethical (Procurement) Policy**

### **Summary**

The purpose of this report is to:

- Provide the Joint Committee with an update of progress on this matter since it was last raised at the Joint Committee in January 2016

### **Recommendations**

The recommendation of this report is that the Joint Committee:

- Note the content of the report and Manchester City Council's Ethical (Procurement) Policy and comment on / agree proposed next steps

### **Contact person for access to background papers and further information:**

Name: Sharon B Robson  
 Phone: 07817 882169

### **Background**

Financial Impact:	N/a
Legal Impact:	N/a
Human Resources Impact:	N/a
Asset Management Impact:	N/a
E-Government Impact:	N/a
Risk Management Impact:	N/a
Health and Safety Impact:	N/a

## **Consultation**

No public consultation required

## **Reasons for Recommendation(s)**

The recommendation of this report is that the Joint Committee note the content of the report and comment on proposed next steps.

### **1. Background**

- 1.1 In the January Joint Committee Meeting a verbal briefing was provided to Members on this matter. Each Council had been approached by Manchester's Overview and Scrutiny Ethical Procurement Task and Finish Group to request the attendance of the Executive Member for Finance to attend the next meeting. It was agreed that the Director of Procurement for STAR should attend on behalf of the Elected Members and report back to the Joint Committee accordingly
- 1.2 The Director of Procurement attended the meeting on Friday 17<sup>th</sup> June 2016. In view of the devolution agenda there were also representatives from Health and Further Education.
- 1.3 Manchester City Council's proposed Ethical (Procurement) Policy was provided to the group and all attendees were asked to comment with a view to identifying any other areas for inclusion. See appendix 1

### **2. Outcome from the Meeting of 17<sup>th</sup> June 2016**

- 2.1 The consensus from the meeting was that the proposed Ethical Procurement Policy was very comprehensive and had the potential to be applied across Greater Manchester. It was proposed that the Ethical Procurement Policy could be developed and introduced at a GM level in a similar way to the Greater Manchester Combined Authority (GMCA) Social Value Policy.
- 2.2 Further, from a market perspective it would be valuable to have a consistent approach across GM. Business does not stop at Local Authority boundaries and it is important that potential bidders have a consistent statement of our expectations and aspirations.
- 2.3 STAR Procurement does not have an Ethical Procurement Policy at present and relies on Contract Procedure Rules and the GMCA Social Value Policy to

direct us on such matters. The STAR Board have reviewed the proposed policy and generally believes that the content is a good summary of best practice and would be of positive benefit to support procurement practices in STAR Councils

- 2.4 The document is obviously Manchester centric at present and would need to be amended to reflect a GM approach.

### **3. Proposed Next Steps**

- 3.1 It is proposed that a similar approach is taken to the implementation of the GMCA Social Value Policy. Initially there will be a launch event to provide information and engage support for the initiative. The Director of Procurement of STAR has been asked to support the development of the launch event.
- 3.2 The document will need to be re-drafted by officers in a format which is sufficiently generic to apply to all GMCA members and ensure that the obligations do not confer any new financial burdens on GMCA members.
- 3.3 It is proposed that the document would pass to the GMCA to gain formal agreement by members.

### **4. Recommendations**

- 4.1 It is recommended that:
- 4.1.1 The Joint Committee note the content of the report and Manchester City Council's proposed Ethical (Procurement) Policy
- 4.1.2 The Joint Committee Members comment on / agree with next steps prescribed above.

### **Report Appendices**

#### **1. Appendix 1 Manchester City Council Ethical (Procurement) Policy**



Ethical\_procurement  
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# Manchester City Council Ethical (Procurement) Policy

	Date	Summary of Changes	Issued
V1.0	04.02.16		

## Ethical Policy for Manchester City Council

### 1. Purpose

This policy sets out the context for ethical trade practices and the ethical core objectives that Manchester City Council has agreed to deliver through commissioning and procurement activities.

The Council is committed to ensuring a high standard of ethical trade practices, across its commissioning and procurement activities. In accordance with this Policy the Council expects its suppliers, service providers and contractors to observe the policy's provisions and to demonstrate a similar commitment to an ongoing programme of ensuring and, where necessary, improving ethical practices locally and globally.

The Council will proactively work to ensure that all goods, works and services it procures are sourced ethically in terms of both the way the Council procures and in terms of the standards that we expect our suppliers, service providers and contractors to meet. Within its obligations as a Best Value Authority, and in compliance with UK and underpinning EU legislation, the Council will conduct its procurement process in line with this Ethical Procurement Policy ("the Policy") which is based upon the principles of the Ethical Trading Initiative (ETI) Base Code, which were founded on the conventions of the International Labour Organisation (ILO) and is an internationally recognised code of labour practice.

### 2. Scope

The aim of the Policy is not to alter the commissioning and procurement processes, but to ensure that as part of these processes, the Council gives consideration to the wider impact of the service's delivery. It allows the authority to, for example, choose a supplier under a tendering process who not only provides the most economically advantageous service, but one which goes beyond the basic contract terms and secures wider benefits and improvement to the lives of people in Manchester and the environment.

The Policy applies to all areas of the Council and to its direct suppliers and contractors. The Council requires all direct suppliers and contractors to observe the provisions of this Policy and requires that such suppliers and contractors, in turn obtain similar compliance with its provisions from their suppliers and contractors. All parties to whom this Policy applies are also required to comply with applicable national and international laws.

This policy statement sets out the Council's aims in this regard. In particular it seeks to:

- Set out a definition of ethical practice for Manchester
- Sets out a clear statement of policy for ethical practice in Manchester
- Set out the core policy objectives
- To promote the adoption and improvement of ethical practices globally
- Sets out a Manchester Ethical Framework

### 3. Defining Ethical Practices

Procurement processes which respect fundamental standards and conduct relating to criminal/non criminal conduct, and human rights/environmental abuse which are designed to discourage conduct and behaviours resulting in progressive improvement to the lives of people and the environment to the extent that the same can be influenced by supply chain decision-making.

Criminal/Non Criminal Conduct includes but not exhaustive to:

- transparency
- bribery
- fraud
- corruption
- Tax Abuse
- conflict of interest
- fairness

Human Rights/Environmental Abuse includes but not exhaustive to:

- Employment
  - Improving working conditions
  - Paying a living wage
  - Health and safety
    - Accidents
    - Diseases
  - Right to be part of a trade union
  - Child employment
  - Working hours - Zero hour contracts
  - Training
    - Regular employment
    - Apprenticeships
  - Abuse
  - Equality – hiring, compensation, access to training, promotion, termination or retirement
    - Race
    - Caste
    - National Origin
    - Religion

- Age
- Disability
- Gender and Gender Identity
- Marital status
- Sexual orientation
- Union membership
- Political affiliation
- Slavery
- Abuse – Physical, Verbal and Sexual
- Environment
  - Sustainability
  - Global Warming
  - Global Climate Change
  - Deforestation
  - Pollution
  - Threat of Extinction

#### **4. Working with Manchester City Council**

All suppliers, service providers and contractors to Manchester City Council must commit to employing the highest ethical standards in every area listed in all sections of this policy, in their own operatives and those within their supply chain. In addition social value principles and practices apply to suppliers, service providers and contractors and their supply chain as required in the Council's Social Value Policy (see appendix 1) ensuring maximum benefits are gained for improving economic, social and environmental well-being.

#### **5. Improve labour conditions in the supply chain**

Through the following principles:

##### **Freedom of association and the right to collective bargaining are respected**

- Workers, without distinction, have the right to join or form trade unions of their own choosing and to bargain collectively.
- The employer adopts an open attitude towards the activities of independent trades union or other workers' association and their organisational activities
- Workers representatives are not discriminated against and have access to carry out their representative functions in the workplace.
- Where the right to freedom of association and collective bargaining is restricted under law, the employer facilitates, and does not hinder, the development of parallel means for independent and free association and bargaining.



### **Equalities**

- Practice no discrimination in hiring, compensation, training, promotion, termination or retirement either directly or indirectly.
- Suppliers, service providers and contractors shall not unlawfully discriminate within the meaning and scope of any Law (whether in age, race, gender, religion, disability, sex orientation or otherwise in employment) including but not limited to the Equality Act 2010 or other relevant or equivalent legislation, or any statutory modification or re-enactment thereof.

### **Blacklists**

- Suppliers, service providers and contractors shall not unlawfully compile, use, sell or supply a prohibited list which:
  - a. contains details of persons who are or have been members of trade unions or persons who are taking part or have taken part in the activities of trade unions, and
  - b. is compiled with a view to being used by employers or employment agencies for the purpose of discrimination in relation to recruitment, or in relation to treatment of works within the meaning of The Employment Act of 1999 (Blacklists) Regulations 2010.
  - c. contains details of persons who are or have been involved in whistleblowing to appropriate bodies as a result of becoming aware of any deficiency in service provision, impropriety, fraud, customer abuse, breach of procedure or maladministration.

### **Employment is freely chosen**

- There is no forced, bonded or involuntary prison labour.
- Workers are not required to lodge "deposits" or their identity papers with their employer and are free to leave their employer after reasonable notice
- Afford employees the freedom to choose to work and not use forced, bonded or non-voluntary prison labour.
- Afford employees freedom of association with the right to join an independent trades union or other workers' association and to carry out reasonable representative functions in the workplace.
- Facilitate alternative means of democratic representation where laws restrict freedom of association and collective bargaining.

### **Working conditions are safe**

- Appropriate health and safety policies and procedures are operated and are overseen by a senior manager responsible for compliance and monitoring and for ensuring employees have the necessary training and health and safety equipment.
- Adequate steps are taken to prevent accidents and injury to health arising out of, associated with, or occurring in the course of work, by minimising, so far as is reasonably practicable, the causes of hazards inherent in the working environment.
- Provide comfortable and hygienic working conditions with clean toilets and water suitable for drinking and washing. Where worker housing is provided it should meet the same standards for health and safety as the workplace.
- Workers shall receive regular and recorded health and safety training, and such training shall be repeated for new or reassigned workers.

### **Good health is promoted**

- Invest in measures for tackling ill health as healthy employees experience a better quality of life and tend to be more productive.

### **Working hours are not excessive**

- Comply with national laws or industry standards on employee working hours, whichever affords greater protection.
- Provide clear, easily understood disciplinary, grievance and appeal procedures that are lawful and appropriate. Any disciplinary measures should be recorded and suppliers should not seek to deprive employees of their legal or contractual rights.

### **Minimum wages**

- Provide wages and benefits at rates that meet at least national legal standards with no deductions made unless permitted under national law or agreed by the employee, without duress.

Since 2008 the Council has operated the Manchester Minimum Wage (MMW, now called the Manchester Living Wage MLW) which defines the Council's policy with regard to its lowest paid employees. The main drivers that led to the creation of the Manchester Minimum Wage were the impact of the economic downturn, positive links between wage levels and all aspects of well being, the Council's Community Plan objectives, and the direct contribution this strategy had on the Community Strategy vision.

The MLW supports the Council in meeting many of its social, economic and environmental objectives, including:

1. Ensuring that wages in the City can sustain families and individuals
2. Attracting and retaining motivated employees, thereby reducing the impact of staff turnover.
3. Helping to underpin a thriving economy.
4. The current MLW rate of pay is £8.25 per hour

In accordance with the Council's aspirations and objectives and its obligations under the Public Services (Social Value Act) 2012 we commend the adoption of the MLW to our contractors and suppliers

- Provide employees with an easy to read contract of employment clearly explaining wage levels. Where employees are unable to read, the contract should be explained to them by a union representative or another appropriate third party.

#### **Regular employment is provided**

- To every extent possible work performed must be on the basis of recognised employment relationship established through national law and practice.
- Obligations to employees under labour or social security laws and regulations arising from the regular employment relationship shall not be avoided through the use of labour-only contracting, sub- contracting, or home-working arrangements, or through apprenticeship schemes where there is no real intent to impart skills or provide regular employment, nor shall any such obligations be avoided through the excessive use of fixed-term contracts of employment.
- Excessive use of Zero Hour contracts should be avoided and suppliers, service providers and contractors should be working toward eliminating such contracts or where used give more protection to the work force such as adopting an element of guaranteed hours where employees express a preference for this or where flexibility is required. In these circumstances it is expected that employers ensure their employees receive their entitlement to holiday and sick pay.

#### **Training is provided**

- Raise employees' skills through training and access to professional development as befits their role to improve quality and secure greater value for money.

### **Disputes procedure**

- Provide clear and accessible processes for resolving disputes with employees.

### **Child labour is eliminated**

- Support the elimination of child labour. The course of action taken shall be in the best interest of the child, conform to the provisions of International Labour Organisation (ILO) Convention 138 and be consistent with the United Nation's Convention on the Rights of the Child.
- Provide for any children found to be performing child labour to attend and remain in quality education until no longer a child. 'Child' refers to any persons less than 15 years of age, unless local legislation on the minimum age stipulates a higher age for work or mandatory schooling, in which case the higher age shall apply.
- Ensure no children and young persons (over the age of a child, as defined above, but under the age of 18) are employed at night or in hazardous conditions, as defined by the International Labour Organisation.

### **No inhumane treatment is allowed**

- Prohibit physical abuse or coercion, the threat of physical abuse, sexual or other harassment and verbal abuse or other forms of intimidation.

### **Acting with integrity and transparency**

- Procurement processes are conducted in an open and honest way
- There is transparency in the spending of public money
- Suppliers have systems in place to ensure high standards of propriety which make sure public money is used for the purpose it is intended.

## **6. Responsible supply chain**

MCC expects a commitment by the supplier, service provider and contractor to continuous improvement of the ethical performance of their supply chain.

### **Small to Medium Enterprises (SMEs)**

- The Council is committed to improving engagement with SMEs, voluntary sector and charitable organisations and where appropriate tenders will be adapted to their needs, particularly with regard to dividing large contracts into lots, in accordance with the Public Contract Regulations 2015 which encourages authorities to use the 'Code of Best Practices Facilitating Access by SMEs to Public Procurement Contracts'.

***‘Small to Medium Enterprises (SMEs)’ means***

The definition of an SME is that it must meet two of the following criteria:

- It has a turnover of less than £25M
- It has gross assets of less than £12.5M
- It has less than 250 employees

**Environment**

- The supplier, service provider and contractor endeavour to purchase through suppliers and contractors who are continuously working at improving labour and environmental standards in the supply chain. Organisations such as but not limited to Environment standards (ISO14001 and EMAS management systems), Good agricultural standards (GlobalGAP), Consumer facing standards (Fairtrade, Rainforest Alliance, Tea Sourcing Partnership (TSP)), Organic (Soil Association), Management of world forests (FSC and PEFC) and Commitment to continuous improvement of the ethical performance of supply chain (SEDEX)
- Manchester - A Certain Future – the city’s Climate Change Action Plan sets out our commitment to be a leading low carbon Council where our services are transformed so that they are designed and delivered with a minimum impact on the local and global environment. The City Council is committed to reducing the city’s CO<sub>2</sub> emissions by 41% on 2005 levels by 2020, and to engage and embed low carbon thinking into the lifestyle and operations of the city. Suppliers, service providers and contractors are required to contribute to the Council reaching these goals through management of their own carbon impacts and transforming the city’s procurement to a lower carbon supply chain.

**Citizen Engagement**

- The supplier, service provider and contractor will work intensively with communities and our partners to develop greater resilience in communities, building on the strong networks that already exist in neighbourhoods, and current leading work such as Age Friendly Manchester.
- The Council favours an asset based approach which looks at the uniqueness of people, their potential skills, assets, relationships and community resources. This approach concentrates primarily on what is important to people, what they want to do, and the strengths and nature of their social networks. This underpins wider Council priorities of building self reliance and strengthening communities.

- The key principles are:
  - Connecting people with local community solutions which may include a community hub, a social group or peer support
  - People of all ages should have access to community facilities which support them to be healthy and engaged in the life of their place. This does not have to be just physical buildings or universal services, but residents should be able to readily find information to access to community initiatives either run by the voluntary sector or through individuals and groups of residents

### **Fair Payments throughout the Supply Chain**

- The Council is committed to ensuring fair payment for goods and services are paid for promptly through the supply chain.
- The Council is signed up to the 'Prompt Payment Code' administered by the Chartered Institute of Credit Management on behalf of the Department for Business, Innovation and Skills. The Council recommends that suppliers, service providers and contractors sign up to this Code.
- The Council's standard terms of payment to its suppliers, service providers and contracts are 30 days from receipt of invoice, however the Council is committed to paying its suppliers as promptly as possible and endeavours to do so within 10 days of invoice date wherever possible. The Council also encourages payment by Purchase card enabling suppliers to be paid within 4 days. The Council requires that all direct suppliers, service providers and contractors demonstrate a similar commitment through the supply chain in paying their suppliers and contractors which in turn is passed through to manufacturers, and producers.

## **7. The legal context for Ethical Procurement**

The Council operates within the legal framework governing public procurement as framed by the EU Treaty itself, the relevant EU Directives relating to public procurement and the Public Contract Regulations 2006 as subsequently updated and amended. This legal framework requires contracting authorities to award certain contracts in line with the overarching fundamental principles of the EU Treaty, including the principles of non-discrimination, equal treatment, transparency, procedural fairness, mutual recognition and proportionality.

### **Mandatory exclusion**

Mandatory grounds for exclusion are participation in criminal organisations, corruption, bribery, fraud, and money laundering; those who are guilty of child labour, people trafficking or drug trafficking offences or offences linked to terrorism; and those who have breached their tax or social security obligations

(until the supplier has rectified the breach) within a period of five years prior to the procurement.

### **Discretionary grounds for exclusion**

Discretionary grounds for exclusion are more widely defined but include professional or commercial misfeasance and grave professional misconduct in the course of business, payment of taxes under UK law, payment of social security contributions under UK law.

#### ***“Grave Professional Misconduct” means:***

*It has been established by a final judgement or a final administrative decision made by the Council that a supplier, service provider or contractor or persons employed by or subcontracted by a supplier, service provider or contractor that there is guilt of grave misconduct by having violated applicable laws or regulations or ethical standards of the profession to which the supplier, service provider or contractor belongs, or by having engaged in any wrongful conduct which has an impact on its professional credibility where such conduct denotes wrongful intent or gross negligence.*

### **UK Government additional recommendations on Tax Compliance**

In accordance with the UK Governments recommendations the Council places an obligation on suppliers, service providers and contractors to keep the Council notified of any “occasion of tax non-compliance (OONC)” during terms of contracts. The Council will make all reasonable enquiries to see that that the statements made by suppliers, service providers and contractors at selection stage remain valid at the commencement of the contract

#### ***“Occasion of Tax Non-Compliance” means:***

- (a) *any tax return of the Supplier submitted to a Relevant Tax Authority on or after 1 October 2012 is found to be incorrect as a result of:*
  - (i) *a Relevant Tax Authority successfully challenging the Supplier under the General Anti-Abuse Rule or the Halifax Abuse Principle or under any tax rules or legislation that have an effect equivalent or similar to the General Anti-Abuse Rule or the Halifax Abuse Principle;*
  - (ii) *the failure of an avoidance scheme which the Supplier was involved in, and which was, or should have been, notified to a Relevant Tax Authority under the DOTAS or any equivalent or similar regime; and/or*
- (b) *the Supplier’s tax affairs give rise on or after 1 April 2013 to a criminal conviction in any jurisdiction for tax related offences which is not spent at the Effective Date or to a penalty for civil fraud or evasion,*

### **Procurement law**

The Council shall act fairly, reasonably and in accordance with the rules of Natural Justice in exercising its discretion (pursuant to Rule 57 of the PCR 2015) in considering whether to exclude a potential tenderer from participation in any procurement procedure and shall also take into account any other relevant legislation including but not limited to the Local Governments Act.

The LGA includes the prohibition on public authorities from taking into account “non-commercial” considerations and also includes the obligation to act fairly and with right to fair hearing etc.

In accordance with the public procurement rules, it is therefore necessary to ensure that ethical issues are relevant to the subject matter of the contract and are consistent with the requirement within the Local Government Act 1999 to achieve “best value”. In the context of procurement, best value for money means choosing the option or bid that offers “the optimum combination of whole life costs and benefits to meet the customer’s requirements.” Ethical considerations that are “relevant” to the subject matter of the contract may arise where there is a risk to the Council from a supplier being unable to deliver the product or service to time and of sufficient quality due to say insufficient health and safety provisions for its employees. If a clear link can be established between poor conditions of employment and the ability or motivation of an employee to maintain required equality standards, this will be relevant to the supply of goods, works or services.

Public sector bodies may also work in partnership with suppliers to pursue wider ethical issues, in a constructive and collaborative way, outside the public procurement process. This must however be done post-award and on a voluntary basis as contracts must not set standards that exceed the parameters of what may be required under EU law. Further, doing so may deter bidders from Member States and could be challenged as a restriction on free trade.

Approved by full Council  
Date.....



## Appendices of Bodies

Ethical Trading Initiative	<a href="#">ETI Base Code   Ethical Trading Initiative</a>
International Labour Code	<a href="http://www.ilo.org/global/topics/labour-law/lang--en/index.htm">http://www.ilo.org/global/topics/labour-law/lang--en/index.htm</a>
Social Value Policy	<a href="#">GMCA Social Value Policy</a>
Equality Act 2010	<a href="#">Equality Act 2010</a>
The Employment Act 1999 (Blacklists) Regulations 2010	<a href="#">The Employment Relations Act 1999 (Blacklists) Regulations 2010</a>
International Labour Organisation Convention 138	<a href="#">Convention C138 - Minimum Age Convention, 1973 (No. 138)</a>
Public Contract Regulations 2015	<a href="#">The Public Contracts Regulations 2015</a>
Code of Best Practices Facilitating Access by SMEs	<a href="#">Code of best Practices Facilitating Access by SMEs</a>
Environmental Standards	<a href="#">BSI Group</a> <a href="#">Home - EMAS - EUROPA</a> <a href="#">GLOBALG.A.P.</a> <a href="http://www.fairtrade.org.uk">www.fairtrade.org.uk</a> <a href="http://www.rainforest-alliance.org">www.rainforest-alliance.org</a> <a href="#">The Ethical Tea Partnership</a> <a href="#">Soil Association : Organic standards</a> <a href="http://www.fsc-uk.org/en-uk">http://www.fsc-uk.org/en-uk</a> <a href="#">PEFC</a> <a href="#">Sedex</a>
MCC Climate Change Action Plan	<a href="#">MCC Climate Change Delivery and Action Plan</a>
Local Government Act	<a href="#">Local Government Act 1999</a>
Prompt Payment Code	<a href="#">Prompt Payment Code</a>

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