



Royal Borough of Kingston upon Thames

Model Conditions

Major Contracts

[Notes:

- 1. Every contract which does not exceed £300K shall be in writing and signed by the Chief Executive, appropriate Director, Executive Head or Service Manager or sealed with the Common Seal of the Council.**
- 2. Every contract which exceeds £300K in value or amount shall be in writing and shall be sealed with the Common Seal of the Council.**
- 3. You must ensure each time that you use this document that you check to make sure that it is up to date and accurate to meet the needs of your specific contract. Pay particular attention to the following paragraphs and sections: 27 (TUPE), 50 (Variations in Price) and 51 (Monitoring Performance and Performance Indicators), and Schedule A.**
- 4. Under Section 50 Variation in Contract Price you may insert a clause regarding annual indexation if you feel this is necessary but you are advised to consult Once Council Finance before doing so. You need to be clear which index/indices it will be appropriate to use for price revisions and specify all of them in clause 1.22 and in Schedule A. The definition should cover all indices set out in clause 50. Depending on the nature of the contract, however, it may not be necessary to have a price review clause at all. You are advised to consult One Council Finance and, depending on the decision regarding annual indexation, clauses 50.1 to 50.6 will need to be amended.**
- 5. If you are buying ICT goods or services, you may need to add the following unamended OGC Model ICT Contract Clauses which you must obtain from the Head of ICT:**

**28.11 and 28.12 (Contractor Personnel – Staffing Security)
40 (Authority Data)
41 (Protection of Personal Data)
42 (Freedom of Information)
43 (Confidentiality)
and 48 (Security Requirements).**

Schedule 45.2 (Warranties) will need to be tailored to reference specific documentation sets which the contractor has or will provide as part of the delivery of the service.

Schedule 2.5 (Security Requirements and Plan) will need to be amended for some smaller ICT Service contracts.

Please seek advice from the Head of ICT regarding all of the above.

Information is a key asset, and its proper use is fundamental to the delivery of public services. From July 2008, the Data Handling Procedures in Government Report require that standard contract clauses on information assurance will be incorporated into contracts.

- 6. Please seek advice from the Head of ICT regarding clauses 22.6, 22.7 and 22.9 (PCIDSS Compliance).**
- 7. Pls appropriate to your service area will need to be added at 57.5 (Performance and Breach).**
- 8. Adult Safeguarding standard contract clauses**

These do not apply to every contract. They will certainly apply not only where contractors are providing direct care, but also to contracts for building maintenance, and security etc where contractors are required to visit people in their own homes.

For organizations providing support services including building maintenance security and other ancillary services:

Details of how to raise adult safeguarding alerts can be found on the council's web site. [Organisation's name] will ensure that their policy and procedures are consistent with *SCIE Report 39: Protecting adults at risk: London multi-agency policy and procedures to safeguard adults from abuse*

The training standards, e-learning packages and training courses provided by the Kingston Safeguarding Adults Partnership Board (SAPB) can be found on the EVOLVE website [web site about to be changed]. [Organisations name] is responsible for ensuring that training consistent with this standard is provided for all employees [and volunteers]. Further information can be found by visiting the SAPB website.

1. [Organisation's name] will ensure that all staff have completed appropriate adult safeguarding awareness training to enable them to identify and report suspected abuse
2. Provide opportunities for staff to update their training in this area as described in SAPB standard detailed on the EVOLVE web site
3. Ensure that employees are encouraged to report the abuse of adults at risk
4. Respond to all reasonable requests for information from the SAPB and Safeguarding Adult Managers (SAMs)

For health and social care provider organisations:

The training standards, e-learning packages and training courses provided by the Kingston Safeguarding Adults Partnership Board (SAPB) can be found on the EVOLVE website [web site about to be changed]. [Organisation's name] is

responsible for ensuring that training consistent with this standard is provided for all employees [and volunteers]. Further information can be found by visiting the SAPB website.

1. [Organisation's name] will ensure that their policy and procedures are consistent with SCIE Report 39: Protecting adults at risk: London multi-agency policy and procedures to safeguard adults from abuse this will include

- Ensuring all staff and volunteers receive appropriate training
- Completing a data sharing agreement with the borough/Clinical Commissioning Group
- Participating in, and providing relevant information to, adult safeguarding investigation and protection planning meetings
- Participating in the Kingston Safeguarding Adults Partnership Board as required.

For health and social care provider organisations operating hospital residential or nursing home services regulated by the Care Quality Commission. For those operating in the Royal Borough of Kingston:

The training standards, e-learning packages and training courses provided by the Kingston Adult Safeguarding Adults Partnership Board (SAPB) can be found on the EVOLVE website [web site about to be changed]. [Organisation's name] is responsible for ensuring that training consistent with this standard is provided for all employees and volunteers. Further information can be found by visiting the SAPB website.

1. [Organisation's name] will ensure that their policy and procedures are consistent with SCIE Report 39: Protecting adults at risk: London multi-agency policy and procedures to safeguard adults from abuse this will include:

- Ensuring all staff and volunteers receive appropriate training
- Completing a data sharing agreement with the Royal Borough of Kingston and Kingston Clinical Commissioning Group
- Participating in, and providing relevant information to, adult safeguarding investigation and protection planning meetings.
- Participating in the Kingston Safeguarding Adults Partnership board as required.

2. [Organisation's name] will ensure they discharge the responsibilities of the managing authority (Deprivation of Liberty Regulations 2009 as introduced by an amendment to the Mental Capacity Act 2005 in the Mental Health Act 2007).

3. Refer any suspected deprivation of liberty relating to a person whose care is funded by Royal Borough of Kingston, Kingston Clinical Commissioning Group, the managing authority (as defined in the Deprivation of Liberty Regulations 2009) or someone acting on their behalf to the supervisory body by contacting the Safeguarding Adults and Mental Capacity Act Team (SAMCAT) at

- Guildhall, High Street, Kingston upon Thames, Surrey, KT1 1EU
- Telephone: 020 8547 4735
- Fax: 020 8547 6142
- Email: adult.safeguarding@rbk.kingston.gov.uk

For health and social care provider organisations operating hospital residential or nursing home services regulated by the Care Quality Commission. For those operating in other local authority areas:

1. [Organisation's name] will ensure that their policy and procedures are consistent with the policy, procedures and training standards of the local Safeguarding Adults Partnership Board. This will include
 - Ensuring all staff and volunteers receive appropriate training
 - Participating in, and providing information for, adult safeguarding investigation and protection planning meetings.
 - Participating in the Kingston Safeguarding Adults Partnership Board as required.
2. [Organization's name] will complete a data sharing agreement with the Royal borough of Kingston and Kingston Clinical Commissioning group
3. [Organisation's name] will ensure they discharge the responsibilities of the managing authority (Deprivation of Liberty Regulations 2009)
4. Refer any suspected deprivation of liberty relating to a person whose care is funded by Royal Borough of Kingston or Kingston Clinical Commissioning Group to the Supervisory body by contacting the Safeguarding Adults and Mental Capacity Act Team (SAMCAT) at
 - Guildhall, High Street, Kingston upon Thames, Surrey, KT1 1EU
 - Telephone: 020 8547 4735
 - Fax: 020 8547 6142
 - Email: adult.safeguarding@rbk.kingston.gov.uk

For investigating organisations operating in the Royal Borough of Kingston:

The training standards, e-learning packages and training courses provided by the Kingston Safeguarding Adults Partnership Board (SAPB) can be found on the EVOLVE website [web site about to be changed]. [Organisation's name] is responsible for ensuring that training consistent with this standard is provided for all employees [and volunteers]. Further information can be found by visiting the SAPB website.

1. [Organisation's name] will ensure that their policy and procedures are consistent with SCIE Report 39: Protecting adults at risk: London multi-agency policy and procedures to safeguard adults from abuse (all subsequent paragraph numbers relate to this policy. This will include
 - a. Ensuring all staff and volunteers receive appropriate training
 - b. Completing a data sharing agreement with the Royal borough of Kingston and Kingston Clinical Commissioning group

- c. Arranging, participating in and providing information to adult safeguarding investigation and protection planning meetings as required.
2. [Organisation's name] will identify a Safeguarding Adults Lead who will ensure that the requirements outlined in paragraphs 1.1.1.3 and chapter 1.5 are met. This will include
- a. Managing resources and performance within internal care pathways and liaising with other investigating organisations where inter-agency operational problems become apparent.
 - b. Ensuring that performance information is shared with SAPB
 - c. Attending appropriate multi agency meetings as required.
 - d. Ensuring that complaints received from any source about *Safeguarding Adults practice and process are managed under the relevant complaints procedures of the organisation about which the complaint has been made* (paragraph 1.9.2.2)
 - e. Ensure representation at the Multi Agency Safeguarding Hub as appropriate.]

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SECTION A

FORMALITIES

1. DEFINITIONS AND INTERPRETATIONS

- 1.1. In these Conditions, except where the context otherwise requires, the following expressions shall have the meaning hereby ascribed to them:
- 1.2. “Contract” means the Agreement entered into between the Council and the Contractor embodying these Conditions, the Specification, the Contractor’s Tender (and the Council’s acceptance thereof), Plans and any other documents relevant to this agreement as listed in the Schedule(s).
- 1.3. “The Contract Standard” means such standard as complies in each and every respect with all relevant provisions of the Contract and where and to the extent that no criteria are stated in the Contract, the standard is to be to the entire satisfaction of the Authorised Officer.
- 1.4. “Service” means the whole of the work to be executed by the Contractor in accordance with the Contract.
- 1.5. “Variation” means a variation to the Service made by notice given by the Authorised Officer to the Contractor in accordance with Clauses 41 & 42 below.
- 1.6. “Schedules” means the Schedules hereto.
- 1.7. “Appendices” means the Appendices hereto.
- 1.8. “Conditions” means the Conditions of Contract including the Schedule(s).
- 1.9. “Operational Plan” means the Contractor’s submitted means and method of performing the tasks to the standards laid down in the Specification (if applicable) and will include the Contractor’s proposals for development and improvement of the Services during the term of the Contract and agreed with the Authorised Officer.
- 1.10. “Council” means the Mayor and Burgesses of the Royal Borough of Kingston upon Thames (and any successor or person or Body Corporate).
- 1.11. “Authorised Officer” means the Officer named in Schedule A.
- 1.12. References to “staff” shall be construed as including all employees, sub-contract employees and other persons who provide services in accordance with the contract.
- 1.13. Reference to “supervisory staff” shall be construed as including all staff performing a supervisory or managerial function.

- 1.14. "Contract Manager" means the representative of the Contractor appointed pursuant to Condition 29 below.
- 1.15. "Commencement Date" means the date as set out in the Particulars of Contract (Schedule A).
- 1.16. "Contract Period" means a period as set out in the Particulars of Contract (Schedule A).
- 1.17. "Review Dates" means the anniversaries of the Commencement Date at which the Contractor commenced the Service(s).
- 1.18. "Month" means a calendar month; "week" means 7 consecutive days starting on a Monday and ending on the following Sunday midnight; "Day" means the period from midnight to midnight.
- 1.19. Reference to time shall be construed, during the summer time, to be British Summer Time and otherwise to be Greenwich Mean Time.
- 1.20. "Schedules of Prices" where applicable means the Schedule of Prices on which the Contractor's tender was based and incorporates the principles of measurement set out therein.
- 1.21. "Statement" means the statement provided by the Contractor to the Authorised Officer, detailing the value of Services performed during the relevant period (usually a month).
- 1.22. "The Retail Prices Index (all items excluding mortgage interest repayments)(RPIX)" (ref.CHMK) means the index issued by the Employment Gazette as published by the Office for National Statistics, or any government department upon which duties in connection with the compilation and maintenance of such Index shall have devolved or other appropriate Index as stated in the Schedule(s).
- 1.23. "Council Premises" means any property owned or leased or otherwise in the possession of the Council consisting of offices, buildings and land, which are used by the Contractor, whether exclusively or together with the Council, for the performance of the Service.
- 1.24. References to any building whether by name, description, address or where termed "facility/premises" shall be construed as including the curtilage of that building for which the Contractor is responsible as detailed in the Specification.
- 1.25. "Contractor Premises" means any property owned or leased or otherwise in the possession of the Contractor consisting of offices, building etc., which are used by the Contractor for the proper performance of the Service.
- 1.26. "Specification" means the description of the Service referred to in the Specification of Requirements of this document and any modification or

Variation thereof or addition thereto as may from time to time be furnished or approved in writing by the Authorised Officer.

- 1.27. “Intellectual Property Rights” means all copyright, patents or patent rights; registered and unregistered design rights, trade marks, service marks and all other intellectual or industrial property rights wherever in the world enforceable.

2. THE ROLE OF THE COUNCIL’S OFFICERS

- 2.1. The functions, rights and powers conferred by the Contract upon the Council shall be exercised by officers appointed for those purposes and having specific authority within the role which they perform.
- 2.2. The Authorised Officer shall have all the rights and powers conferred on the Council, and in particular may vary any part of the Conditions, or the Specification on behalf of the Council.
- 2.3. The Authorised Officer may nominate representative(s) to be responsible for a particular part of the Service or a particular type of work. Such officers shall not have any power to vary any part of the Conditions but shall have the power to vary the Specification, the Method Statement or any other relevant documentation for that part of the Service or type of work for which they are made responsible. Any such Variations shall use the mechanism laid down in Clauses 41- 42.
- 2.4. The Authorised Officer’s representatives shall not have any power to vary any part of the Conditions nor relax any standard laid down in the Contract but shall have power to instruct the Contractor to carry out work which is part of the Service. Any instructions shall be issued in accordance with Conditions 3 and 41 and shall relate to services which assist the Authorised Officer or his representative in its performance of the service to the Council.
- 2.5. For the avoidance of doubt, the Authorised Officer or his representative(s) shall be entitled to monitor the performance of the Service by the Contractor and shall have the power to intervene in the case of any Contractor failure, using the mechanism laid down in Section G (Performance & Breach).
- 2.6. If any clarification of the powers and duties of individual officers is required by the Contractor then this shall be sought in writing from the Authorised Officer. The Contractor shall accept the authority of the officers to the extent that it has been delegated to them by the Authorised Officer.

3. NOTICES

- 3.1. No notice served upon the Council shall be valid or effective unless it is sent by Recorded Delivery post, electronic mail or facsimile transmission to the Authorised Officer or delivered by hand to the Authorised Officer.

- 3.2. Any notice served upon the Contractor shall be valid and effective if it is sent by Recorded Delivery post, electronic mail or facsimile transmission or delivered by hand to the Registered Office, principal place of business, or the Contractor Premises from which the Service is performed or is delivered by hand to a partner, director, or the Contract Manager.

4. WAIVER

- 4.1. Failure by the Council at any time to enforce the provisions of the Contract or to require performance by the Contractor of any such provisions of the Contract shall not be construed as a waiver of any such provision and shall not affect the validity of the Council to enforce any provision in accordance with its terms.

5. FORBEARANCE

- 5.1. No forbearance, indulgence or relaxation on the part of the Council, the Authorised Officer or his representative, shown or granted to the Contractor in respect of its obligations under this Contract, shall in any way affect, restrict or diminish the rights and powers of the Council or the Authorised Officer under the Contract, or operate as, or be deemed, a waiver of any breach of contract.

6. CONFIDENTIALITY

- 6.1. The Contractor shall not during the Contract Period or at any time thereafter, other than for its own purposes, make use of or disclose to any person (except as may be required by law), any information contained in any material provided to it by the Council pursuant to the Contract or prepared by the Contractor pursuant to the Contract, all of which information shall be deemed to be confidential.
- 6.2. The Contractor shall not dispose nor part with possession of any material provided to it by the Council pursuant to the Contract or prepared by the Contractor pursuant to the Contract, other than in accordance with the express written instructions of the Council.
- 6.3. The Contractor shall ensure the compliance of its employees with the provisions of this Condition.
- 6.4. The Council shall treat as confidential the Conditions of this Contract and all confidential information obtained from the Contractor which is identified by the Contractor as confidential or proprietary information and the Council shall not disclose such confidential information to any third party other than in circumstances where the Council is complying with its legal obligations without the express written permission of the Contractor and shall otherwise protect it as it would if it were the Council's confidential information.

These obligations of confidentiality shall not apply to information which:

- Can be shown to be in the public domain before release to the receiving party; or
- Becomes public knowledge other than by an act of default of the receiving party; or
- Is in the possession of the receiving party without restriction in relation to disclosure before the date of receipt from the disclosing party; or
- Is independently developed by the receiving party without access to the confidential information; or
- Is received by the receiving party from a third party who has lawfully acquired or developed it and who is under no obligation restricting its disclosure.
- Is required to be disclosed pursuant to the Freedom of Information Act 2000.

6.5. For the avoidance of doubt nothing in the Contract shall prevent the Contractor from using data processing techniques, ideas and know-how gained during the performance of the Contract in the furtherance of its normal business, to the extent that this does not relate to a disclosure of confidential information or an infringement of any intellectual property right by the Contractor.

7. FORCE MAJEURE

7.1. In the event of an Act of God or Force Majeure (which shall include acts of government, fire, tempest, acts of war and related matters, which are both beyond the control of the Contractor and are such that the Contractor with the application of all due diligence and foresight could not reasonably prevent) which causes the cessation of or substantial interference with the reasonable performance of the Service, the duty of the Contractor to perform the Service shall be suspended until such circumstances have ceased. The Council shall not be liable to make any payment to the Contractor in respect of such suspension and any such sum already paid in respect of any part of the Service not yet performed shall be held to the credit of the Council.

7.2. For the avoidance of doubt, it is hereby expressly agreed that industrial relations, difficulties, and failure to provide adequate premises, equipment, materials, consumables and/or staff or similar matters, which a prudent and diligent Contractor could reasonably have avoided with the application of foresight, are not be considered as events of Force Majeure or Acts of God.

- 7.3. If the period of suspension under Condition 7.1 above lasts for longer than three months, either party may serve upon the other three months written notice of termination of the Contract. Unless the Service has been resumed before the expiration of such notice, the Contract shall terminate in accordance with such notice.
- 7.4. Upon termination of the Contract it is hereby agreed that except where otherwise stated Condition 24.1 and Section I (Termination) shall continue in full force and effect for a period of six years following the date of termination.

8. APPLICABLE LAW

- 8.1. This Contract and all its provisions shall be considered as a contract made in England and Wales and shall be construed in accordance with English Law. Each party agrees to submit to the exclusive jurisdiction of the English courts as regards any claim or matter arising under this Contract or the performance of the Service.
- 8.2. This Contract is binding on the Council and its successors and assignees and on the Contractor and its permitted assignees.

9. INTERPRETATION OF CONTRACT

- 9.1. The Contractor shall be deemed to have satisfied itself before the signing hereof as to the accuracy and sufficiency of the rates and prices stated by it in its tender which shall (except in so far as it is otherwise provided in the Contract) be deemed to have obtained for itself all necessary information as to risks, contingencies and any other circumstances which might reasonably have influenced or affect its tender.
- 9.2. Except as otherwise expressly provided, all elements of the Contract are to be taken as mutually explanatory of one another. Any perceived ambiguities or discrepancies shall be referred in the first instance to the Authorised Officer who following discussion with the Contractor shall thereupon issue to the Contractor appropriate instructions in writing, which the Contractor shall carry out and be bound by.
- 9.3. In the event of any inconsistency between these Conditions and any other documents forming part of the Contract, these Conditions shall prevail.
- 9.4. In these Conditions:
- 9.4.1. The masculine includes the feminine and the neuter and vice versa; the singular includes the plural and vice versa;
- 9.4.2. Headings are included for ease of reference only and shall not affect the interpretation or construction of the Contract;

- 9.4.3. References to Conditions, Schedules and Appendices are unless otherwise provided, references to Conditions, Schedules and Appendices within the Contract;
- 9.4.4. “Act of Parliament” or any Order, Regulation, Statute, Statutory Instrument, Code of Practice, Bylaw, Directive or the like, whether detailed expressly or incorporated by general reference, shall be deemed to include a reference to any amendment, re-enactment or replacement of it;
- 9.4.5. Use of the word “tender” shall not preclude performance based requirements and/or proposals.
- 9.5. This Contract constitutes the entire understanding and agreement relating to the subject matter of the Contract and, save as expressly referred to or incorporated by reference, supersedes all prior negotiations, submissions or understandings with respect to this subject matter.
- 9.6. The Contractor shall comply with the Council’s Standing Orders Relating to Contracts and Financial Regulations, a copy of which has been made available to the Contractor.

10. ASSISTANCE IN LEGAL PROCEEDINGS

- 10.1. If requested to do so by the Authorised Officer, the Contractor shall provide to the Council any relevant information (including but not limited to documentation and statements from staff) in connection with any legal inquiry, dispute resolution, arbitration, court proceedings or compensation claims in which the Council may become involved, or any relevant disciplinary hearing internal to the Council, arising out of the provision of the Service or the Contractor’s presence on Council Premises, and this shall include the Contractor giving evidence in such inquiries, dispute resolutions, arbitrations, proceedings or hearings.
- 10.2. Where the Contractor or any of its staff become aware of any incident, accident or other matter which may give rise to a claim or legal proceedings in respect of the provision or failure to provide the Service, it shall notify the Authorised Officer immediately in writing. Such notification shall include all relevant information to enable the Authorised Officer to investigate the matter fully.
- 10.3. Such information provided or reasonable assistance rendered pursuant to the obligation in Sub-Clauses 10.1 and 10.2 above, in whatever form, shall be at no cost to the Council.

SECTION B

REGULATORY

11. AGENCY

- 11.1. The Contractor is not and shall in no circumstances hold itself out as being the servant or agent of the Council for any purpose.
- 11.2. The Contractor is not and shall in no circumstances hold itself out as being authorised to enter into any Contract on behalf of the Council or in any other way to bind the Council to the performance, Variation, release or discharge of any obligation.
- 11.3. The Contractor's staff are not and shall not hold themselves out as being, nor shall they be held by the Contractor as being, servants or agents of the Council for any purposes.

12. OBSERVANCE OF STATUTORY REQUIREMENTS

- 12.1. The Contractor shall comply with all relevant legal provisions, whether in the form of Orders, Regulations, Statutes, Statutory Instruments, Codes of Practice, Bylaws, Directives or the like, to be observed and performed in connection with the Service provided under the Contract.

13. ASSIGNMENT AND SUB-CONTRACTORS

- 13.1. The Council shall be entitled to assign the benefit of this Contract or any part of it to any other statutory body. The Council shall give reasonable notice to the Contractor unless the assignment takes effect by operation of law.
- 13.2. If the Contractor wishes to assign the whole or any part of the Contract to another legal entity it shall seek the Council's written consent to the proposed assignment. Any such consent must be sought in writing and at least three months' notice of proposed assignment must be given to the Authorised Officer. Such consent shall not be unreasonably withheld, provided that the Council's interests under this Contract can be properly protected and there is no additional cost to the Council.
- 13.3. The Contractor shall not sub-contract any part of the Service, without the prior written consent of the Authorised Officer, which consent shall not be unreasonably withheld. Notwithstanding such consent, the Contractor shall not be relieved from any liabilities or obligations under the Contract and shall be responsible for the acts, omissions and breaches of any sub-Contractor as fully as if they were the Contractor's own.

- 13.4. Where consent to sub-contracting is granted, the Contractor shall provide each sub-Contractor with the relevant part of the Contract Documentation (unpriced) and if required, shall satisfy the Council that the Contractor has obtained a written undertaking from the sub-Contractor that the sub-Contractor is familiar with the Contract and will perform the Service fully in conformity with the Contract.

14. ADVERTISING

- 14.1. No advertisement of any description will be allowed on the premises, equipment, materials or consumables utilised in the performance of the Service without the prior written consent of the Authorised Officer, which shall not be unreasonably withheld. Any advertisement which is placed on the Council's Premises with consent shall be promptly removed at the end of the Contract Period or the event of prior termination.
- 14.2. If required by the Authorised Officer, the Contractor shall cause Council Premises, equipment, materials and consumables utilised in the performance of the Service to bear such advertisements, devices or insignia as the Authorised Officer may from time to time notify in writing. In these circumstances, the Authorised Officer shall issue a Variation Order to compensate the Contractor for additional costs involved.
- 14.3. The Contractor shall not advertise the fact that it is providing services to the Council under this Contract other than with the written **prior** permission of the Authorised Officer.

15. INTELLECTUAL PROPERTY RIGHTS

- 15.1. The Council and the Contractor shall not knowingly in connection with the performance of the Service, use, manufacture, supply or deliver any process, article, matter or thing, the use, manufacture, supply or delivery of which would be an infringement of any third party Intellectual Property Rights including but not limited to patent or Copyright.
- 15.2. Any and all Intellectual Property Rights developed under this Contract or arising from the provision of the Service by the Contractor shall belong to the Council and the Contractor agrees that it shall execute without delay or cause to be executed (by its staff if necessary) all deeds, documents and acts required to vest such Intellectual Property Rights in the Council.
- 15.3. Following termination of the Contract the transition to a successor or successors shall be arranged between the Council and the Contractor with both parties using reasonable endeavours to ensure the smooth transfer of the Service so as to avoid any interruption of the Service or of the same or similar services by the successor(s).

15.4. Copyright in the documents comprising the Contract shall vest in the Council but the Contractor may obtain or make at its own expense any further copies required solely for use by it in performing the Contract.

15.5. INTELLECTUAL PROPERTY RIGHTS INDEMNITY

15.5.1. The Contractor hereby indemnifies the Council against all liabilities, losses, demands, damages, costs, claims, expenses suffered by the Council as a result of any infringement or alleged infringement of any copyright, patent, trade secret or other intellectual property right of any third party arising from or out of the provision of the Service to the Council. The Contractor shall in its discretion, at its own cost either compromise or defend any such claim and shall pay all damages and costs finally awarded.

15.5.2. The Contractor shall promptly notify the Council if any claim or demand is made or action brought against the Contractor for infringement or alleged infringement of any Intellectual Property Right.

15.5.3. The Council hereby indemnifies the Contractor against all liabilities, losses, demands, damages, costs, claims, expenses suffered by the Contractor as a result of any infringement or alleged infringement of any copyright, patent, trade secret or other intellectual property right of any third party arising from the use of software provided directly or indirectly by the Council.

15.5.4. The Council shall promptly notify the Contractor if any claim or demand is made or action brought against the Council to which Clause 15.5.3 may apply. The Contractor shall at its own expense conduct any litigation arising therefrom and all negotiations in connection therewith and the Council hereby agrees to grant to the Contractor exclusive control of any such litigation and such negotiations.

15.5.5. The Council shall at the request of the Contractor afford to the Contractor all reasonable assistance for the purpose of contesting any claim or demand made or action brought against the Council to which Clause 15.5.1 may apply or any claim or demand made or action brought against the Contractor to which 15.5.1 may apply. The Contractor shall reimburse the Council for all reasonable costs and expenses incurred in so doing.

15.5.6. The Council shall not make any admissions which may be prejudicial to the defence or settlement of any claim, demand or action for infringement or alleged infringement of any Intellectual Property Right by the Contractor to which Clause 15.5.1 may apply or any claim or demand or action brought against the Contractor to which Clause 15.5.1 may apply.

16. HEALTH AND SAFETY

- 16.1. The Contractor shall at all times comply with the relevant requirements of the Health and Safety at Work etc. Act 1974, the Management of Health & Safety at Work Regulations 1999, and of any other relevant legal provisions pertaining to the health and safety of its own staff, the Council's employees, members of the public and others who may be affected by its performance of the Service.
- 16.2. The Authorised Officer shall notify the Contractor of any failure by the Contractor to comply with health and safety matters, and where appropriate shall allow the Contractor a reasonable period to rectify such failure. In the event of further non-compliance by the Contractor the Authorised Officer shall be empowered to suspend provision of the Service. The Contractor shall not resume provision of the Service until the Authorised Officer is satisfied that the non-compliance has been rectified. In respect of any such period of suspension the default provisions set out in these Conditions shall apply.
- 16.3. The Contractor shall nominate a person to be responsible for health and safety matters as required by the Health and Safety at Work etc Act 1974 and the Management of Health & Safety at Work Regulations 1999. Whilst on Council Premises the Contractor shall ensure that its staff are fully conversant with its health and safety arrangements and that they take all such precautions as are necessary to protect the health and safety of Council staff and others who may be affected by its undertaking. The Contractor shall require its staff to comply with the Council's safety policy statement, the lawful requirements of the Council's safety advisers and any detailed safety arrangements specific to those Council Premises whilst on those premises. Without prejudice to the generality of the foregoing the Contractor shall ensure that staff are properly trained and instructed with regard to fire risks and fire precautions.

17. EQUALITY AND DIVERSITY

- 17.1. The Contractor shall at all times comply with the relevant requirements of equality legislation, the Equality Act 2010, and all relevant Supporting Codes of Practice and of any other relevant legal provisions pertaining to the equal opportunities of its own staff, the Council's employees, members of the public and others who may be affected by its performance of the Service. The Council has legal obligations under this legislation. These apply to contractors by virtue of carrying out functions of a public nature.
- 17.2. The Contractor shall not unlawfully discriminate against, and will advance equality of opportunity and foster good relations between, people with protected characteristics on the basis of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation in

recruitment and employment of employees or in carrying out works, procuring goods or delivering services or any function of a public nature.

- 17.3. The Contractor shall have regard to the Council's Equality and Diversity Statement, a copy of which is attached at Appendix B. The Contractor shall nominate a person responsible for equality and diversity matters to liaise as required with the Council. The Contractor shall ensure that all his employees have an understanding of and comply with the requirements of the Council's Equality and Diversity Statement and relevant equality legislation in performance of the Contract. The contractor shall ensure that sub-contractors comply with the above clauses.
- 17.4. The Authorised Officer shall notify the Contractor in the event of non-compliance with equality and diversity matters and where appropriate shall allow the Contractor a reasonable period to rectify such failure. In the event of continued non-compliance the Authorised Officer shall be empowered to suspend the provision of the Service. The Contractor shall not resume provision of the Service until the Authorised Officer is satisfied that the non-compliance has been rectified.
- 17.5. In respect of any such period of suspension, the default provisions set out in these Conditions shall apply.
- 17.6. If any court or tribunal, or the Equality and Human Rights Commission, should make any finding of unlawful discrimination against the Contractor or sub-contractor, then the Contractor shall take all necessary steps to prevent recurrence of such unlawful discrimination. In such a case, the Council will require the Contractor to provide full details and evidence of the steps taken to prevent such reoccurrence.
- 17.7. The Contractor's Equality policy shall be set out in any instructions circulated to those members of the Contractor's staff concerned with recruitment, training, and promotion; other employment issues and conduct in service delivery in relevant documentation available to its staff and others; and in its recruitment advertisements and other relevant literature. The Contractor may be required to provide to the Council copies of such instructions, documents, advertisements and other literature.
- 17.8. The Contractor shall pay its staff at least the minimum wage in line with the National Minimum Wage Act 1998 and comply with all relevant employment legislation including ensuring access to employee representation.
- 17.9. If equality and diversity is relevant to the contract the contractor shall submit a report to the Council on information concerning equality and diversity every year providing the information required by the Council.
- 17.10. The Contractor shall submit a report to the Council on information concerning equality and diversity in employment and on service

delivery on request by the Council. The level of detail required in this report will be proportionate to the subject matter of the contract.

18. ENVIRONMENTAL POLICY

- 18.1. The Contractor shall at all times at its own cost comply with the relevant requirements of the Environmental Protection Act 1990 and or any statutory amendment or re-enactment, Regulations, Statutory Instruments or Orders pertaining to the protection of the environment, water protection and disposal of waste.
- 18.2. The Contractor shall at all times also at its own cost comply with the relevant requirements of Climate Change Act 2008, and where appropriate have regard to the Energy Act 2008 and 2010 and or any statutory amendment or re-enactment, Regulations, Statutory Instruments or Orders pertaining to tackling climate change and address the national energy issues.
- 18.3. In doing so the Contractor is advised to put in place measures to minimise their impact on and ability to adapt to climate change and energy issues. The Contractor shall take regard of projects within the Council's Climate Change Programme and monitor its impacts according to the requirements determined by projects in the Climate Change Programme
- 18.4. The Contractor shall comply with the Council's Environmental Policy Statement, a copy of which is attached at Appendix C. The Contractor shall nominate a person responsible for environmental protection matters and shall ensure that all his employees are fully conversant with and comply with the requirements of the said Act in the course of performance of the Contract.
- 18.5. The Authorised Officer shall notify the Contractor in the event of non-compliance with environmental protection and climate change matters, and where appropriate shall allow the Contractor a reasonable period to rectify such non-compliance. In the event of continued non-compliance the Authorised Officer shall be empowered to suspend the provision of the Service. The Contractor shall not resume provision of the Service until the Authorised Officer is satisfied that the non-compliance has been rectified. In respect of any such period of suspension, the default provisions set out in these Conditions shall apply.

19. CONFLICTS OF INTEREST

- 19.1. The Contractor shall ensure that it meets all relevant professional Codes of Practice **as listed in Schedule A** for dealing with potential conflicts of interest. The Contractor shall also ensure it prevents the occurrence of situations.

- 19.2. The requirements imposed by this Condition shall continue in full force and effect and be enforceable by the Council for the period of six years after the Contract Period has expired or after termination of the Contract for whatever reason.

20. GENERAL OBLIGATIONS INCLUDING OMBUDSMAN

- 20.1. The Council is the client for the purposes of this Contract and the Contractor must at all times act in the best interests of the Council so that the Council is not as a result of the Contractor's actions or default in breach of its legal obligations.
- 20.2. The Contractor must inform the Council's Authorised Officer in writing of any matter which comes to its notice and which in its opinion appears to or might contravene the provisions of any relevant legislation.
- 20.3. The Contractor will supply expeditiously and at no charge to the Council on request any information, records or advice required by the Council to answer any complaints arising out of acts or omissions of the Contractor made to the Local Government Ombudsman about any matter dealt with on behalf of the Council by the Contractor. On such occasions the Authorised Officer will meet the Contractor and will ensure that the Contractor's reasonable representations are made as part of any response to an Ombudsman's investigation. If the Council is found guilty of maladministration by the Local Government Ombudsman as a result of unauthorised action taken or inaction by the Contractor then the Contractor will be required to reimburse to the Council any payments made to a complainant as a result of the Ombudsman's findings. The Contractor will be required to co-operate with the Local Government Ombudsman on any investigation concerning the Service.

21. DATA PROTECTION AND DATA SECURITY

- 21.1. The Contractor and the Council shall each comply with their respective obligations under the Data Protection Act 1998 and other applicable statutory provisions or provisions of any European Directive in respect of appropriate records.
- 21.2. The Contractor shall comply with the Council's security regulations notified to the Contractor, including any made for the purpose of the Data Protection Act 1998. In particular, but without prejudice to the generality of the foregoing, the Contractor shall instruct its Staff and all visitors not to read any documents however produced or the information displayed on any screen, or listen to the contents of any tape or electronically produced recording unless necessary in connection with the provision of the Service.

- 21.3. The Contractor will be required to abide by the current Data Security policies of the Council regarding control of access, update and back up data, a copy of which has been supplied to the Contractor.
- 21.4. Copies of Council systems and data will be kept at a secure offsite storage location by the Contractor at his own expense. These storage media will be accessible only to authorised staff of the Contractor and the Council.
- 21.5. The Council's data or information will not be provided to another party or any data destroyed or deleted by the Contractor unless instructed by the Authorised Officer. On termination of the Contract, howsoever arising, the data will not be destroyed but secured by the Contractor.
- 21.6. The Council reserves the right to publish all details of items of spend over £500 in respect of the contract, subject to any exemptions under the Data Protection Act where appropriate.

22. PCI DSS COMPLIANCE

- 22.1 The Council is required to periodically demonstrate compliance with PCI DSS (Payment Card Industry Data Security Standard). The compliance process requires the Council to undergo an assessment that includes all the system components used to process, store or transmit cardholder data, and any other component that resides on the same network segment as those system components, hereafter known as "System Components in Scope". Some of those system components and/or processes may have been outsourced to a Service Provider.
- 22.2 The Service Provider will achieve and maintain PCI DSS compliance against the current version of PCI DSS published on the PCI SSC (PCI Security Standards Council) website. As evidence of compliance, the Service Provider will provide when requested, a current attestation of compliance signed by a PCI QSA (Qualified Security Assessor).
- 22.3 If the Service Provider is unable to provide a current attestation of compliance, he or she will allow the Council's QSA to assess all the system components in scope that are hosted or managed by the Service Provider, and the related processes used to process, transmit or store cardholder data.
- 22.4 The Service Provider will create and maintain reasonable detailed, complete and accurate documentation describing the systems, processes, network segments, security controls, and dataflow used to receive, transmit, store and secure the Council's cardholder data. Such documentation will conform to the most current version of PCI DSS. The Service Provider will, upon written request by the Council, make such documentation and the individuals responsible for implementing, maintaining and monitoring those system components and processes available to:

- a) QSAs, forensic investigators, consultants or legal advisors retained by the Council to facilitate audit and review the Council's PCI DSS compliance.
 - b) The Council's IT Audit Staff.
The Service Provider will retain such documentation until 6 years after the termination of this agreement.
- 22.5 The Service Provider will use reasonable precautions, including but not limited to, physical, software, and network security measures, employee screening, training, and supervision and appropriate agreements with employees, to prevent anyone other than the Council or its authorised employees from monitoring, using, gaining access to or learning the import of the Council's Data; protect appropriate copies of the Council's Data from loss, corruption or unauthorised alteration; and prevent the disclosure of Council passwords and other access control information to anyone other than authorised Council employees.
- 22.6 The Service Provider will periodically test and re-evaluate the effectiveness of such precautions. The Service Provider will notify the Council **within 4 hours**, if such precautions are violated and Council Data is affected thereby or passwords or other access information is disclosed. Notwithstanding the foregoing, the Service Provider and its employees may use, process, view the contents of or monitor Council Data to the extent necessary for the Service Provider to perform under this agreement.
- 22.7 The Service Provider will erase or destroy all media under its control containing copies of Customer Data **not later than XXX days** after the processing of such data, except where special circumstances, of which the Service Provider has given the Council written notice, warrant longer retention. For purposes of this agreement, to "erase" means to render the relevant data unrecoverable by any means according to PCI DSS v.1.2.1. Requirement v.9.10.2
- 22.8 The Service Provider has no property interest in, and may assert no lien on or right to withhold from the Council, any data it receives from, receives address to, or stores on behalf of the Council.
- 22.9 All records, data and files stored by the Service Provider as archives of the Council's Data including the media on which they are stored, are the exclusive property of the Council, and the Service Provider may assert no lien on or right to any of the same. The Service Provider will conspicuously mark all such archival storage media as the Council's property. At the Council's request, the Service Provider will, **for [a certain fee]**, promptly deliver to the Council and if requested destroy any other remaining copies that the Council will no longer need.
- 22.10 If the Service Provider is served with a court order, witness attendance order or any other order or request from a government body or any other person for any record or files of Council Data, the Service Provider will, as soon as is reasonably practical and not in violation of law, deliver to the Council a copy of such court order, witness

attendance order, order or request and will not, without the Council's prior written consent, comply with the same unless and until required to do so under applicable law.

23. FREEDOM OF INFORMATION

- 23.1. Definitions:
- "FOIA" means the Freedom of Information Act 2000 together with any amendments, regulations and codes of practice made pursuant to the Freedom of Information Act 2000.
 - "Information" means all records and information obtained, collected or held by the Contractor in relation to or created pursuant to this Agreement (including this Agreement).
 - "Request for Information" means a request for information as described in Section 8 of FOIA.
- 23.2. The Contractor understands and acknowledges that the Council is subject to the requirements of the FOIA and agrees to assist and cooperate with the Council to enable it to comply with its Information disclosure obligations under FOIA.
- 23.3. The Contractor shall provide the Council with a copy of all Information required to comply with any Request for Information and such Information shall be provided within 10 days of a request from the Council (or such other period as the Council shall specify) and in such form as the Council may specify.
- 23.4. The Council shall not disclose information forwarded to it by a Contractor which the Contractor has reasonably designated as confidential. Confidential includes technical or trade secrets and the confidential aspects of tenders.
- 23.5. Notwithstanding Clauses 23.3 and 23.4 above, the Council shall be responsible for determining whether Information is exempt from disclosure under FOIA and for determining, in its absolute discretion, the Information to be disclosed in response to a Request for Information.
- 23.6. The Contractor understands and acknowledges that the Council may be obliged under FOIA to disclose Information without consulting or obtaining consent from the Contractor.
- 23.7. If the Council at the Contractor's request seeks to rely upon a FOIA exemption, the Contractor shall indemnify the Council for any costs, including but not limited to responding to information notices or lodging appeals against a decision of the Information Commissioner. The Contractor shall also indemnify the Council and hold it harmless from and against all liability, costs, claims, actions, losses, damages and expenses whatsoever, arising directly or indirectly as a result of any decision by the Information Commissioner that information which the

Contractor may regard as being confidential shall be disclosed under the FOIA 2000 or other appropriate legislation or codes of practice.

- 23.8. The Council shall not be liable for any loss, damage, harm or other detriment, however caused, arising from any disclosure made pursuant to a Request for Information.
- 23.9. The Council may, pursuant to a Request for Information, disclose all information and documentation, in whatever form, as necessary to respond to that Request for Information.
- 23.10. The Contractor shall notify any sub-contractor of the provisions of this clause and any sub contract shall contain like terms as this Clause. The Contractor shall fully indemnify the Council for any failure to comply with this requirement.
- 23.11. The Council and the Contractor shall bear their own respective costs in relation to any disclosure under FOIA.
- 23.12. The provisions of this Clause shall take precedence over any clause or condition requiring the Council to hold information in confidence.

SECTION C

INSURANCE AND DIVISION OF LIABILITIES

24. INSURANCE

24.1. The Contractor shall maintain the following insurances:

24.1.1. Third party (public liability) insurance with cover in accordance with Schedule A, in respect of any one act or occurrence or series of acts or occurrences in any one year;

24.1.2. Insurance in respect of personal injury or death of any person arising under a contract of service with the Contractor and arising out of an incident occurring during the course of such person's employment shall be by a policy of Employer's Liability Insurance complying with the Employer's Liability (Compulsory Insurance) Act 1969 and the European Community^{5th} Motor Directive 2007.

24.2. The Contractor shall, where appropriate, name the Council as co-insured on any relevant policies, and shall ensure that its or their underwriters/insurers endorse the policies to prevent any exercise of rights of subrogation against the Council, its other Contractors and its or their staff.

24.3. The Contractor shall when required by the Council produce evidence satisfactory to the Council of its compliance with the insurance obligations contained in this clause by production of the current policies or such other documents as the Council shall stipulate.

24.4. The Council shall be entitled to notify the Contractor in writing that in its opinion any such policy of insurance or self-insurance arrangement does not provide sufficient cover to comply with this Clause and to require the Contractor to provide such insurance as will so comply.

24.5. The Council reserves the right to require the Contractor to include a suitable business interruption (loss of profits) policy to afford protection to the Contractor against losses caused to it by any enforced suspension of Contract.

24.6. The Council shall indemnify and keep indemnified the Contractor and insure with a reputable insurance company, or self-insure, against the injury to, or death of, any persons, or loss of, or damage to, any property which may arise out of the Act, default, or negligence of the Council, its employees and agents and against all actions, claims, demands, proceedings, damages, costs, charges and expenses whatever in respect thereof or in relation thereto.

- 24.7. The limit of indemnity or amount of insurance cover required will be reviewed at the discretion of the Council and any increase in the minimum level will be subject to the test of reasonableness.
- 24.8. The Contractor shall indemnify and keep indemnified the Council from and against any and all loss or damage or civil liability suffered and legal fees and costs reasonably incurred as a result of a breach of this agreement by the Contractor including any act neglect or default of the Contractor's employees, sub-contractors or agents resulting from such a breach.
- 24.9. For the purpose of this clause a successful claim shall be one where a court of final authority has determined that the claim is successful and awarded damages in respect thereof or the Contractor and the Council have agreed to pay a sum of money to any third party by way of damages.
- 24.10. In order to recover under any indemnity given by the Contractor in the Contract the Council shall send the Contractor details of every claim in writing accompanied by relevant data as soon as is reasonably practicable.

25. LIABILITY OF CONTRACTOR

- 25.1. During the Contract Period the Contractor shall provide the Service (and any modifications thereof authorised under these Conditions) in a proper skilful and workmanlike manner, to the Contract Standard and to the entire satisfaction of the Authorised Officer.
- 25.2. The Contractor shall at all times during the Contract Period allow the Authorised Officer, and such persons as may be nominated from time to time by the Authorised Officer access to all locations where the Service is being provided for the purpose of inspecting work.
- 25.3. The Contractor shall in no circumstances during the Contract Period use any premises of the Council to perform, either on its own behalf, or on behalf of any person other than the Council any work other than the Service.
- 25.4. If the Contractor fails to provide the Service or any part thereof with due diligence or in a proper, skilful and workmanlike manner, or to the Contract Standard and to the entire satisfaction of the Authorised Officer, the Council may itself provide or may employ and pay other persons to provide the Service or any part thereof, and all the costs incurred may be deducted from any sums due or to become due to the Contractor under the Contract or shall be recoverable from the Contractor by the Council as a debt. The rights of the Council under this Condition shall be without prejudice to its rights under Condition 59 below.

26. LIABILITY OF COUNCIL

- 26.1. The Council shall be liable to the Contractor and vice versa for any loss or damage to the Council's or the Contractor's property which is caused by the wilful or negligent acts of the Council or Contractor or its respective staff during the course of their respective employment but not in any other way whatsoever provided always that such liability does not extend to loss arising out of theft.
- 26.2. The Council shall in no circumstances be liable to the Contractor for any consequential, economic or financial loss of any kind whatsoever which the Contractor sustains in consequence of any failure on the Council's part to commission any volume of work anticipated by the Contractor or in any other way to generate an anticipated level of remuneration under the Contract.
- 26.3. Any information given to the Contractor in the Bills of Quantities/Schedules of Rates and/or any plan, drawing, report, database, file or similar information in the Specification, is only given as a guide. The Contractor shall be deemed to have obtained for itself all necessary information as to risks, contingencies and any other circumstances which may have reasonably influenced or affected the Contractor's tender. No claim against the Council shall be allowed whether in contract, in tort, under the Misrepresentation Act 1967, or otherwise on the ground of any inaccuracy.

27. THE TRANSFER OF UNDERTAKINGS (EMPLOYMENT PROTECTION) REGULATIONS 2006 AND THE ACQUIRED RIGHTS DIRECTIVE (2001/23/EC)

- 27.1. The Council anticipates that tenders will be submitted for the Service on the basis that the Transfer of Undertakings (Employment Protection) Regulations 2006 and the Acquired Rights Directive (2001/23/EC) apply and that, based upon legislation current at the date hereof, the Council is of the view that TUPE would apply upon the re-tendering of the Contract.
- 27.2. Where, in the opinion of the Council, the Transfer of Undertakings (Employment Protection) Regulations 2006 and the Acquired Rights Directive (2001/23/EC) apply in respect of the award of the Contract then for the purpose of those Regulations the undertaking concerned, or any relevant part of the undertaking, shall transfer to the Contractor on the commencement of the Contract, and the Contractor shall comply with the requirements of those Regulations in respect of those employees who will have been employed in the undertaking, or a relevant part of the undertaking, immediately before its transfer to the Contractor; and shall indemnify the Council against any claim made against the Council at any time by any person currently or previously employed by the Council or the Contractor for breach of contract, loss

of office, unfair dismissal, redundancy, loss of earnings or otherwise (and all damages, penalties, awards, legal costs, expenses and any other liabilities incurred by the Council) resulting from any act or omission of the Contractor on or after the commencement of the Contract, except where such claim arises as a result of any breach of obligations (whether contractual, statutory, at common law or otherwise) by the Council arising or accruing before the commencement of the Contract.

27.3. Consequences of the TUPE Applying:

- (i) Within 21 days of being so requested by the Council, the Contractor shall provide, and thereafter keep updated, in a fully indexed and catalogued format, all the information necessary to enable the Council to issue tender documents for the future provision of the services.
- (ii) Where, in the opinion of the Council, the Transfer of Undertakings (Employment Protection) Regulations 2006 and the Acquired Rights Directive (2001/23/EC) are likely to apply on the termination or expiration of the Contract, the information to be provided by the Contractor under Clause 27.3(i) shall include, as applicable, accurate information relating to the employees who would be transferred under the same terms of employment under said Regulations, including but not limited to:
 - a) The number of employees who would be transferred, but with no obligation on the Contractor to specify their names;
 - b) In respect of each of those employees their age, sex, salary, length of service, hours of work, overtime hours and rates, and any other factors affecting redundancy entitlement and any outstanding claims arising from their employment;
 - c) The general terms and conditions applicable to those employees, including probationary periods, retirement age, periods of notice, current pay agreements, working hours, entitlement to annual leave, sick leave, maternity and special leave, terms of mobility, any loan or leasing schemes, any relevant collective agreements, facility time arrangements and additional employment benefits.
- (iii) The Council shall, except and insofar as it may be under a duty of disclosure under the Freedom of Information Act 2000, take all necessary precautions to ensure that the information referred to in Clause 27.3(ii) is given only to service providers who have qualified to tender for the future provision of the services. The Council shall require that such service providers shall treat the information in confidence; that they shall not communicate it except to such persons within their organisation and to such extent as may be necessary for the purpose of preparing a

response to an invitation to tender issued by the Council; and that they shall not use it for any other purpose.

- (iv) The Contractor shall indemnify the Council against any claim made against the Council at any time by any person in respect of any liability incurred by the Council arising from any deficiency or inaccuracy in information which the Contractor is required to provide under Clause 27.3(ii).
- (v) The Contractor shall not at any time during the Contract, including any extension of the original Contract period, move any persons in his employment into the undertaking, or relevant part of an undertaking, which provides the services and who do not meet the standards of skill and experience, or who are in excess of the number, required for the purposes of the Contract; or make any substantial change in the terms and conditions of employment of those employees referred to in Clause 27.3(ii) which is inconsistent with the Contractor's established employment and remuneration policies.
- (vi) Where, in the opinion of the Council, the Contractor is in breach of its obligations under Clause 27.3(v) the Council shall have the right to make representations to the Contractor against the change or proposed change; to give notice to the Contractor requiring him to remedy the breach within 30 days; and if the Contractor has not remedied such breach to the satisfaction of the Council by the end of the period of 30 days, to terminate the Contract and exercise its rights under Clause 55.
- (vii) The Contractor shall allow access to any site where the services are being performed, in the presence of an authorised representative of the Council, to any person representing any service provider whom the Council has selected to tender for the future provision of the services. Where such site is the Contractor's premises the Council shall give the Contractor 14 days notice of a proposed visit together with a list showing the names of all persons who will be attending those premises. Their attendance shall be subject to compliance with the Contractor's security procedures, subject to such compliance not being in conflict with the objectives of the visit.

27.4. The Contractor shall co-operate fully with the Council during any handover arising from the completion or earlier termination. This co-operation, during the setting up operations period of the new contractor, shall extend to allowing full access to, and providing copies of, all documents, reports, summaries, and any other information necessary in order to achieve an effective transition without disruption to routine operational requirements.

SECTION D

PERFORMANCE

STAFFING MATTERS

28. HUMAN RESOURCES

- 28.1. The Contractor shall at all times during the Contract Period assign to the Service staff whom the Contractor holds out as having sufficient skills and expertise for the proper performance of the Service.
- 28.2. The Contractor agrees that, whilst allocated to the performance of the Service, all staff:
- 28.2.1. shall maintain strict discipline and good order and shall not engage in behaviour or activities which could be contrary to or detrimental to the Council's interests;
 - 28.2.2. shall be effective and efficient workers, competent in their particular profession or skill;
 - 28.2.3. shall abide by the standards, rules and regulations established by the Contractor for its own staff;
 - 28.2.4. shall comply with all relevant legislation relating to the provision of the Service;
 - 28.2.5. shall be advised of the need for controlling hazardous substances in the workplace as required by the *Control of Substances Hazardous to Health Regulations 1988 (COSHH)*.
 - 28.2.6. shall maintain the highest standards of courtesy and consideration, to users of the service.
 - 28.2.7. shall be advised of the need to recognise situations which may involve any actual or potential danger of personal injury to any person and where possible without personal risk, to make safe such situations, and forthwith to report such situations to the Authorised Officer or in the event of an emergency to the appropriate officer of the Council's staff.
- 28.3. The Contractor shall inform all relevant trades unions of the Contract and Commencement date and shall confirm compliance with this Condition in writing to the Authorised Officer.
- 28.4. Where, in the opinion of the Council, the Contractor has insufficient staff available to discharge the Contractor's obligations under the Contract the Council shall inform the Contractor. If the Contractor does not respond to the reasonable satisfaction of the Council then the

Council shall be entitled to make alternative arrangements for the Service and to recover the full cost of doing so from the Contractor.

- 28.5. Should the circumstances described in clause 28.4 prevail, the Council may either:
 - 28.5.1. Hire staff from an employment agency and charge the full cost of this to the Contractor.
 - 28.5.2. Commence any other arrangements necessary to ensure that the full management and operation of the Service is provided, and charge the full cost of this to the Contractor.
- 28.6. The Contractor shall ensure that members of its staff give all reasonable assistance to the Council in the investigation of complaints, disciplinary matters involving the Council's staff, and similar matters.
- 28.7. The Contractor shall not employ any staff under the age of 16 years.
- 28.8. Prior agreement must be obtained by the Contractor from the Authorised Officer to employ staff attached to any Government Training Scheme. Any additional costs incurred must be borne by the Contractor. Contractors employing staff that are attached to a Government Funded Training Scheme will have to satisfy the Council that they are working to a pre-determined Training Scheme.
- 28.9. The Contractor shall cease to use any employment agency or staff recruitment service where the Council indicates that such agency or service is unacceptable.
- 28.10. The Council reserves the right to require removal from the Service of any individual used by the Contractor who, in the opinion of the Authorised Officer:
 - 28.10.1. is or is deemed to be guilty of misconduct or negligence;
 - 28.10.2. is acting in a manner which is detrimental to the Council's interests;
 - 28.10.3. is not medically fit to perform the Service or provides a risk to the health of those with whom that person may come into contact during work on the Contract;
 - 28.10.4. is not complying with the Council's policies for use of its buildings.
- 28.11. Provided always that the Council will not exercise its right to require removal without giving prior notification to the Contractor and taking account of the Contractor's representations other than in cases of fraud or misappropriation.

- 28.12. The Council shall in no circumstances be liable to the Contractor for any claim in respect of any such removal.
- 28.13. The right contained within this Condition shall not be exercised arbitrarily, vexatiously or capriciously by the Authorised Officer.

29. CONTROL AND SUPERVISION OF CONTRACTOR'S EMPLOYEES

- 29.1. The contractor shall appoint a Contract Manager empowered to act on behalf of the Contractor for all purposes connected with the administration and management of the Contract. Any notice, information, instruction or other communication given or made to the Contract Manager shall be deemed to have been given or made to the Contractor.
- 29.2. The Contractor shall forthwith give notice in writing to the Authorised Officer of the identity, address and telephone numbers of the person appointed as the Contract Manager. The Contractor shall notify the Authorised Officer in writing of any subsequent appointment within one week of that appointment.
- 29.3. The Contractor shall forthwith give notice in writing to the Authorised Officer of the identity, address and telephone number of any person authorised to act for any period as deputy for the Contract Manager.
- 29.4. The Contractor shall ensure that the Contract Manager, or a competent deputy, duly authorised by the Contractor to act on its behalf, is available to the Authorised Officer in person at all times.
- 29.5. The Contractor shall provide a sufficient number of supervisory employees to ensure that the Contractor's employees engaged in and about the provision of the Service are at all times adequately supervised and properly perform their duties to the Contract Standard.
- 29.6. The Contractor's employees engaged in the provision of the Service shall be under the control and direction of the Contractor's own supervisory staff, but must comply with all instructions given to them by the Authorised Officer in any matter in which Health and Safety is involved.
- 29.7. The Contractor shall ensure that its employees observe the security of all secured areas of the Council's premises and the Contractor shall provide and shall ensure that its employees wear at all times, when engaged on provision of the Service such identification (including photographic identification) as may be specified by the Council.
- 29.8. When requested to do so, or when communicating with other persons as a representative of the Contractor in the performance of the Service, any employee, representative, or agent of the Contractor shall disclose his identity and shall not attempt to avoid so doing.

- 29.9. The Contractor shall maintain current and accurate records of the employees who are engaged and provide the Service. These records shall include employee attendance and shall differentiate between those engaged as operatives and those exercising supervision. These records shall be open for inspection by the Authorised Officer or his representatives at all reasonable times.
- 29.10. The Contractor shall at all times be fully responsible for the payment of all income or other taxes, national insurance contributions, or levies of any kind, relating to or arising out of the employment of any person employed by the Contractor and shall fully and promptly indemnify the Council in respect thereof.

30. VETTING OF STAFF AND IDENTIFICATION

- 30.1. The Contractor will be required to undertake rigorous pre-employment vetting of prospective employees engaged on work for the Council, undertaking identity checks, obtaining appropriate and satisfactory references from their previous employers, confirming qualifications where appropriate to their employment, and undertaking CRB checks as necessary.
- 30.2. The Contractor recognises that performance of the Contract may require some employees to work on duties involving children or vulnerable adults, towards whom the Council owes a special duty of care. The Contractor will be required to obtain information concerning all such employees to facilitate a Criminal Record Bureau Disclosure for criminal convictions (eg name, address, date of birth, place of birth, National Insurance No.), and conduct the required checks to the satisfaction of the Council. The Contractor will ensure that all such employees have given their written permission (through completion of a standard application form) for such a check to be made and that they are aware that any spent convictions will be disclosed on such a check. The Council will check to ensure that the Contractor has conducted the required police checks to its satisfaction. The Council will make the decision as to whether, following disclosure of conviction, the employment of individual employees should be terminated and where appropriate will discuss the options, in the strictest confidence, with the Contract Manager.
- 30.3. The Council will carry out criminal record checks, as required, for smaller contractors whose size may not warrant registration as a registered body to undertake the checks, and the Council will make a charge for this service.
- 30.4. Any person whom the Authorised Officer deems to be unsuitable, either as a result of the check or by virtue of a lack of co-operation in facilitating the check, shall immediately be removed in accordance with Condition 28. The right contained within this Condition shall not be exercised arbitrarily, vexatiously or capriciously by the Authorised Officer.

- 30.5. The Contractor shall not be entitled to access any police report obtained by the Council nor make detailed inquiry as to the reason for the Authorised Officer's decision.

DRESS/UNIFORM AND IDENTIFICATION

- 30.6. Where the nature or the place of any duties upon which the Contractor's employees are engaged in the provision of the Service makes the wearing of any special or protective clothing or footwear necessary or appropriate, the Contractor shall provide and shall require its employees to wear such clothing or footwear. Where the Council's policies, rules, procedures or standards require any special or protective clothing or footwear to be worn, the Contractor shall ensure that such clothing or footwear is provided for and worn by its employees. Such special or protective clothing or footwear shall be maintained and replaced as necessary by the Contractor.

ASSETS

31. USE OF COUNCIL PREMISES

- 31.1. The Contractor may be required to perform services on Council Premises. The Contractor shall ensure that its employees are adequately supervised whilst on Council Premises.
- 31.2. The Contractor and Council will treat any property or equipment respectively owned and used in the performance of or in connection with the Contract with due care and attention and shall be responsible for the cost of any accidental or deliberate damage thereto.
- 31.3. In the event that the Council or Contractor is able to demonstrate that any damage as mentioned in Clause 31.2 above has occurred the party so affected shall be entitled to recover the reasonable costs of repair or reparation from the other.
- 31.4. The Contractor shall comply with the Council's Environmental Policies and shall use utility services such as gas, electricity and water in the most economic and efficient manner. Where the Contractor has not complied with these Environmental Policies and excessive use of such utilities has taken place, the Authorised Officer shall determine and demonstrate to the Contractor the cost of any such excessive use and agree the sum to be recoverable from the Contractor.
- 31.5. Where the use of Council Premises is provided to the Contractor for the proper provision of the Service, the use of Council Premises shall be regulated by an occupancy agreement (licence) entered into by the Council and the Contractor prior to the Commencement Date. Such an agreement will exclude the provisions of Sections 24 to 28 inclusive of the *Landlord and Tenant Act 1954*. The Contractor shall at all times observe and perform all of its obligations as under agreement. Any breach by the Contractor of any provision of the agreement shall be deemed to be a breach of this contract.

- 31.6. The Contractor shall use the facilities and services only in connection with the provision of the Service and shall ensure that the Contractor's employees use Council Premises for the purposes of the Service.
- 31.7. The licensing or permitting of the use of Council Premises and services is personal to the Contractor and the Contractor's employees and shall cease at the end of the Contract Period or upon the termination of the Contract, or at such earlier time as may be specified by the Council by notice in writing to the Contractor.
- 31.8. The Contractor shall liaise with the Council's security staff to ensure that adequate arrangements exist to safeguard Council Premises. Where the Contractor's staff are the only staff present on Council Premises, then they shall have temporary responsibility for ensuring that doors are locked and other similar security. Details of arrangements for obtaining access to Council Premises shall be provided by the Authorised Officer.
- 31.9. The Contractor shall adhere to any arrangements for entry and use of Council Premises (for example, the provision of security passes) as may be detailed in the Specification, any occupancy agreement or otherwise notified by the Authorised Officer.
- 31.10. The parties agree that there is no intention on the part of the Council to create a tenancy of whatever nature in favour of the Contractor or its employees and that no such tenancy has or shall come into being and the Council retains the right at any time to use any premises owned or occupied by the Council.

32. VEHICLES, EQUIPMENT, MATERIALS AND CONSUMABLES

- 32.1. The Contractor shall at all times during the Contract Period provide and maintain sufficient vehicles, equipment, materials and consumables as are required for the proper and efficient performance of the Service.
- 32.2. The Contractor shall at its own expense, put, keep and maintain all vehicles and equipment in proper repair and condition, in order that it is able to perform the Service throughout the life of the Contract and comply with all relevant statutory requirements.
- 32.3. The Contractor shall make its own arrangements for insurance, security and house keeping of any items or equipment, vehicles, materials and consumables used in the performance of the Service and kept on Council Premises.
- 32.4. The Contractor shall ensure that any ICT facilities utilised in the performance of the Service:
- 32.4.1. are compatible with those operated by the Council;
 - 32.4.2. allow the Authorised Officer the necessary access for on-line enquiries.

- 32.5. All vehicles and equipment used by the Contractor shall be replaced as necessary by the Contractor with equipment of a similar type and of an equivalent standard as agreed by the Authorised Officer. If direct replacement of any item is considered unsuitable or unnecessary the Contractor may, subject to the approval of the Authorised Officer offer alternative items of equipment or vehicles as replacements. The Contractor may also choose to replace any item of equipment prior to its dilapidation.
- 32.6. The Contractor shall at all times permit the Authorised Officer access to all vehicles and equipment employed for the purposes of this contract. The Authorised Officer shall be entitled to serve upon the Contractor a notice in writing requiring the Contractor to put any vehicle or item of equipment into such condition as is required by Condition 32.2 above and the Contractor shall forthwith upon receipt of such notice cause all necessary works to be carried out to comply with such notice. In the event of the Contractor failing so to carry out such works, the Council shall be at liberty to have such works carried out and the Contractor shall pay to the Council such sums as the Authorised Officer shall certify to have been the cost of executing such works.
- 32.7. At the expiry of the Contract Period or upon the determination of the contract in accordance with the conditions, whichever shall first occur, the Council shall be entitled to serve upon the Contractor a notice requiring the Contractor to transfer to the Council such vehicles and equipment as may be specified in such notice and to transfer to the Council the benefit of all contracts relating to the hire (if applicable) of such vehicles or equipment.
- 32.8. Upon receipt of a notice under condition 32.7 the Contractor shall immediately deliver such items to the Council in the condition they are in at the date of this notice at a fair price to be agreed by the parties.
- 32.9. The Contractor shall ensure that it has an adequate level of vehicles and equipment available to it at all times as lack of suitable equipment will not be considered as a reason for non-performance of the requirements of the contract.

METHODS OF WORK

33. MONITORING AND MANAGEMENT INFORMATION

- 33.1. The Contractor shall provide to the Authorised Officer on a monthly basis a statement of work performed which shall comprise an analysis of the tasks completed. The exact format of the statement and the information and level of detail required to be included in it shall be that agreed with the Authorised Officer. The statement of the work performed during the previous month shall be provided to the Authorised Officer at such time as the Authorised Officer may specify.

- 33.2. The Contractor shall be required to institute and maintain properly documented records designed to show that the Service requirements are being complied with in all respects.

34. REGULAR MEETINGS OF CLIENT AND CONTRACTOR

- 34.1. The Contractor shall ensure that appropriate members of staff attend those meetings as are reasonably required by the Authorised Officer in relation to the performance of the Service. Records of these meetings shall be kept and shall form part of the records of the Contract.
- 34.2. Should the most appropriate member of the Contractor's staff be unable to attend the meeting, then a suitable replacement of equivalent status shall be fully briefed and shall attend on its behalf.
- 34.3. From time to time the Authorised Officer may require other representatives from external bodies to attend these meetings, the detail of which shall be advised to the Contractor at least seven days in advance of the meeting.
- 34.4. At a time to be agreed between the parties an annual meeting shall take place to review the operation and performance of the Contract. This shall be termed the Annual Review, the purpose of which will be to jointly identify and programme the implementation of technical, operational and organisational improvements to the service. Members of the Council may attend the Annual Review meetings.

35. COMPLAINTS IN RESPECT OF SERVICE PROVISION

- 35.1. The Contractor shall deal as appropriate with any complaints received in a prompt, courteous and efficient manner. The Contractor shall keep a written record of all complaints received and of the action taken in relation to such complaints. Such records shall be kept available for inspection by the Authorised Officer at all reasonable times. The Contractor shall notify the Authorised Officer in writing of all complaints received and of the steps taken in response thereto within 7 days of such complaints being received by the Contractor.

STANDARDS OF PERFORMANCE

36. OPERATIONAL PLAN

- 36.1. The Contractor has submitted as part of its tender an Operational Plan. This has set out both the proposed method of performing the Service and full supporting details of the staff and other resources which will be utilised to achieve the performance levels required by the Specification. The Operational Plan details the Contractor's management and control processes, which clearly indicate how the Contractor proposes to manage the quality of the Service delivered.

37. PERFORMANCE OF SERVICES

- 37.1. The Contractor shall ensure that the Service (if appropriate as modified by Variation Order(s)) shall be performed in accordance with the good industry standards and shall conform to any and all codes of practice, performance ratings, and quality standards as are laid down in the Contract Documentation, or are issued to the Contractor by the Authorised Officer pursuant to any Variation Order(s).
- 37.2. The Contractor shall at all times perform the Service strictly in accordance with the Contract Documentation (if appropriate as may be modified by Variation Order(s)).
- 37.3. The Contractor shall supervise and inspect all work which forms part of the Service by management or supervisory staff who have been approved by the Council.

38. BRITISH STANDARDS AND QUALITY ASSURANCE

- 38.1. Where an appropriate British Standard Specification or British Standard Code of Practice issued by the British Standards Institution is current, all goods used or supplied and all workmanship shall, as a minimum requirement, be in accordance with that Standard, without prejudice to any higher standard required by the Contract.
- 38.2. The Contractor shall operate or be able to demonstrate that they are working towards implementation of a verifiable system that guarantees compliance with a quality system relevant to the Services and based on the principles laid down in ISO 9001:2000 or any other equivalent quality measures. The quality system shall be designed to ensure that the Services are carried out to the standards set out in the Contractor's Operational Plan.
- 38.3. The Contractor shall keep the Council informed at all times as to the progress it has made in achieving such measures, and shall supply such documentation as the Authorised Officer may reasonably require as evidence of its performance of the obligations set out in this Clause.
- 38.4. The Contractor accepts that it is a condition of this Contract that it will adopt and utilise any quality assurance measures detailed in the Contractor's Operational Plan for its performance of the Service, and that such processes shall be fully effective and operational as early into the Contract as possible.

39. COUNCIL INSPECTIONS AND INSTRUCTIONS

- 39.1. The Authorised Officer or his representatives may organise regular and thorough inspections of the Contractor's performance to ensure that it is complying with its obligations under the Contract. Performance shall be monitored in accordance with Section G (Performance & Breach) of this Contract.

- 39.2. The Authorised Officer shall appoint as many officers to assist in this task as are deemed necessary. The number of officers engaged on the monitoring of the Contract may be varied from time to time during the Contract Period.
- 39.3. The Authorised Officer and any Nominated or Authorised Officer or his representative(s) may undertake the review of performance by way of any method considered appropriate.
- 39.4. In particular, the Authorised Officer shall have the right to inspect work both at Council Premises and Contractor Premises, and shall be permitted access to any and all relevant documentation in the possession, custody or control of the Contractor. For the avoidance of doubt this right will include the power to interview staff, take copies of any and all relevant documentation and access any relevant computer databases in connection with the provision of the Service.

40. AUDITOR'S ACCESS

- 40.1. The Contractor shall maintain records, in accordance with good industry practice, of all work carried out for the Council. These records shall be made available for inspection on demand during normal office hours by the Authorised Officer and/or the Council's internal and/or external auditors as and when they shall require.
- 40.2. At no cost to the Council the Contractor shall provide the Authorised Officer, the Council's internal and/or external auditors with full and free access on demand during normal business hours to all correspondence, documentation and files created in performance of the Service and shall provide such explanations and further information as may be deemed necessary for their purposes. The Contractor shall co-operate fully and assist the Council's auditors with any enquiries and investigations relating to such records and shall also co-operate fully in any subsequent action against any employee or third party suspected of fraud or dishonesty directly or indirectly in relation to the performance of the Service.
- 40.3. For the avoidance of doubt the Council shall not require access to the Contractor's internal costings and other commercially confidential information. The Council shall have due regard to representations from the Contractor in the event that the Council wishes to use third party internal auditors and such auditors are deemed by the Council to be competitors.
- 40.4. The Council shall give reasonable notice to the extent that it is able of any requests for information and access.
- 40.5. Relevant information shall be provided for the purpose of enabling the Council to carry out periodic assessments of the Contractor's performance under this Contract and to enable the Council to meet its statutory and internal accounting obligations.

- 40.6. The assistance of the Contractor under this Condition shall be at no cost to the Council.

VARIATIONS

41. VARIATIONS

- 41.1. Where the Council wishes to or is required to change the requirements of the contract, the Council will provide reasonable notice to the Contractor in accordance with Condition 41.6 below. For the avoidance of doubt, such changes will include any legislative changes to the Service.
- 41.2. The Authorised Officer shall issue to the Contractor, and the Contractor shall not unreasonably refuse to comply with, a Variation Order containing instructions requiring the Contractor to do (or as appropriate refrain from doing) all or any of the following:
- 41.2.1. to omit and/or cease to perform any part of the Service for such period or periods as the Authorised Officer may direct and release the Contractor from any liabilities arising from such a change;
 - 41.2.2. to perform such additional services other than the Service as the Authorised Officer may reasonably require provided that such additional services are within the scope of the Service being performed under the Contract;
 - 41.2.3. to change or cease to use the Council Premises in accordance with Condition 31 and to release the Contractor from any liabilities as set out in Section G below, for a reasonable period, which arise as a result of such a change.
- 41.3. The requirement set out in 41.2.1, 41.2.2 and 41.2.3 shall be either permanent or temporary.
- 41.4. Where the Contract is to be so varied the Council and the Contractor shall endeavour to agree a fair and reasonable adjustment to the charges payable to the Contractor prior to issue of the Variation Order. In respect of additional services, the Contractor shall be reimbursed his additional costs at the then current rates of charge until a fixed price has been agreed.
- 41.5. The valuation of modifications pursuant to this Condition shall reasonably be agreed by the Authorised Officer and the Contractor in a spirit of co-operation and partnership. Agreement shall be made with reference to the Contractor's Operational Plan and in accordance with the following provisions:
- 41.5.1. Where work is omitted from the Contract the rates and prices, if appropriate, contained in the Contractor's Schedule of Prices

shall determine the ascertainment of the value of the work omitted;

41.5.2. Where work is of a similar character to, and is executed under similar conditions as work under the Contract, the rates and prices for the work contained in the Contractor's Schedule of Prices shall determine the ascertainment of the value of the work.

41.6. Reasonable notice shall be deemed to have been given if it is either:

41.6.1. one month's notice of changes to the Specification which will result in more or fewer employees being required by the Contractor or significantly more costs being incurred by the Contractor, or;

41.6.2. ten working days' notice in any other case.

41.7. If considered necessary or appropriate by the Authorised Officer, the Contractor shall prepare a detailed price estimate of the cost of any proposed Variation, including a substantiation of how the costing has been calculated.

41.8. For the avoidance of doubt, no increase or additional payment shall be made in respect of a Variation or additional work if there is a compensating reduction or reorganisation of any part of the Service.

42. VARIATION OF SPECIFICATION ETC

42.1. Without prejudice to the operation of any other Conditions under the Contract no omission from, addition to or Variation of the Specification, the Bills of Quantities/Schedules of Rates or the Method Statement shall be valid or of any effect unless it is agreed in writing and signed by the Authorised Officer and the Contractor.

SECTION E

EMERGENCIES

43. TEMPORARY SUSPENSION OF SERVICE

- 43.1. The Authorised Officer shall have the right to suspend the Service or part thereof.
- 43.2. In the event of suspension for any reason other than that caused by the Contractor or the Force Majeure, the Contractor shall be entitled to any payment for work which would normally be performed during this period.

44. EMERGENCY SERVICE

- 44.1. The Contractor shall maintain sufficient staff to deal with any additional demands required caused by incidents of an emergency nature which may arise during the Contract Period.
- 44.2. Where emergencies occur which may affect the performance of the Service during the Contract Period, for example, break-ins, and minor fire damage at the Contractor's Premises, the Services must be maintained and shall be maintained without additional cost to the Council.
- 44.3. In the event of an emergency causing severe equipment failure the Authorised Officer may require the Contractor to deploy additional resources or to provide additional services of a similar nature to those provided under the Contract. Any such deployment or additional services shall be treated as a Variation in accordance with Clauses 41 to 42 of these Conditions.

SECTION F

PAYMENT

45. METHOD OF VALUATION

- 45.1. The Council shall pay any monies owing and due to the Contractor for the proper provision of the Service in the manner hereinafter provided.

46. STATEMENT

- 46.1. At the intervals stated in Schedule A, the Contractor shall submit to the Authorised Officer an account in respect of work forming that part of the Service which has been completed by the Contractor during the previous period.
- 46.2. The Contractor shall account to the Council for any Value Added Tax properly chargeable on the supply by the Contractor of the Service.
- 46.3. For the avoidance of doubt, the Contractor accepts that changes will take place during the Contract Period in respect of matters such as the precise format of the Statement, the officers to whom it should be submitted, and the supporting documentation required to be provided by the Contractor. These changes will be subject to agreement of the Contractor, and such agreement will not be unreasonably withheld. All these changes shall be accommodated expeditiously and the cost shall be borne by the Contractor.

47. CERTIFICATION AND PAYMENT

- 47.1. Upon receipt of the Statement from the Contractor, the Authorised Officer shall determine whether the Service during the Statement period was performed properly.
- 47.2. The Contractor shall be entitled to be paid the monies approved for payment within 20 days of such approval of the invoice by the Council.
- 47.3. No payment issued by an Authorised Officer in accordance with the provisions of these Conditions shall be conclusive evidence that the Contractor has performed all or any of its obligations strictly in accordance with the Contract, and for the avoidance of doubt, it is hereby declared and agreed that adjustments may be made by the Authorised Officer in later payments in order to correct errors or omissions contained in earlier payments. Any decision taken by the Authorised Officer in pursuance of this Condition shall be agreed with the Contractor prior to the deduction being made.
- 47.4. The Council shall be entitled to vary or adjust any invoice submitted by the Contractor to include:

- 47.4.1. additions or deductions ascertained in accordance with Conditions 41 and 42 above and;
- 47.4.2. deductions ascertained in accordance with Condition 25.4 above;
- 47.4.3. any other additions required by, or deductions authorised by these Conditions.

48. FINANCIAL RECORDS OF CONTRACTOR

- 48.1. The Contractor shall provide to the Authorised Officer a copy of each year's audited accounts within six months of the relevant accounting period.

49. VALUE ADDED TAX

- 49.1. Sums payable to the Contractor pursuant to this Contract are exclusive of Value Added Tax ("VAT").
- 49.2. The Council shall pay to the Contractor in the manner hereinafter set out any VAT properly chargeable on the supply by the Contractor of the Service at the appropriate rate.
- 49.3. The Statement shall include any necessary tax invoices in respect of the payment of VAT.
- 49.4. If the Council objects to any part of such invoice and such objection cannot be resolved by agreement between the parties, the Council may require the Contractor to refer to the Commissioners of Revenue and Customs (hereinafter referred to as "the Commissioners") any dispute, difference or question in relation to any of the matters specified in Section 83 of the Value Added Tax Act 1994 (hereinafter called "the Act").
- 49.5. If the Contractor refers the matter to the Commissioners (whether or not under 49.4 of this Clause) and the Council is dissatisfied with their decision on the matter, the Contractor shall at the Council's request refer the matter to a Value Added Tax Tribunal by way of appeal under Section 83 of the Act, whether or not the Contractor is so dissatisfied. Should the Contractor be required to deposit a sum of money equal to all or part of the tax claimed under Section 83 of the Act, the Council shall pay an equivalent sum to the Contractor.
- 49.6. The Council shall further reimburse the Contractor any costs or expenses reasonably and properly incurred in making reference (less any costs awarded to the Contractor by the Tribunal).

- 49.7. Upon the final adjudication by the Commissioners or, in the event of a reference to the Tribunal, the Council shall pay the amount of VAT adjudged due to the Contractor. Should the amounts already paid by the Council either by way of payment of VAT or by way of reimbursement of any money required to be deposited by the Contractor with the Commissioners under 49.5 exceed the VAT adjudged to be due, the Contractor shall forthwith repay such excess to the Council.

50. VARIATION IN CONTRACT PRICE

Open Book Arrangement

- 50.1. Rates and prices contained in the Schedule of Prices shall be reviewed every year that the Contract is current at such times as the Council commences its budget process. In accordance with the principles of open book accounting, the Council and the Contractor will review the cost and profit components that comprise the Contract price. The cost of the Service for the year following this review shall be agreed by the Council and the Contractor and shall form the basis of the price paid to the Contractor by the Council that will be applicable and implemented on the anniversary date of the commencement of the Contract.

Non Open Book Arrangement

- 50.2. In the event that the Contract is varied under Clause 41 (Variation to the Contract) or Clause 42 (Variation to the Specification) in such a way as to affect the Contract Price and if agreement between the Parties cannot be reached on the adjustment to the Contract Price within 90 Days both Parties shall jointly act to resolve the dispute in accordance with the Dispute Resolution Procedure in clause 54.
- 50.3. If the adjusted Contract Price is not so agreed or certified until after such variation has taken effect, the Council shall continue to pay the Contractor at the rate current prior to the variation but shall pay to the Contractor or be entitled to recover from the Contractor as the case may be such sum if any as is equal to the difference between the amount which should have been paid in accordance with the adjusted Contract Price and the amount which was actually paid.
- 50.4. The Schedule of Prices shall be reviewed on the first anniversary of the contract commencement date and thereafter on each anniversary of the commencement date (“the Review Date”) and shall be increased or reduced by a percentage equivalent to the lower of the percentage increase or reduction (if any) shown by the CPI or RPI as published in the December immediately preceding each Review Date PROVIDED THAT irrespective of any increase in rate of the CPI or RPI the Schedule of Prices shall not automatically be increased if the Authority has not received at least the corresponding increase in the budget available to the Authority for the Service, but the Authority may elect at the Authority’s entire discretion to apply such increase.

- 50.5. If the basis of computation of the CPI or RPI shall change, any official reconciliation between the two bases of computation published by the Office for National Statistics (or any government department upon which duties in connection with the compilation and maintenance of the CPI or RPI have devolved) shall be binding upon the parties and shall be applied in adjusting the application of the CPI or RPI hereto.
- 50.6. In the absence of such official reconciliation, such adjustments shall be made to the figures of the CPI or RPI as to make it correspond as nearly as possible to the previous method of computation and such adjusted figures shall be used to the exclusion of the actual published figures (until officially reconciled figures are published) and in the event of a dispute regarding such adjustments the decision of the Council shall be final.

SECTION G

PERFORMANCE AND BREACH

51. MONITORING PERFORMANCE

- 51.1. It is the Council's intention that the Services should be delivered in a spirit of partnership. Accordingly, the Council and the Contractor shall agree a default methodology that will operate in the event of a failure of performance by either party. Performance Indicators shall be agreed before the commencement of the Contract which will be used to define how performance and service quality will be measured and the remedies to be applied in the event of Service failures.
- 51.2. Where the Contractor fails to perform the Service in accordance with the provisions of the Contract and/or Specification then the Council shall be entitled to give the Contractor written notice setting out the failure to perform and requiring the Contractor to take the necessary steps to either rectify the failure within a reasonable time period or prevent the failure from occurring in the future.
- 51.3. The Council may, if appropriate, apply such sanctions applicable to such failure as agreed by the parties including but not limited to financial sanctions by withholding moneys due to the Contractor related to those elements of the Service it has failed to perform and/or a reduction representing the additional cost incurred by the Council in investigating and rectifying the reduction in value of the Service to the Council.
- 51.4. The Contractor shall maintain records of all such monitoring and actions taken which shall be made available to the Authorised Officer when reasonably requested. These records will include but not be limited to:
- 51.5. **PIs appropriate to the Contract., and**

- 51.6. The number of complaints received, the time taken to respond and the action taken to rectify any service failure.
- 51.7. The Contractor shall attend and participate in meetings with the Authorised Officer and other Council officers as frequently and at such intervals as may be required by the Authorised Officer for the good management and proper performance of the Service.
- 51.8. The Contractor shall at its own expense conduct surveys, no less frequently than once per year, of user satisfaction with the Service in terms agreed in advance with the Council and shall disclose the results of such surveys to the Council and respond promptly by ensuring appropriate changes are made to the quality of the Service where appropriate and jointly agreed with the Authorised Officer.

52. CUSTOMER RELATIONSHIP MANAGEMENT

- 52.1. The Council has a strategy of ensuring that its communication and interaction with its customers are carried out in the most effective manner and to a “single point of contact”. The Contractor shall operate and manage an Operations Management Centre in accordance with this requirement.
- 52.2. The Contractor shall record and maintain details of all enquiries, requests for Services and complaints about the Services provided under this Contract.
- 52.3. The Contractor shall make available to the Council on request a summary report detailing all customer enquiries and complaints received, categorised by Services and showing the status of the complaint, time received, action required for rectification and time of rectification.
- 52.4. A complaint shall mean any expression of dissatisfaction however minor with any part of the Services provided by the Contractor made by or on behalf of the Service User.
- 52.5. The Contractor shall also have a written complaints procedure for Service Users approved by the Authorised Officer detailing ways of receiving and dealing with complaints, the time scale within which they shall be investigated and any remedial action carried out, and how the procedure will be promoted to Service Users.
- 52.6. The Contractor shall provide suitable and appropriately trained staff to receive, record and initiate remedial action in response to complaints and/or enquiries received whether by telephone, electronically or by correspondence during normal office hours.
- 52.7. The Contractor shall deal with any complaints received from whatever source in a prompt, courteous and efficient manner and in accordance with its complaints procedure.

- 52.8. The Contractor shall record sufficient detail in the register to enable the Council to ascertain:
- a) The nature of the complaint;
 - b) The name of the person making the complaint;
 - c) The date and time when it was received;
 - d) The action taken to remedy the complaint;
 - e) The date and time when the remedy was completed;
 - f) The name of the Contractor's employees involved in the action complained of and its remedy.
- 52.9. The Contractor shall deal with all complaints in the first instance; however the Contractor shall include in its complaints procedure reference to any Council procedures in that where that person expresses dissatisfaction with the manner in which the Contractor has dealt with the complaint or its failure to resolve it they may refer the matter to the Council to be considered under the Council's complaints procedure. In such cases the Contractor shall be under an obligation to pass copies of all relevant records regarding the complaint to the Council.

53. SUBSTITUTED PERFORMANCE

- 53.1. Subject to written notice in accordance with Condition 3.2 the Authorised Officer may make arrangements for the Council to provide and perform, by its own staff or the staff of another Contractor, such part of the Service which the Contractor fails to perform or performs deficiently, until such time as the Contractor can demonstrate to the Council that it is able properly to perform the Service in full.
- 53.2. In this event, the Council shall be permitted to use all or any part of the Contractor's equipment which was allocated to the performance of the Service, to assist in the performance of those parts of the Service which the Contractor has failed to perform or has performed deficiently. The reasonable additional costs incurred by the Council in performing the substituted service (together with a sum equal to 10% of the costs remedying the breach of contract towards the Council's administrative costs and overheads) shall be payable by the Contractor to the Council on demand as a debt.
- 53.3. The operation of this Condition shall not relieve the Contractor of any obligations under the Contract in respect of the Service as a whole, nor restrict the Council's right to terminate the Contract under Section I (Termination).

SECTION H

DISPUTE

54. DISPUTE RESOLUTION

54.1. If any major dispute or difference of any kind shall arise between the parties either party shall notify the other in writing as soon as is reasonably practical that a formal dispute has occurred. In the event of such a dispute each party shall appoint a designated representative to meet to attempt to resolve the dispute. The representatives shall meet as often as is necessary in order to gather and exchange all relevant information with respect to the matter in issue. In the event that the designated representatives cannot reach agreement within 10 working days they shall escalate their disagreement to the senior levels of management within their respective organisations for resolution within a further 10 working days.

ARBITRATION

54.2. For the avoidance of doubt it is hereby expressly agreed that, in the event of any dispute which cannot be resolved amicably between the parties, then the matter may be referred to arbitration by either party in accordance with the following provisions.

54.3. If the parties fail to agree on the identity of an arbitrator within one calendar month of either party serving on the other a written notice to concur in the appointment of an arbitrator, then the President or Vice President for the time being of the Chartered Institute of Arbitrators shall be requested to appoint an arbitrator.

54.4. If an arbitrator declines the appointment, or after appointment is removed by order of a competent court, or is incapable of acting, or dies, and the parties do not within one calendar month of the vacancy fill the vacancy, then the President shall appoint an arbitrator to fill the vacancy.

54.5. In any case where the President for the time being of the Chartered Institute of Arbitrators is unable to exercise the functions conferred by this Clause, the said functions may be exercised by a nominee of the said institute.

54.6. In the case of any dispute or question as to the adequacy of the Contractor's occupational pension scheme these shall be determined by reference to an independent arbitrator appointed by the President of the Institute of Actuaries.

54.7. Any such reference to arbitration shall be deemed to be a submission to arbitration within the meaning of the Arbitration Acts 1950 and 1979.

54.8. The Arbitrator appointed shall have full power to open up, review and revise any decision, opinion, instruction, direction, certificate or valuation of any Council officer which is not in accordance with the Contract, and

neither party shall be limited in the proceedings before such Arbitrator to the evidence or arguments put before the Authorised Officer for the purpose of obtaining the decision referred to above. Full weight shall be given to the power of the Authorised Officer to exercise any discretion under specified provisions of the Contract.

- 54.9. The award of the Arbitrator shall be final and binding on the parties.
- 54.10. The giving of any decision shall not disqualify the Authorised Officer from being called as a witness and giving evidence before the Arbitrator on any matter whatsoever relevant to the dispute or difference referred to arbitration.
- 54.11. The Contractor has accepted the calculation of the Council's liquidated and ascertained damages as contained in the default provisions in Section G (Performance and Breach) of this Contract as being a genuine pre-estimate of its loss, and agrees that it will not thereafter seek to challenge this calculation by virtue of any arbitration proceedings.
- 54.12. Unless the Contract shall already have been terminated or abandoned the Contractor shall in every case proceed with the Services with all due diligence and in accordance with the Contract, and shall give effect forthwith to every such decision of the Authorised Officer unless and until the same shall be revised by the Arbitrator as provided above.

SECTION I

TERMINATION

55. TERMINATION

55.1 Without prejudice to any other rights and remedies it may possess the Council shall be entitled upon the happening of any of the following events to terminate the Contract by six months notice in writing, such events being:

- 55.1.1. Persistent breaches of the Contract by the Contractor;
- 55.1.2. The Contractor having failed to perform a substantial part of the Service or having committed any other material breach of contract.
- 55.1.3. The Contractor having failed to comply with the requirement to undertake rigorous pre-employment vetting of prospective employees engaged on work for the Council as detailed in condition 30.1.

The Council shall be entitled forthwith upon the happening of any of the following events to terminate the Contract by notice in writing, such events being:

- 55.1.4. If the Contractor consists of a body corporate, the Contractor or its parent company having:
 - A winding-up order made;
 - Or (except for the purpose of amalgamation or reconstruction) a resolution passed for voluntary winding-up;
 - Or having an application made for the appointment of an administrator, administrative receiver or receiver;
 - Or an administrator, administrative receiver or receiver having been appointed, over the whole or any part of its business and/or assets;
 - Or having a provisional liquidator, receiver or manager of the whole or any part of its business appointed;
 - Or having possession taken of any of its property comprised in a floating charge by or on behalf of the holders of any debentures secured by the floating charge.

55.2. Upon such termination including the expiry of the period of notice served in Condition 55.1 above, in addition to such consequences as

are set out in the other provisions of this Contract then subject to 55.2.1 below:

- 55.2.1. The Contractor shall be deemed to be in breach of the Contract (at the commencement of the period of notice where served);
- 55.2.2. The Contractor shall forthwith cease to perform any part of the Service;
- 55.2.3. The Contractor shall be liable for any antecedent breaches of contract by the Contractor;
- 55.2.4. The Contractor shall fully and promptly indemnify and compensate the Council in respect of the reasonable cost of causing to be performed the Service as would have been performed by the Contractor during the remainder of the Contract Period, to the extent that such cost exceeds such sums as would have been lawfully payable to the Contractor for performing such Services (such reasonable costs to include all costs of closing out this Contract and entering into new contract(s) with replacement Contractor(s)). The Council shall be at liberty to have such services performed by any persons (whether or not servants of the Council) as the Council shall in its sole discretion think fit;
- 55.2.5. The Council shall have the power to deduct from any moneys properly due to the Contractor such sums as are due to the Council or may thereafter become due to the Council under this or any other Contract between the parties;
- 55.2.6. The Contractor shall forthwith vacate any Council Premises;
- 55.2.7. The Contractor shall forthwith release and hand over to the Council any and all Council property, including but not limited to equipment, supplies, vehicles, records and work-in-progress, whether in the form of documents, plans, calculations, drawings, computer data or other material in any medium.

56. SEVERANCE

- 56.1. If any provision of the Contract shall become or shall be declared by any court of competent jurisdiction to be invalid or unenforceable in any way, such invalidity or unenforceability shall not in any way impair or affect any other provision all of which shall remain in full force and effect.

57. BRIBERY AND CORRUPTION

- 57.1. The Council shall be entitled to cancel the Contract and to recover from the Contractor the amount of any loss or damage resulting from such cancellation if:
- 57.1.1. The Contractor shall have offered, or given, or agreed to give to any person any gift, consideration, inducement or reward of any kind, for doing or not doing any action in relation to the Contract or any other contract with the Council; or
 - 57.1.2. The like acts shall have been done by any person employed by the Contractor or acting on its behalf (whether with or without the knowledge of the Contractor); or
 - 57.1.3. In relation to any contract with the Council, the Contractor or person employed by it or acting on its behalf shall:
 - 57.1.3.1. have committed any offence under the Bribery Act of 2010; or
 - 57.1.3.2. have given any fee or reward the receipt of which is an offence under Section 117 (2) of the Local Government Act 1972.

58. INFORMATION ON RE-TENDERING

- 58.1. If requested to do so by the Authorised Officer, the Contractor shall forthwith provide to the Council at his own cost any and all relevant information other than that information which is commercially confidential, to permit the Council to prepare the necessary documentation in respect of any subsequent tendering or re-tendering of the Service. The information required shall be sufficient to enable the Council to meet its legal obligations and to obtain the best value for money reasonably obtainable in a tendering exercise. For the avoidance of doubt, this obligation shall extend to all workforce information necessary to enable the Council to comply with its duties under the Transfer of Undertakings (Protection of Employment) Regulations 2006 as amended if it is deemed that these regulations shall apply.

59. RIGHT TO SET-OFF

- 59.1. The Council reserves its right at Common Law and in Equity to set-off against its indebtedness to the Contractor any debt owed to it by the Contractor and any liability, damage, loss, costs, charges and expenses which it has incurred in consequence of any breach by the Contractor of this Contract.

SECTION J

OTHER INFORMATION

60. BEST VALUE

60.1. The Contractor acknowledges that the Council has a duty under the Local Government Act 1999 to regularly review the Service for the purpose of increasing efficiency, effectiveness and economy (Best Value).

60.2. The Contractor hereby agrees to assist the Council as it may reasonably require with any such review including:

actively promoting, supporting and assisting the Council in meeting its Best Value duty in respect of the service including the Council conducting Best Value reviews and preparing the Annual Report and Destination Kingston as it applies to the Services;

complying with requests for information, data or other assistance made by the authority in pursuance of Destination Kingston and adopting changes to the Service identified as achieving such purpose. The Contractor hereby agrees to implement any necessary modification to the Service by variation of the Contract;

complying with all requests by the Council to procure the attendance of specific employees at any meetings of the Council at which the Contract is to be discussed.

60.3. The Council shall at all times act reasonably in making requests of the Contractor in connection with the performance, satisfaction and discharge of the Council's Best Value duty.

60.4. Without limitation to Clauses 60.1 to 60.3 (inclusive) above, the Contractor shall in each Contract Year, provide the Council with proposals to improve the provision and/or performance of the Services (the proposals to be considered at the Annual Review) having specific regard to:

technical, operational and organisational improvements and efficiencies in the provision of the Services;

the requirements on the Council regarding the contents of the Council's Annual Report in relation to the Services for that Contract Year;

the results of any customer satisfaction survey.

- 60.5. The Council may at any time implement a benchmarking exercise as an objective comparison of the quality, performance and delivery of the Services with the provision of the same or similar services by a comparator group (which could include other local authorities and industry).
- 60.6. Any benchmarking exercise shall be carried out in good faith and each party to this Contract shall act reasonably in relation to any such benchmarking exercise.
- 60.7. The Contractor will comply with requests to provide data for the benchmarking exercises including data for costs and performance.
- 60.8. The Council and the Contractor shall act in a spirit of partnership in jointly identifying and implementing service improvements in accordance with this Condition and shall agree a methodology of sharing any benefits arising therefrom.

61. WHISTLEBLOWING

- 61.1. The Contractor/Supplier will adopt and promote the 'Whistleblowing' policy of the Royal Borough of Kingston upon Thames.
- 61.2. The Contractor/Supplier will inform its staff, including agency workers and sub-contractors, who may have a concern about wrongdoing at work i.e. activities that harm clients of the Council, colleagues working for the Council or the Council itself, that those concerns should be reported to the named persons within the Council's Whistleblowing policy. (Wrongdoing covers issues such as criminal offence, a failure to comply with a legal obligation, a miscarriage of justice endangering the health or safety of an individual, damages to the environment or the deliberate concealment of information tending to show one of these matters).
- 61.3. The Contractor/Supplier will comply with the Public Interest Disclosure Act 1988 and shall have a policy in place to encourage workers to raise concerns about wrongdoing within the Supplier and to protect them from victimisation or discrimination.

62. IMPLEMENTATION OF SINGLE EUROPEAN CURRENCY EUROPEAN MONETARY UNION

Continuity of Contracts in the event of Sterling entry into the European Monetary Union

- 62.1. The parties confirm and agree that the implementation of European Economic and Monetary Union in the United Kingdom shall not of itself give rise to a termination of this Agreement, or have the effect of altering any term, or of discharging or excusing performance under this

Agreement, or give to a party the right to unilaterally alter or terminate this Agreement.

- 62.2. The parties confirm and agree that any increased costs arising generally from, or associated with, implementation of European Economic Monetary Union in the United Kingdom will be borne by each other, and shall not be passed on to the other party.
- 62.3. If, as a result of the implementation of European Economic Monetary Union in the United Kingdom, Sterling ceases to be the lawful currency of England and is replaced by a European Single Currency, or Sterling and a European Single Currency are at the same time recognised by the Bank of England as the lawful currency of England, then:-
- a) Each and any amount that would otherwise have been payable by either party under this Agreement in Sterling shall be paid in the European Single Currency, and the amounts so payable shall be such amount of the European Single Currency as is equal to the amount of Sterling translated at the Exchange Rate; and
 - b) Any money owing under this Agreement shall be translated into the European Single Currency at the Exchange Rate; and
 - c) All references to amounts in Sterling shall be translated into the European Single Currency at the Exchange Rate; and
 - d) For the purposes of sub-clauses (a), (b) and (c) above, the Exchange Rate means the rate of exchange recognised by the European Central Bank for the conversion of Sterling into the European Single Currency for the purposes of implementation of European Economic Monetary Union in the United Kingdom.

63. BUSINESS CONTINUITY

- 63.1 The Royal Borough of Kingston (RBK) has a corporate policy, strategy and plan for business continuity. The aim is to ensure that the organisation has taken steps to ensure the delivery of key services at times of difficulty. Council policy follows the British Standard 255999. RBK expects its contractors to have a clear policy and strategy for business continuity. The contractor needs to demonstrate to RBK how the contract will be maintained during disruptions to the service. The contractor will be expected to submit their business continuity plans and policies whilst tendering for services. In addition, during the period of the contract the contractor will be asked to share their planning with the RBK contingency planning team.

64. RISK MANAGEMENT

- 64.1 The Council requires the Contractor to make provision to address the issues of Risk Management, as set out in the Council's Risk Management Policy. The approach that the Contractor will be requested to take towards risk management processes and procedures will be based in part upon the value and exposure to the Council, and to the current risk management framework that the Contractor employs. In this context, exposure includes an element of risk to the Council, or to its service users, but it also includes an element of visibility and also of time. Some of the risks might be political or reputational risks, and some due to supplier failure and collaborative working (consortia).
- 64.2 If the contract is of low value and low exposure to the Council, RBK will require evidence that risks are managed in a pro-active and consistent manner by the contractor, within a formal risk management framework. If the contract is of high value and high exposure to the Council, RBK will require the Contractor to provide evidence that they have utilised either RBK's Corporate Risk Management Methodology or an alternative, recognised risk management methodology. Additionally, for high value, high exposure contracts the Council will expect to see ongoing evidence in the form of Risk Registers that RBK facing Risks are properly identified and are being effectively managed within the Contractor's Risk Management framework.
- 64.3 Regardless of the level of exposure and contract value, if the contractor does not have their own Risk Management framework, they must utilise RBK's Risk Management framework.

SCHEDULE A

PARTICULARS OF CONTRACT

CONTRACT PERIOD:	The Contract Period will be from (insert date) until (insert date) (inclusive) with the option to extend up to (insert date) at the Council's discretion, giving six months notice in writing.
COMMENCEMENT DATE:	(insert date)
CONTRACT DOCUMENTS:	Conditions of Contract Specifications of Requirements Appendices Schedule of Prices Instructions for Tendering (must include reference to Remedies Directive (2009) re stand-off period) Form of Tender Deed of Guarantee and Form of Bond-Examples Certificate against Collusive Tendering Relevant Professional Codes of Practice
INDICES TO BE USED (IF APPROPRIATE):	"The Retail Prices Index (all items excluding mortgage interest repayments)(RPIX)" (ref.CHMK) means the index issued by the Employment Gazette as published by the Office for National Statistics.
AUTHORISED OFFICER:	The Contracts Manager (insert name and address of authorised officer)
PAYMENT DETAILS:	Payment to be made within 28 days from Authorisation of invoices.
PERIOD FOR SUBMISSION OF STATEMENTS	Monthly (Calendar)
PERIOD OF WRITTEN NOTICE:	06 Months
INSURANCE:	Professional Indemnity Insurance £ Employers' Liability £ Public Liability £ (insert relevant amounts as agreed with the Council's insurance advisor)

REMEDIES DIRECTIVE (2009) : **To be inserted in ITT (Instructions for Tendering):**

“In accordance with the Remedies Directive (2007) of the European Court of Justice and Regulation 32 of The Public Contracts Regulations 2006, there will be a 10 day standstill period between communicating the award decision to all tenderers and entering into a contract. The award notice shall contain the criteria for the award of the contract, the name of the successful tenderer and where practicable, the score obtained by the unsuccessful and successful tenderers. the Council shall also inform all tenderers and contractors who expressed interest at the PQQ stage of the reasons why they were unsuccessful, and the characteristics and relative advantages of the successful tender. If there is any legal challenge during the period and legal proceedings are instituted, the Council must wait to see if any interim order is made by the Court or if the action is determined, discontinued or otherwise disposed of at Court before concluding the contract and only then if the outcome of the court allows the Council to do so.”

**Royal Borough of Kingston upon Thames
Health and Safety Policy, Organisation and Arrangements**

**Health and Safety at Work etc. Act 1974 Section 2(3)
Management of Health and Safety at Work Regulations 1999 Regulation 5**

Regulatory Reform (Fire Safety) Order 2005

OVERALL STATEMENT OF POLICY

It is the policy of The Royal Borough of Kingston upon Thames to ensure, so far as is reasonably practicable, the health, safety and welfare of all our employees and others who may be affected by our activities or services. In order to achieve this it is our policy to provide safe equipment and systems of work and adequate information, instruction, training and supervision, as may be needed for this purpose. RBK will ensure that health and safety issues are addressed within every aspect of Council activity and will provide adequate resources to ensure this Policy can be implemented effectively.

RBK will also ensure that Council Members are given the opportunity to be briefed on the legal requirements applicable to the Council in respect of health and safety, in order that the policy decisions made by Members can take full account of these obligations and the individual responsibilities imposed on Council Members.

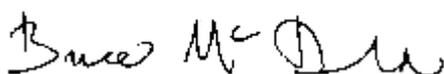
Where the Borough intends to engage contractors to undertake work, or provide services on its behalf, or commission services through a partnership arrangement, reasonable enquiries will be made to establish the competence of the contractor to undertake the work safely and without risks to health. The health and safety performance of such contractors will also be kept under review in order to ensure adequate standards are maintained.

RBK will consult with employees on health and safety matters through the Health and Safety Committee, with trade union appointed safety representatives and other employee representatives, with a view to actively involving staff in the effective implementation of this policy.

The health and safety performance of the Council and this Policy will be reviewed at least annually by the Health & Safety Board, and at any other time when there are significant changes in the activities or management structure of the Council.

The sections below detail the organisation and responsibilities of directors, service managers and staff within the Council, for implementing the Policy and gives details of the general health and safety arrangements and standards to which the Council operates.

Signed



Bruce McDonald, Chief Executive

January 2012

ORGANISATION

Health & Safety Governance

The Health & Safety Board sets the Health & Safety strategy for the Council ensuring that it is aligned with core business objectives and the RBK H&S policy. It is chaired by the Chief Executive and includes representation of senior management from key areas across the Council including: Organisational Development & Strategic Business, LCS, Finance, Adult Health & Social Care and Place & Regeneration.

Its function is to:

- Agree the H&S priorities taking into account changes to legislation and best practice relevant to the Council.
- Agree health and safety performance measures, ensuring that there are adequate resources to address priorities, and provide periodic reports on health and safety performance to the SLT
- Monitor and keep under review the H&S risk register, alerting SLT to any increase in corporate risks to allow measures to improve safety to be undertaken. Receive safety audits, assessments and reports so that recommendations for corrective action can be made.
- Receive information from the H&S Committee and take appropriate action to address any deficiencies as necessary.
- Ensure compliance with external standards in respect of health and safety and fire safety and, where deficiencies are identified, give direction to corrective action
- Keep under review the H&S risks on the Corporate Risk Register

The H&S Committee forms part of the Councils formal consulting arrangements to meet the requirements of the Safety Committee and Safety Representatives Regs 1977 and the Health and Safety (Consultation with Employees) Regulations 1996 (as amended). Trade Unions are actively involved in all health and safety arrangements and employees which do not belong to a trades union are encouraged to raise health and safety queries or concerns with their relevant DCG representative who will work with line managers to resolve local issues

Specific Responsibilities of Individual Directors and Managers

Chief Executive

- The Chief Executive has overall responsibility for health and safety matters within the Council. The Chief Executive is also responsible for general oversight of the Council's health and safety management programme and, with the Health & Safety Board, monitoring its effective implementation. The Chief Executive is also responsible for chairing the Health & Safety Board and the Health and Safety Committee.

All Directors

Directors are responsible for ensuring that health and safety is effectively managed within their area of control or influence in accordance with this policy, and standards and guidance contained in the RBK Health & Safety Handbook. Directors have the responsibility for:

- Ensuring that when entering into partnerships with other organisations for the supply of goods and services, there are shared values regarding the health and safety of staff and others who may be affected by work activities
- Ensuring that a senior manager represents their directorate at the Health & Safety Board

Director of Finance

The Director of Finance is responsible for:

- ensuring the budgetary planning process takes adequate account of the need to resource health and safety requirements in accordance with RBK Policy;
- ensuring that Financial Regulations require the rejection of tenders for contract works where it is evident that the contractor is not sufficiently competent or inadequately resourced to undertake the work safely.
- receiving advice as part of the budget process from the Occupational Health and Safety Manager on any prospective changes to health and safety legislation, which may have significant cost implications for the Borough, so that these can be incorporated in the relevant resourcing plan for the Borough.

The Executive Head of Organisational Development & Strategic Business

The Executive Head of Organisational Development & Strategic Business is responsible for arranging the provision of competent health, safety and medical advice to the Council, in accordance with Regulation 7 of the Management of Health and Safety at Work Regulations 1999 and for the planning and co-ordination of the RBK's Health and Safety Management Programme. .

The Executive Head of Organisational Development & Strategic Business is also responsible for ensuring that

- the employee selection and recruitment process takes adequate account of the competence, ability and medical suitability of employees selected, in order to ensure that neither the employees, nor others, are put at risk.
- in conjunction with Service Managers and the Occupational Health and Safety Manager, any organisational or management change, an adequate assessment is undertaken of

the implications for health and safety and that the planning of the change incorporates adequate arrangements for managing health and safety.

- ensuring that human resource management practices relating to working hours, employment of children and young persons, and arrangements for pregnant employees meet statutory requirements.
- ensuring that the employee performance management system adequately takes account of the health and safety performance of managers and staff.
- ensuring that there are adequate arrangements for the health and safety training of employees, both at induction and in relation to specific job or work needs.

Commissioning of Services

- through Strategic Business, that there are adequate arrangements in place for the assessment of the competence of prospective contractors intended to be used by the Council.
- ensuring that contracts for the supply of goods and services include adequate specification of health and safety arrangements and for effective and competent monitoring of the health and safety standards achieved by the contractor during the period of the partnership.
- obtaining the advice of the Occupational Health and Safety Manager on relevant standards of health and safety to be applied in relation to specific contracts and in relation to assessment arrangements for prospective contractors and partner organisations

Director of Learning & Children's Services

The Director of Learning & Children's Services has specific responsibilities for Community Schools, Community Special Schools and residential homes where children are cared for including:

- ensuring that there are adequate arrangements for maintaining the fabric of school (and residential buildings) in a safe condition in accordance with the Authority's scheme for delegated responsibilities and finance to school governors.
- ensuring that Headteachers and Governors of community schools are provided with adequate briefings and training on their health and safety responsibilities.
- In consultation with the [Corporate Landlord Team](#) and Health & Safety Team making arrangements to ensure the standards of health and safety management within community schools are monitored and, where serious deficiencies are identified, an action plan is developed by the headteacher and governors for corrective action to be taken within a specified timescale and giving a direction to this effect under Section 39(3) of the School Standards and Framework Act 1998.

In exceptional circumstances a warning notice (under Section 15 of the School Standards and Framework Act 1998) may be issued to the governing body of a Community, Voluntary Aided or Foundation School where the Authority is satisfied that the safety of pupils or staff of the school is threatened (whether by a breakdown of discipline or otherwise).

Director of Health & Adult Social Care

- The Director of Community Services is responsible for ensuring that, where partnership agreements exist with other organisations for the provision of care services, there are adequate arrangements for the health and safety of RBK staff and others who may be affected by the agreement.

The Head of Property

The Head of Property is responsible for:

- ensuring that repairs and maintenance of buildings, including interiors, exteriors, structures, common parts, and building services, are undertaken safely
- Managing the health and safety programme in relation to buildings under the control of the Corporate Landlord
- Managing the Health and Safety budget for maintenance and minor works
- Ensuring that Council properties have a current fire risk assessment which identifies all relevant issues, such as structural integrity, evacuation routes, signage, detection systems and fire fighting equipment.
- Ensuring that risk assessments in relation to asbestos and Legionella are adequate with planned programmes to correct any identified deficits.
- maintaining and keeping under review an approved list of contractors for which he is the Client Officer, consisting only of contractors who have satisfied a preliminary assessment for competence and resourcing in relation to health and safety, for the type of work in which they are, or are likely to be, involved.
- ensuring that contracts for the supply of goods and services developed within his area of responsibility include adequate specification of health and safety arrangements and for effective and competent monitoring of the health and safety standards achieved by the contractor during the period of the partnership.
- obtaining the advice of the Occupational Health and Safety Manager on relevant standards of health and safety to be applied in relation to specific contracts and in relation to assessment arrangements for prospective contractors and partner organisations.
- monitoring the health and safety performance of RBK's Building Professional Services consultants and ensuring that where such monitoring indicates inadequate standards corrective action is taken.
- ensure that there are adequate arrangements for maintaining the Council's housing stock so as to minimise risks to tenants, Council employees and the general public.
- ensuring that there are adequate arrangements for gas safety and other statutory inspections to be undertaken and records kept in accordance with statutory requirements.
- ensuring that work undertaken on the housing stock is planned and organised in a manner that minimises the risks to tenants and other members of the public who may be affected thereby.

- ensuring that Council tenants are kept informed of the presence of asbestos known to exist within the structure of their homes and the necessary precautions to avoid disturbing it.

The Occupational Health & Safety Manager

The Occupational Health and Safety Manager is responsible to the Executive Head of Organisational Development & Strategic Business for:

- providing day to day advice and guidance to managers in the Council on occupational health, safety and fire precaution matters.
- undertaking periodic audits of the health and safety standards being maintained within RBK and advising relevant managers of any necessary actions which are identified as necessary as a result of such audits.
- advising managers on the appropriate response to any new health and safety legislation in consultation with the Health and Safety Consultancy.
- developing and co-ordinating the issue of health and safety guidance and standards for use within the Council and to ensure that such information is effectively implemented.
- providing for all RBK liaison with health and safety enforcement authorities.
- the investigation of serious accidents incidents or work related health conditions and undertaking the relevant statutory reporting of such incidents to the HSE.
- advising the Chief Executive and the Executive Head of Organisational Development & Strategic Business of any serious health and safety issues that arise and require corporate attention, or changes to corporate policy.
- managing, under the professional direction of the consultant Occupational Health Physicians, the pre- employment screening of prospective new staff and, where required, the medical assessment of existing staff.
- advising the Executive Head of Organisational Development & Strategic Business of the health and safety requirements associated with new or revised personnel procedures and strategies.
- providing an annual report to the Health & Safety Board on health and safety management in the Council.

The Occupational Health & Safety Manager will be supported by a consultancy appointed to provide detailed assistance in safety and occupational health matters and to provide assistance on the development of policies and procedures.

Head of ICT

The Head of ICT is responsible for

- ensuring that computer and similar equipment, together with associated software which is to be installed either in Council premises, or for the use of employees working from home, complies with the necessary health safety and ergonomic standards.

General Responsibilities of Lead Commissioners and Service Managers

All Lead Commissioners and Service Managers have a general responsibility for ensuring that activities under their control are managed in a way which ensures high standards of health and safety.

Service Managers are also responsible ensuring that health and safety risk are identified on Service Plans and escalated to the H&S Board or SLT if necessary.

Governors and headteachers are responsible for ensuring that such local organisation and arrangement statements exist within their schools.

In addition, Service Managers have the following particular responsibilities in relation to their area of responsibility or control:

- ensuring that RBK procedures relating to health and safety management are applied and employees receive appropriate information, instruction, training and supervision to enable them to work safely.
- ensuring that health and safety standards are monitored in a systematic way and where deficiencies are identified they are promptly rectified.
- incorporating health and safety risks into Service Plans and ensure that these are monitored on a quarterly basis..
- ensuring that a sufficient number of employees are nominated and trained to undertake risk assessments within their area of control, in relation to general health and safety risks and the particular assessments required in relation to manual handling, substances hazardous to health and personal protective equipment.
- ensuring that risk assessments are undertaken and revised where necessary, in accordance with the overall Council arrangements and that the relevant actions identified are promptly implemented.
- ensuring that in commissioning new services, adequate consideration is given to the competence and resourcing of the prospective contractors and adequate arrangements are made in relation to risk assessment and other statutory duties under health and safety.
- ensuring adequate arrangements exist to ensure that suppliers, from whom the Council purchases plant and materials, supply relevant health and safety information (including relevant material data sheets) as part of the supply contract.
- ensuring that, where plant or materials are purchased from outside the EC, the Council does not undertake the responsibilities of an importer in respect of health and safety requirements unless adequate arrangements have been made to ensure that EC product safety legislation and material labelling requirements can be met.

General Responsibilities of Employees

All employees have the following responsibilities:

- To act with due regard to the health and safety of themselves and others who may be affected by what they do, or fail to do, whilst they are at work, or on Council premises.

- To comply with Council instructions and procedures relating to health and safety and making full and proper use of any protective or safety equipment provided.
- To report to their supervisor or manager any serious danger to health or safety, or defects in plant structures, or equipment, or safety procedures that come to their notice and which they cannot immediately rectify.
- To report to their line manager any incidents which have led, or might have led, to injury or damage.
- To only use plant equipment or substances in accordance with information instruction and training provided by the Council.

No manager or employee of the Council is authorised to initiate, or continue, any process, operation, or activity, which places employees, or others, in danger, or is in breach of statutory obligations with respect to health and safety.

Elected Councillors

Elected Councillors decide the Corporate Policies of the Authority through an executive structure, which reports to the full Council. Councillors are not responsible for the implementation of Health and Safety legislation within the Council but do take it into consideration as part of the decision making process.

To assist them Councillors are provided with professional advice, guidance and training by the Chief Executive and Directors.

HEALTH AND SAFETY ARRANGEMENTS

Standards & Guidance

General

All health and safety information, including risk assessments, RBK standards and guidance are contained in the electronic Health & Safety Handbook. This can be found on the RBK intranet.

Community, Community Special and Voluntary Aided Schools

Mandatory common standards and guidance for Schools are contained in the electronic RBK Health and Safety Handbook for Schools. The requirement for Headteachers and Governing Bodies of Schools to implement the relevant aspects of this policy and the applicable standards contained in the handbook is to be regarded as a direction of the Local Authority by virtue of Section 39(3) of the School Standards and Framework Act 1998.

Where internal guidance does not cover a specific issue, the RBK will adopt the practices or standards recommended in Health and Safety Executive publications or relevant British or European Standards.

Academy Schools

Academies are independently managed schools. They are set up by sponsors from business, faith or voluntary groups in partnership with the Department for Education (DfE) and the local authority. The Governing Body is responsible for the health and safety of staff and students and may appoint the RBK Occ Health & Safety Team as its competent source of advice. Where this applies a Service Level Agreement will set out the terms and conditions of the contract.

Competent Professional Health & Safety Support and Assistance

The Occupational Health and Safety Manager is responsible for the co-ordination of RBK's Health and Safety arrangements and will be the immediate source of advice to managers on day to day health and safety matters. The Council retains Quadriga Health & Safety Ltd, as Health Safety Consultants to support and advise the Council and support the Occupational Health and Safety Manager in this role and to provide other assistance as requested.

Joint Working Partnerships with Other Organisations

Where RBK has entered into formal joint working partnerships there are separate arrangements to clarify the individual areas of responsibility for health and safety which address the requirement for monitoring standards. In the case Health Trusts, the Council remains the employer of staff who are on secondment to the Trust. The Trust is responsible for the day to day health and safety arrangements for Council employees and will ensure, so far as is reasonable practicable, the health, safety and welfare of all staff working for the Trust

Where employees are located in buildings under the control of partner organisations - arrangements will be made to ensure adequate communication and consultation in relation to health and safety.

Agency Staff

The Council will share with all staffing suppliers the Health and Safety information relevant to all posts including risk assessments and control measures in place. The Agency is expected to ensure that relevant information is passed to prospective workers.

Risk Assessments

Risk assessments required for work involving display screen equipment, manual handling operations, substances hazardous to health and general risk assessments are undertaken by managers or nominated staff trained in the particular type of risk assessment required. Where new types of work are proposed, the manager responsible for the work must ensure an adequate risk assessment is undertaken before the work is started, seeking advice from the Occupational Health and Safety Manager, as necessary. Where an employee notifies her line manager of pregnancy, a particular risk assessment will be carried out either by the line manager or by the Occupational Health Service. The employee will be informed as to any specific precautions which need to be taken to avoid placing the employee or her unborn child at risk. Managers will also assess any risks to young persons (those under 18 years) in the workplace and identify and specific precautions. Risk assessments for fire safety and asbestos are carried out in each establishment by professional services consultants and a copy of the findings are stored locally.

Accidents, Dangerous Occurrences and Ill Health Reporting

Accidents to employees, or others, on RBK premises, or affected by RBK operations, must be reported to the relevant line manager and the Occupational Health and Safety Manager following the procedure in the RBK Health and Safety Handbook. The same procedure covers cases of occupational ill health or dangerous occurrences.

Training

All new employees will receive relevant instruction and induction training on health, safety and welfare matters from their manager or supervisor. Specific health and safety training will be provided for employees, as appropriate to the work being undertaken. Line managers are responsible for identifying the learning & development needs of individual staff within their area of control and ensuring that the relevant training takes place and is recorded. In order to assist managers in discharging this obligation the Head of Organisational Development and Strategic Business will ensure that induction courses (including e-learning) include health and safety information for all employees relevant to their role and the risks at work.

Pre-Placement Health Assessments & Medical Arrangements

Pre-employment health assessments are undertaken for all new employees, usually by means of a confidential questionnaire, by the Occupational Health Medical Adviser. Confidential medical details are held in the strictest confidence and will only be disclosed to Human Resources with the prior consent of the employee. However, information, such as restrictions on particular types of work, or special precautions necessary for health and safety reasons will be provided to the managers to avoid putting the employee or others at risk.

Fire Safety

All Council premises have a fire safety risk assessment organized and reviewed by the Corporate Landlord team in accordance with the Regulatory Reform (Fire Safety) Order 2005

The Facilities Management or local premises managers are responsible for the implementation and maintenance of day to day procedures identified within the risk assessments. Arrangements for schools are specified in the local organisation and arrangements statement.

First Aid

First aid arrangements for each premises and the names of nominated persons and appointed first aiders are displayed at the premises.

ROYAL BOROUGH OF KINGSTON UPON THAMES

Putting People First - Equality and Diversity Policy Statement

Forward

This Policy Statement spells out the Council's commitment to equality and diversity and the measures the Council will take to achieve equality. Kingston has had a Policy Statement since 1986. This has been reviewed and updated on a regular basis. Much has already been achieved but we are not complacent and there is still much to do.

This revised Policy Statement sets out our arrangements for ensuring compliance with the Equality Act 2010. More detail on this, together with our annual action plan is available in our published Equality Scheme, available on the internet.

We are proud of our diverse borough and value every resident. Equality is therefore a crucial part of our key strategic aim of putting people first to make the Council more accessible and responsive. This policy statement will be widely circulated both within the community and within the Council itself.

Everyone who works for the Council will play a part in ensuring that our commitment becomes a reality.

Bruce McDonald
Chief Executive

Introduction

The Royal Borough of Kingston has a very diverse population. According to the 2001 Census 15.5% of Kingston's population is from Black and minority ethnic groups; this rises to 20.6% for those under eighteen. However, the GLA estimate of Kingston's BME population in 2007 is 21% and the proportion in our schools is 40%. This is higher than the national average. Kingston has the largest Korean population in Western Europe; recent estimates put this as high as 8-10,000.

Our translation and interpretation service provides 122 translators for 44 languages. The majority population are Christian (64.6%), 3.9% are Muslim, 3.6% Hindu, 0.8% Buddhist and 0.6% Sikh. Approximately 20% of people in the Borough are disabled.

Diversity embodies all the differences that make us unique individuals. In Kingston we recognize that diversity is not only a reality, it's a distinct advantage, and one that we value and embrace. Just as the people of Kingston are infinitely diverse, so is our workforce. Our understanding of diversity helps us serve our community better.

Success and productivity are natural extensions of a corporate culture that truly values all people, putting an appreciation of diversity among our top corporate priorities.

Our commitment to equality in our service delivery and our employment practices means that we believe in:

- Providing fairness and equality of opportunity
- Recognising that everyone is different and that these differences must be equally respected
- Challenging discrimination so that we demonstrate our commitments to equality and do not exclude people or make them feel isolated
- Respecting people's difference in viewpoint and ensuring that everyone has the opportunity to raise their point of view

What does the Policy Statement cover?

The Policy Statement covers residents, visitors, service users, elected members, employees and potential employees.

Staff in locally managed education establishments have their own policies and procedures determined by their governors, which means that they are not covered by this policy. This policy statement is recommended as a model of good practice and where a policy of this nature does not exist this one may be adopted or customised to meet specific needs.

The Policy Statement covers all forms of unlawful or unfair discrimination including those on the grounds of: age, asylum or refugee status, caring responsibilities, class, colour, disability (including physical, sensory impairment, mental health, learning disability or HIV status), ethnic or national origin (including Travellers), gender, gender reassignment, language, marital status, nationality (including citizenship), part-time working, race, religion, sexuality, or trade union membership.

As a Council we have adopted the 'social model' of disability as opposed to the 'medical model'. The key difference between the two is in the 'location' of the problem. According to the medical model, disabled people are unable to participate in society as a direct result of their impairment. However, according to the social model, people with impairments are disabled by physical, social, cultural and corporate barriers. Disabled people generally have the same needs and aspirations as non-disabled people, expecting to be able to access services independently. It is society and the environment that disables people with impairments. Thus disabled people are not 'people with disabilities'; they are 'disabled people', disabled by society and the built environment.

The policy statement applies to all aspects of the Council's functions including:

- Service provision
- Commissioning and procurement of goods and services
- Recruitment, employment, training and staff development
- Community engagement including consultation with local people
- Grant making
- Partnerships with other organisations
- Promotion and publicity

- The exercise of our statutory powers and responsibilities

The Policy Statement applies at all levels in the Council and implementation is the responsibility of every Council employee.

Policy Statement aim

Our overall aim is to ensure that everyone can fully participate in the social, cultural, political or economic life of the Borough. This includes our staff. To this end we aim to:

- Eliminate unlawful discrimination
- Promote equality of opportunity and improve access to services (by removing the barriers which deny access to our services)
- Promote good relations between everyone, all people of different races, disabled people, and encourage community cohesion
- Celebrate and value diversity
- Comply with our legal duties under the relevant acts in relation to race, disability, gender, sexual orientation, religion and belief, age and human rights.

Our commitments

- **Policy and planning:** we will promote equality and value diversity in all our policies and service planning.
- **Service delivery and customer care:** we will ensure that our services are relevant to the diverse needs of our residents and local communities, are accessible to all and are delivered in a way that is appropriate and sensitive.
- **Community engagement and development:** we will encourage community participation to ensure that we listen to and invest in the needs of our residents and communities.
- **Information:** we will ensure that information about our services is offered in appropriate formats and languages and appears in media read or heard by local people.
- **Protection from violence and harassment:** we will continue to work with our partners to ensure that domestic violence, racist crime, homophobic crime, adult abuse and abuse of disabled people is tackled.
- **Commissioning and procurement:** we will ensure that equality issues are part of the commissioning and procurement process.
- **Partnerships:** we will ensure that our partners are aware of our commitments and share in them.
- **Employment:** we will aim to have a workforce that is representative of the community we serve. To this end we will ensure that our workforce is built on open and fair employment practices, that our staff are valued and that the work environment is inclusive.

How we will achieve our commitments

A plan of action:

The Council's Equality Scheme outlines the way in which we plan to implement our policy statement and includes an annual action plan for implementation. Points below summarize the Council's main actions.

Measuring success:

The Council has adopted the Equality Framework for Local Government and is currently at level 2 - Achieving. This provides a framework for continuous improvement in equality. The Standard covers race, gender, disability, sexual orientation, religion and belief and age. There are five levels of achievement. Each level covers employment and service delivery.

Structures for implementation:

The Council has an Equalities Forum, which brings together representatives from directorates, staff side and the voluntary sector. The Chief Executive chairs the Forum. Its function is to advise on policy and promote good practice. The Equalities Forum will scrutinise progress on equality, advise on policy and promote good practice.

An Equalities Board, chaired by the head of Organisational Development and Strategic Business, oversees and scrutinises equalities activities across the Council in relation to employment and service provision. There are also equality groups operating throughout the Council who are responsible for co-ordinating equality at a Directorate level.

Consulting with residents and staff:

The Council has set up the following consultative forums to help in implementing this Policy:

- A Black and Ethnic Minorities Forum which acts to inform, challenge, check and support the Council's equality initiatives in order to improve its commitment and effectiveness in carrying out its functions.
- Young People's Forum
- Learning Disability Parliament
- Consultation with Deaf BSL users
- Black and Minority Ethnic Staff Group
- Disabled Staff Group
- Senior Women's Network (Fast-Forward)

Assessing our policies and services:

We will continue to monitor existing policies (monitoring service users, identifying gaps in provision and planning change) and assess the impact of new policies to ensure that they do not discriminate. We will put our policies into action based on consultation, raising awareness and developing outcomes that make a difference.

Training our staff:

The Council runs training on equality for staff. Mandatory e-learning equality training for all staff is being rolled out during 2011. In addition there is an equality slot on the Induction course that all new staff attend. Annual Equality workshops are provided to Councillors and are included in the induction programme for councillors.

Dealing with complaints:

Complaints about any service provided by the Council should be made to nominated people in each directorate. A leaflet 'Have Your Say' is available online and in reception areas with names of those who can be contacted. The Council has a Code of Conduct in relation to staff and breaches of this code are investigated in accordance with the Council's disciplinary procedure.

Who is responsible for equality and implementing this Policy Statement?

The Leader of the Council has overall responsibility for this Policy Statement. The Chief Executive and Directors have the management responsibility for ensuring that the Policy Statement is implemented across the Council. Managers are responsible for delivering equality in their services, providing support for staff to work together to achieve equality, and acting on any staff or community complaints. All employees are responsible for ensuring that they work together to recognise and remove barriers so that they can promote equality, fairness and dignity, and behave in accordance with this Policy Statement.

Resources

The Council will integrate equality into the mainstream budgetary allocation. Staff in the Organisational Development and Strategic Business team have specialist equality responsibilities. There are also additional resources in some Directorates with staff specialising in equality issues.

Review of this Policy Statement

This Policy Statement will be reviewed annually and amended as necessary to reflect changes in legislation, codes of practice or special issues of local concern.

ROYAL BOROUGH OF KINGSTON UPON THAMES

STATEMENT OF ENVIRONMENTAL POLICY

The Royal Borough of Kingston upon Thames is committed to improving its own environmental performance, to minimising its impact on the local, regional and global environment and to encouraging others working in, living in, and visiting the Royal Borough to do likewise.

The Council will aim to:

Raise the environmental awareness of councillors, council officers, the public and the business community to encourage them to make environmentally sound and sustainable decisions.

Encourage the efficient and least environmentally damaging use of energy and in particular, to reduce the emission of carbon dioxide.

Reduce the need to travel and minimise the environmental impact of transport while ensuring reasonable access to the community.

Encourage the environmentally sound and sustainable use of resources.

Reduce the quantity of waste produced in the Royal Borough of Kingston upon Thames and limit the environmental impact of waste.

Limit the level of pollution caused by activities in the Royal Borough and encourage improvement in the quality of air, water and land.

Protect and enhance Natural Habitats, Open Spaces and Landscape for wildlife, access and amenity.

Protect quality in, and enhance the Built Environment and Townscape for the benefit of those who live, work in and visit the Borough.

Protect and promote health and safety and limit the impact of noise.

Environmental Policy - Principles and Action

1. Environmental Policy Formulation

- 1.1 The Council will establish and update environmental policies that seek to achieve a continual improvement in environmental performance.
- 1.2 The aim of the Council is to reduce its environmental impact to a level not exceeding that which is achievable by economically viable applications of best available practices, techniques and technology.
- 1.3 All policies will meet relevant regulatory requirements.
- 1.4 The Council will adhere to the objectives determined by the projects within the Council's Climate Change Programme, monitor impacts from service deliver and operations and put in place action to mitigate and adapt to climate change.

2. Action to reduce environmental impact

- 2.1 The Council will take all reasonable measures necessary to reduce its impact on climate change, adapt to climate change and reduce pollutant emissions and waste generation to a minimum and to conserve resources.
- 2.2 The impact of current activities on the environment will be examined.
- 2.3 The environmental impact of all new activities, projects and operations will be considered in advance by relevant officer(s), and be reported to the appropriate Committee when they are of significance.
- 2.4 Monitoring procedures will be established and applied, to check compliance with the Council's environmental policy. Records of results will be established and updated where these procedures require measurement and testing.
- 2.5 The Council will establish and update procedures and action to be taken in the event of detection on non-compliance with its environmental policy, objectives or targets.
- 2.6 Trends in the provision of budgets and resources for environmental action and protection will be monitored and reported annually in order to inform the budget process.
- 2.7 The Council will foster a sense of responsibility for the environment amongst employees at all levels.

General Responsibilities of Directorates and Managers

All directors and managers have a general responsibility for ensuring that activities under their control are managed in a way which ensures high standards of environmental performance and improvement.

All directors are also responsible for taking regard of the Council's Low Carbon Management Plan in the delivery of its services and day-to-day operations.

Responsibilities of Employees

All employees have a responsibility to

- be aware of the Climate Change Programme and
- contribute to carbon reduction as outlined by the Council's Low Carbon Management through their day-to-day tasks in working for or on behalf of the Council and in strategic and operational decision making.

3. Accidents

3.1 Measures necessary to prevent accidental emissions of pollutants, materials and energy from Council property shall be taken.

3.2 The Council will co-operate with other public, industrial and commercial bodies to establish and update contingency procedures to minimise the impact and frequency of any emergency situations that may occur that would have an adverse impact on the environment.

4. Public Information

4.1 Information necessary to understand the environmental impact of the local authority's activities will be provided to the public, and an open dialogue with the public will be pursued.

4.2 Advice will be provided to the public on the environmental aspects of the Council's services, and how the public can help improve the Council's environmental performance.

5. Contract Performance

5.1 Provisions will be made to ensure that Contractors working on the Council's behalf apply environmental standards equivalent to the Council's own.

Review of this Policy Statement

This Policy Statement is effective from September 2011 and will be reviewed annually and amended as necessary to reflect changes in legislation, codes of practice or special issues of local concern.

ROYAL BOROUGH OF KINGSTON UPON THAMES

WHISTLEBLOWING POLICY

Introduction

Kingston Council is committed to providing high quality services for residents in the Royal Borough. In order to do this, we aim to create a working environment for staff that is open, fair and honest.

The Council's Whistleblowing Policy has been developed to support staff in their role, whether they are directly employed by the Council or working on our behalf for a partner company or agency.

This short guide provides an overview of the Whistleblowing Policy. A full version is available on our website at www.kingston.gov.uk

What is whistleblowing?

A member of staff 'blows the whistle' when they tell someone in authority about a dangerous or illegal activity that they are aware of through their work. This can include health and safety risks, environmental issues, fraud, poor standards of care and other problems. Often it is only through whistleblowing that this information ever comes to light.

Who can use the Council's whistleblowing procedure?

- All Council staff, whether full time or part time, permanent or temporary;
- Councillors;
- All staff working in schools (including volunteers and students);
- Contractors working for the Council on Council premises e.g. agency workers, builders or drivers; and
- Staff working for one of the Council's partner companies, including those providing services under a contract with the Council in their own premises e.g. care homes.

When should I raise a concern?

If you find out about something that could pose a risk to customers of the Council, colleagues working for the Council or the Council itself. These may include:

- Illegal activities
- Miscarriages of justice
- Risks to health and safety
- Damage to the environment
- Misuse of public funds
- Fraud and corruption
- Abuse of clients

- Other wrongdoing, (including attempts to cover up wrongdoing)

Who do I tell?

If you work for the Council:

You should raise any concerns with your line manager. However, if you feel unable to do so or you are concerned about something serious, you can approach a senior manager, your Head of Service, a Director or the Chief Executive. You can raise a concern by talking to the person or by writing to them.

If you suspect fraud or corruption, you can approach the Head of Governance. Staff in Social Services can approach the Customer Services Officer or any of the senior officers listed above.

If you work in a school:

You should approach the Head Teacher. However, if you feel unable to do so or you are concerned about something serious, you can approach the Chair of Governors, the Director of Children's Services, the Assistant Director of Finance - Audit or the Chief Executive. You can raise a concern by talking to the person or by writing to them.

If you work for an agency or are a temporary worker:

You should raise any concerns with your line manager. However, if you feel unable to do so or you are concerned about something serious, you can approach a senior manager, your Head of Service, a Director or the Chief Executive. You can raise a concern by talking to the person or by writing to them.

If you work for a company that has a contract with the Council:

You should raise any concerns with the Capability Lead for Commissioning , tel: 020 8547 5300. Alternatively, you can contact the Head of Governance tel: 020 8547 4628.

You can also write to the Capability Lead for Commissioning or the Head of Governance at the following address:

Royal Borough of Kingston upon Thames
Guildhall
High Street
Kingston upon Thames
KT1 1EU

What happens next?

We will look into your concern to see what should happen. This may involve:

- An internal investigation
- An external auditor
- An independent inquiry
- The police

We will normally write to you within 10 working days of receiving your concerns. We will list these concerns, tell you who is handling the matter, how you can contact them and whether we need any further information from you. We will also tell you where to get support if you need it.

Will I get into trouble? Will anyone find out that I have ‘blown the whistle’?

Kingston Council does not allow the harassment or victimisation of anyone who raises a genuine concern. Any such harassment may result in disciplinary action.

However, there may be a situation where you want to tell us of your concern and not let anyone else know that you have done so. If we are not able to resolve the problem without telling someone else who you are, we will always talk to you about this first.

Where can I find out more?

You can find out more about the Whistleblowing Policy by:

- Visiting our Intranet site (Council staff and Councillors)
- Visiting our website at www.kingston.gov.uk

Royal Borough of Kingston

Business Continuity Policy and Strategy

**Version 5
Updated January 2012**

Contingency Planning
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Document Version Control

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List of key documentation and sources of further information

Overview

1. Business Continuity Management is a framework that assists in the management of risks which might impact the smooth running of an organisation or the delivery of a service. These risks could be from the external environment (e.g. power outages, severe weather etc.) or from within an organisation (e.g. systems failure, loss of key staff etc.). The purpose of Business Continuity Management is to facilitate the recovery of key business systems within agreed timescales whilst maintaining the Council's critical activities and the delivery of vital services to the public.
2. Business Continuity Management is an ongoing process that will assist the Council to anticipate, prepare for, prevent, respond to and recover from disruptions. The process is about maintaining the essential business deliverables of an organisation in an emergency. This Council provides services to the public and it is essential that these services are protected and resilient.
3. The Council is required by the Civil Contingencies Act 2004 to have Business Continuity Management in place and is encouraged to work towards British Standard 25999 as a framework for those arrangements. This document sets out the Business Continuity Policy and Strategy framework for Business Continuity Management within the Council which is in line with British Standard 25999. It is not intended to be an operational document.
4. Business Continuity Management complements and interrelates with other corporate activities, notably risk management and emergency planning.
 - **Emergency Planning** is concerned with ensuring the Council can respond to major incidents affecting borough residents and businesses. Examples could include flooding, a major traffic accident or a bomb threat. Some incidents such as flooding in Kingston Town Centre which flooded part of the Guildhall Complex may trigger both Emergency Planning and Business Continuity. In such circumstances the Council must both support those residents and businesses directly affected by the incident and ensure it can continue to deliver critical activities. Two teams and two sets of plans would work closely together to ensure both aims are achieved.
 - Risk is the likelihood that something could happen leading to unintended effects which may impact adversely on our ability to achieve our objectives. **Risk Management** is a systematic process for the assessment, treatment, and monitoring of risks, in a cost effective manner. Part of Business Continuity Management is assessing which risks are likely and/or serious in terms of their impact on the ability of a service to continue. Strategies and plans can then be put in place to mitigate, respond to and recover from the impact of such risks.
 - Risks will be assessed during the Business Impact Analysis against a 5 by 5 matrix in accordance with the Council's Risk Management Policy and Strategy. Each risk will be given a score which places it into one of three bands – high, medium, low – on the risk matrix which allows for the concentration of time, effort and resources on high Risks. The black line on the matrix indicates the Council's Risk Appetite.

The Civil Contingencies Act November 2004

5. The Council is required by the Civil Contingencies Act 2004 to put in place Business Continuity Arrangements. Specifically, the Act requires:
 - a. Local Authorities to maintain plans to ensure that they can continue to exercise their functions, in the event of an emergency so far as is reasonably practicable. The duty relates to all functions, not just their emergency response functions.
 - b. Local Authorities to assess both internal and external risks when developing and reviewing Business Continuity Plans.
 - c. There must be a clear procedure for invoking the Business Continuity Plans.
 - d. Business Continuity Plans must include arrangements for exercises for the purpose of ensuring the plan is effective and arrangements for the provision of training to those involved in implementing the plan. Plans must be reviewed and kept up to date.
 - e. Local Authorities are required to provide advice and assistance to businesses and voluntary organisations about Business Continuity Management (May 2006).

Aim and Objectives

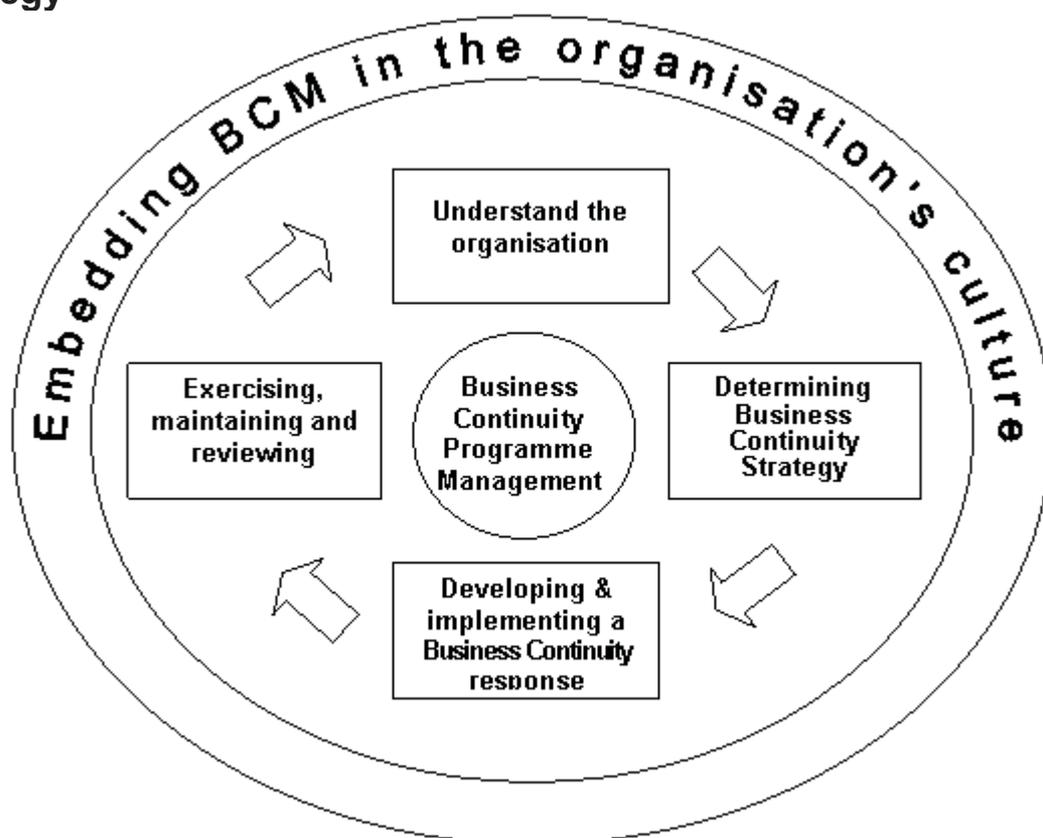
Aim

6. To provide a resilient framework for the Council's critical activities and other services and ensure the community receives the appropriate level of service during a disruption.

Objectives

7. To improve the resilience of each department through planning and mitigation measures.
8. To efficiently maximise the use of resources during an interruption to service provision.

Strategy



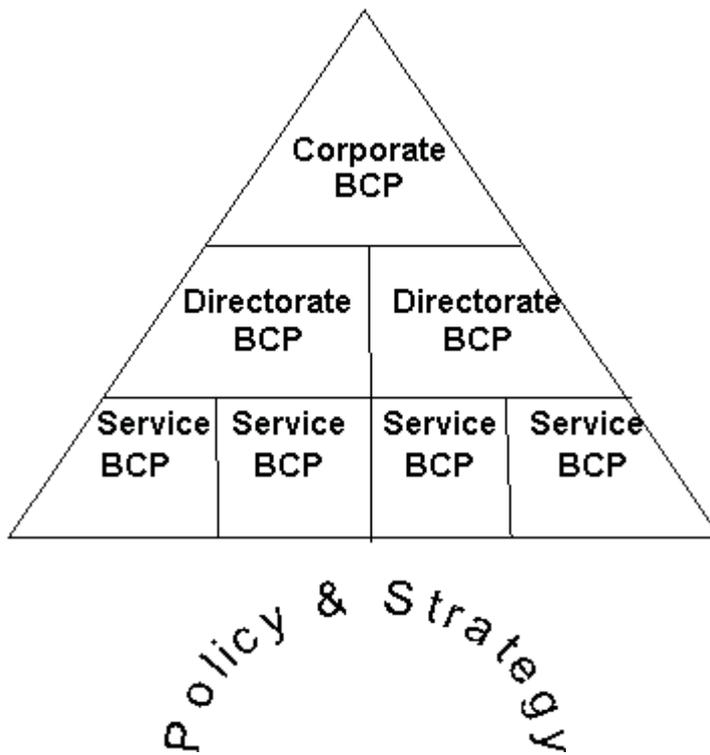
9. The Council's strategy is to follow the Business Continuity programme management cycle (see below) devised by the British Continuity Institute and British Standards Institute and recognised as best practice.

***The Business Continuity Management Lifecycle – British Standard 25999-1
and British Continuity institute Good Practice Guidelines***

The Business Continuity process is a cyclical path which incorporates the following:

- a. Business Impact Analysis – identifying all services of the council and allocating each to a category based on their priority.
- b. Assessing the vulnerabilities of the critical activities (to be resumed within 72 hours) to various threats which could cause serious disruption to the provision of the service.
- c. Risk Reduction – identifying methods of reducing vulnerabilities and increasing capabilities.
- d. Strategy Formulation – developing the range of responses the Council will adopt, to ensure that critical activities are restored within their agreed timescales.
- e. Planning – creating Business Continuity Plans and procedures to facilitate response and recovery.
- f. Training & exercising – scheduling a series of training events and response exercises to ensure all staff are aware of their roles and responsibilities.
- g. Review – annual evaluation of changes and Business Continuity direction, to ensure that the plans remain up to date and fit for purpose.

10. Business Continuity Plans will be developed within the framework provided by this Policy and Strategy, within which is a Business Continuity Plan hierarchy, comprising Business Continuity Plans for critical activities which feed into Directorate Business Continuity Plans which in turn feed into the Corporate Business Continuity Plan:



The Corporate Business Continuity Plan addresses issues which are common to responses across the Council including media, casualty management, next of kin contact and other communication.

Directorate Business Continuity Plans coordinate development of service Business Continuity Plans and response to incidents which impact more than one team.

Service Business Continuity Plans contain operational detail around critical activities including response and recovery.

Policy and Principles

11. The following policy and principles underpin the Council's Business Continuity arrangements:
 - a. Business Continuity Management activity supports the Council's strategic objectives.
 - b. The Business Continuity Management Policy and Strategy will be considered and implemented for the Council as a whole and may be supplemented by local measures introduced by service managers.
 - c. The Council will assess which are its Critical Activities, identifying the Minimum Level of Service Provision, the Maximum Tolerable Period of Disruption and Recovery Time Objectives.
 - d. All services must be subject to regular ongoing risk management reviews and business impact analyses, to agree Business Continuity Management priorities & continuity strategies.
 - e. Business Continuity Plans will exist to manage the response to and aftermath of any potential disruption.
 - f. Regulatory and legislative requirements will be met.
 - g. The Council's Business Continuity Management approach will be in line with British Standard 25999 principles.
 - h. The **Director of Environment and Sustainability** has responsibility for maintaining the Business Continuity framework including this Plan and associated procedures and for providing advice and guidance on their implementation.
 - i. All **Service Managers** are responsible for implementing the process within their areas of responsibility and own all resulting Business Continuity Plans.
 - j. Business Continuity considerations will be an integral part of all new services or plans.
 - k. Contractors will be required to evidence Business Continuity Planning which fits with the Council's Business Continuity Management framework.
 - l. The Council will work with key Partners to develop and exercise respective Business Continuity Plans and provide joint training where appropriate.
 - m. Recognising the synergies, the development of Business Continuity will be closely linked with Risk Management and Emergency Planning.

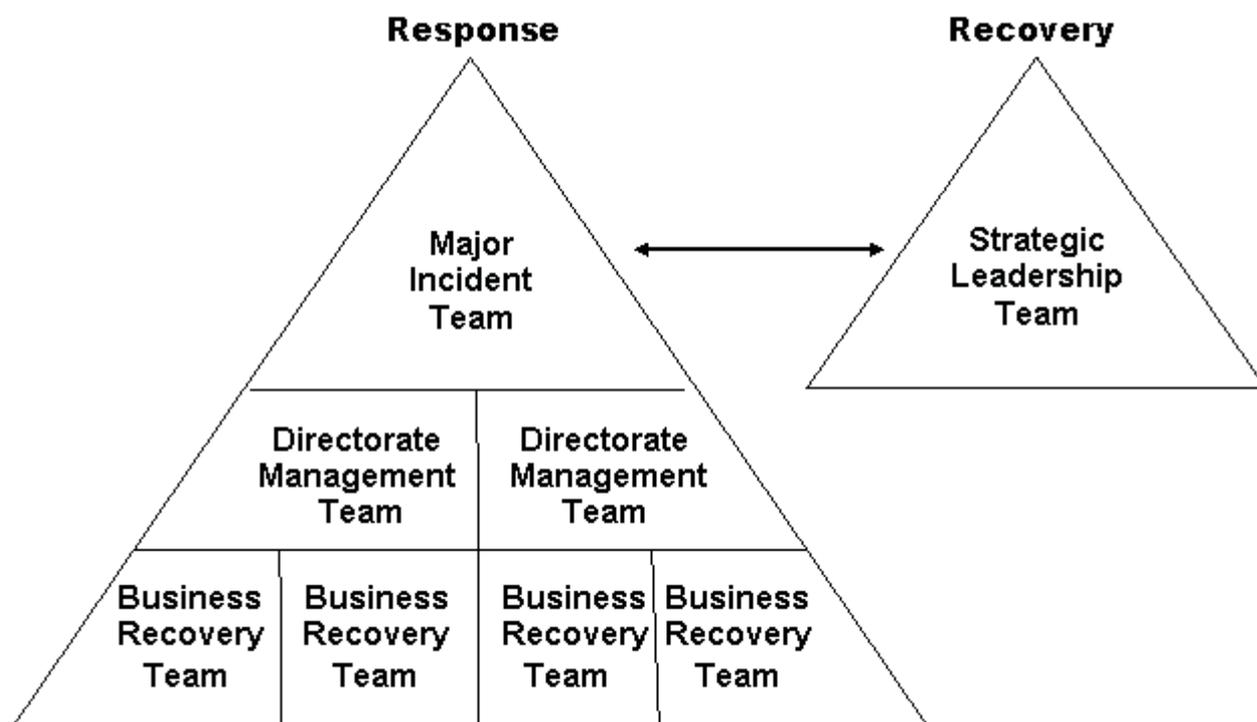
Roles and Responsibilities

12. As Business Continuity involves all areas of the Council, management of the process will be required at various levels. The aim is to embed Business Continuity Management in the organisational culture as part of the normal management process.
 - a. The **Executive** will have oversight of Business Continuity arrangements and delegated authority to review and approve any changes to the Business Continuity Management process and to challenge progress in implementation or testing.
 - b. The **Executive Member for Sustainable Place** will act as the **Member Champion** with specific responsibility for promoting Business Continuity for liaising with the Strategic Leadership Team on this matter for promoting Business Continuity in the wider community.
 - c. The **Strategic Leadership Team** headed by the **Chief Executive** will be responsible for overseeing the delivery of Business Continuity through strategic direction and supporting directorates in their involvement in the process. In addition, Strategic Leadership Team will also ensure that each directorate has fulfilled the requirements of the Business Continuity Strategy. Strategic Leadership Team will liaise with Major Incident Team for incident management, and then provide an ongoing strategic direction for recovery until normal operations are resumed.
 - d. The **Head of Corporate Governance** supported by the **Contingency Planning Team**, will prepare all strategies, plans, guidance and templates for the authority at corporate level and be responsible for document control. They will be responsible for advising service managers on their Business Impact Assessments and Business Continuity Plans, reviewing business continuity risks and Business Continuity Plans and for determining the Council's response. The Team will also promote the engagement of all staff in the Business Continuity Process and promote Business Continuity Management to Businesses and Residents. The Team will produce reports and updates for the Strategic Leadership Team and Members and material for publication.
 - e. The **Major Incident Team** do not have a planning role but will coordinate the immediate response to any Business Continuity event which affects more than one Directorate. Major Incident Team will provide Strategic Leadership Team with information about any incident to aid Strategic Leadership Team to make their decision to invoke. The strategic role will pass to the Strategic Leadership Team for the recovery phase.
 - f. **Directorate Management Teams** will actively promote Business Continuity to their staff and ensure the Business Continuity cycle is carried out within their Directorate. They will also coordinate response and recovery at Directorate level.
 - g. **Service Managers** prioritise their activities, taking into account customer requirements, Service Level Agreements, legal and contractual obligations to be updated annually. They will engage staff and partners

to create and maintain Business Continuity Plans, which will include arrangements for critical activities. Business Continuity Management arrangements are to be included in the Team Plan for each service. They must identify a **Business Recovery Team** to undertake the operational activities within the framework defined at Directorate and Corporate level.

Response

13. The response to incidents will be managed according to the hierarchy established earlier. Business Continuity Plans are in place and will be used flexibly to inform the response according to the scope and magnitude of the disruption.
14. Corporate – incident impacts more than one Directorate:
 - a. The **Major Incident Team** in liaison with the **Strategic Leadership Team** will provide strategic direction for the immediate response and co-ordinate responses to the incident causing disruption. The **Major Incident Team** will liaise with **Directorate Management Teams**.
15. Directorate – incident impacts more than one service within the Directorate:
 - a. Directorate responses will be co-ordinated by the **Directorate Management Teams**. In a corporate incident, this role will take direction from, and make requests to, the **Major Incident Team**.
16. Service – incident impacts individual service in isolation:
 - a. Responses will be co-ordinated by the **Business Recovery Team** as identified by the **Service Manager** in the service Business Continuity Plan with reference to the **Directorate Management Team**.



Recovery

17. Following completion of the immediate response phase and management of the incident, the Strategic role for recovery and resumption passes from the **Major Incident Team** to the **Strategic Leadership Team**. The **Major Incident Team** may continue to have a role under the **Strategic Leadership Team's** direction.
18. Coordination and direction at Directorate level will be provided by **Directorate Management Teams**.
19. Services will be recovered by their respective **Business Recovery Teams** as identified in their Business Continuity Plan. Business Continuity Plans will be used flexibly to inform the response according to the scope and magnitude of the disruption.
20. Business Continuity Plans are in place for the Information and Communication Technology infrastructure and Guildhall Offices and if required any resource allocation will be determined corporately. Critical activities will be restored first to reduce the impact experienced by the community. The Business Impact Analysis will be used to identify the order of service restoration based on the type of business interruption. Services can be restored concurrently.
21. Key Recovery Objectives:
 - a. In the event that the system is down, Information and Communication Technology will liaise with the service provider, who will divert numbers as soon as is technically possible.
 - b. Access to databases is available within the critical timeframe (listed in the Business Impact Analysis) in order to support each service.
 - c. Suitable premises and resources are made available within the pre-determined timescales for service interruption.
 - d. Nominated backup call centre location is identified.
22. The results of each Business Impact Analysis will determine the resources required by each service for restoring the service. To facilitate resource recovery, one or more of the following options should be implemented:
 - a. Short-term re-allocation from other departments
 - b. Sufficient backup supplies are held centrally, or can be delivered within 12 hours, in order to cover critical service provision.
 - c. Backup supplies of specialist equipment are available within the required timeframe, for the service to be resumed.
 - d. Key resources are to be held at Local Authority locations throughout the Borough, or mutual aid arrangements ensure that these key resources can be utilised.

Resumption

23. Recovery is the process of getting back to normal operations. Once the Council is either in its pre-incident way of operation or new ways or ongoing operation have been agreed Business Continuity Plans are 'stood down' and Resumption occurs.
24. Roles and responsibilities will be as under normal operation pre-incident or as has otherwise been agreed.

Review

25. The Business Continuity Policy and Strategy, Corporate Business Continuity Plan and the component parts of the Business Continuity framework will be reviewed on an annual basis or when significant change occurs in the organisation, regardless of when it occurs.
26. An annual update on the framework and progress on embedding business continuity arrangements will be submitted to the **Strategic Leadership Team** and to the **Executive**.
27. Initially the focus will be on establishing Business Continuity arrangements for priority services containing critical activities. In subsequent years, the strategy will focus on reviewing these services and establishing the arrangements for other services.
28. Any changes to the Policy and Strategy or Corporate Business Continuity Plan are to be agreed by the **Strategic Leadership Team**.
29. Amendments can be submitted to the **Strategic Leadership Team** at any time following internal changes to structure or capabilities, actual incidents of service disruption or other events that necessitate strategy review.

Equalities Impact

30. The nature of the function is that it will take affect unexpectedly and in difficult circumstances. Going through process intended to minimise determined impact on different groups within strands. Individual plans should identify and integrate specific impacts. The Council will take a proportionate and reasonable approach to ensure that employees and service users are not affected in any crisis in a detrimental or negative manner.
31. Detailed guidance has been provided highlighting potential impacts and each Business Continuity Plan is required to identify any staff or client groups which might be particularly impacted by disruption to the service. For each group the Business Continuity Plan must consider whether there is any specific action which can be taken to reduce this impact.

Critical Activities

32. Critical Activities are identified through Business Impact Analysis and the resulting list is confirmed by the Strategic Leadership Team. A list of services containing critical activities is appended as Appendix A. For these services, the resources required to operate their critical activities at a minimum

acceptable level of service are to be made available within 24 hours. To ensure this capability is maintained, the following arrangements must be made:

- a. Key information including the Business Continuity Plan is accessible off-site and is updated as frequently as is necessary for service resilience.
- b. Key staff contact details are available to the service manager and deputy at all times.
- c. Managers/supervisors/co-ordination staff are able to work at home or other nominated locations (to be tested at least once every 6 months)
- d. Adequate training is provided to ensure team members have the capability to perform multiple roles, to enable service delivery.
- e. Reserve staff are identified from alternative areas within the department.
- f. A minimum of 2 agencies are identified for reserve staff and arrangements are made for immediate deployment.
- g. Mutual aid agreements with neighbouring boroughs or other public bodies are made for staff and resource provision and arrangements are made for immediate deployment.
- h. Alternative office space is identified for co-ordination of the service.
- i. A call diversion plan/system is maintained.
- j. Appropriate levels of perishable/consumable resources e.g. food or fuel are available to cover an extended period of supply interruption.
- k. A minimum of 2 alternative suppliers for resources are identified and arrangements are made for immediate access.
- l. Procedures for resuming the service should be maintained within the Business Continuity Plan.
- m. All non-essential services within the service are to support the operations of critical activities in the short term.

Services containing Critical Activities

Directorate	Division	Service Business Continuity Plan
Chief Executive's Office	Democratic Services & Partnerships	Electoral Services
	Strategic Services	Emergency Planning & Business Continuity
	Strategic Services	Facilities - Guildhall Offices
	Strategic Services	Facilities - CCTV/Control Room
	Human Resources	Payroll
	Human Resources	Frontline Services
	Legal Services	Child Care & Vulnerable Adults
Community Service	Community Care	Health & Social Care - Acre Road Clinic
	Community Care	Health & Social Care - Roselands Clinic
	Community Care	Newent House
	Community Care	Amy Woodgate Resource Centre
	Community Care	Home Care & Mobile Meals
	Community Care	Joint Locality & Older People's Team
	Community Care	Assertive Outreach Team
	Community Care	Chessington Community Health Team
	Community Care	Kingston Community Mental Health Team
	Community Care	New Malden Community Mental Health Team
	Community Care	Health & Disability Team
	Community Care	Health & Social Care Team
	Community Care	Hobkirk House
	Community Care	Murray House
	Community Care	Social Care Systems
	Community Care	Surbiton Community Mental Health Team
	Community Care	Learning & Disability Provider Services
	Community Care	Community Learning Disabilities Team
	Env Health & Trading Standards	Environmental Health
	Strategy & Performance	Kingston Interpreting Service
	Housing	Housing Repairs & Management
	Housing	Housing Resources
	Environmental Services	Planning & Transportation
Environment & Sustainability		Highway Assets
Environment & Sustainability		Waste
Environment & Sustainability		Green Space
Environment & Sustainability		Street Scene
One Council	Information & Comm Technology	Information and Communication Technology
	Customer First	Customer First
Finance	Revenue & Benefits	Revenue & Benefits
	Treasury Service	Treasury Service
Learning & Children's Services	Cultural Service & Lifelong Learning	Library & Heritage Service - Information and Communication Technology
	Cultural Service & Lifelong Learning	Active Kingston Leisure Centres
	Learning & School Effectiveness	Education Welfare
	Learning & School Effectiveness	Educational Psychology Service
	Learning and School Effectiveness	Critical Incidents Leading to School Closure
	Prevention & Safeguarding	Adoption & Fostering Team
	Prevention & Safeguarding	Disabled Children's Team
	Prevention & Safeguarding	Int Youth Support Services / Substance Misuse
	Prevention & Safeguarding	Looked After & Leaving Care
	Prevention & Safeguarding	Unaccompanied Asylum Seeking Children Team
	Prevention & Safeguarding	Young People's Supported Accommodation
	Prevention & Safeguarding	Safeguarding
	Prevention & Safeguarding	Youth Offending

Note: These plans are not in priority order and will be restored concurrently or as otherwise determined after an incident.

Business Continuity Framework

Corporate Business Continuity Policy and Strategy
Corporate Business Continuity Plan
Directorate Business Continuity Plans
Business Impact Assessments including Risk Analysis
Service Business Continuity Plans
Business Impact Assessments Template & Guidance
Business Continuity Plan Template & Guidance
Testing/Exercising Guidance, Schedule and Reports
Training Programme
Internal Audit Report on Business Continuity Management
Business Continuity Intranet information for staff

Business Continuity Internet information for businesses and residents

Related disciplines with the Council

- Corporate Risk Management Policy and Strategy and Guidance
- Borough Emergency Planning Guidance
- Team Planning Guidance

Useful websites

- United Kingdom Resilience: <http://www.ukresilience.gov.uk/preparedness/businesscontinuity.aspx>
- The Business Continuity Institute: <http://www.thebci.org>

ROYAL BOROUGH OF KINGSTON UPON THAMES

RISK MANAGEMENT POLICY, STRATEGY & FRAMEWORK

REVISED : DECEMBER 2009

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1. INTRODUCTION

Risk management needs to be founded on sound and effective policy and practice and be implemented through a realistic and robust organisational framework.

This document explains what risk management is in a clear and logical manner, sets out the benefits of utilising a robust system of risk management, and defines the expected roles, responsibilities and processes for effective risk management. It forms the Council's Risk Management Policy, Strategy & Framework.

2. POLICY

The Council's risk management policy is that it:

1. supports risk management as part of the overall arrangements for achieving corporate objectives and best value in the use of resources
2. aims to improve risk taking and reduce the likelihood of adverse events occurring (wherever this is possible) and minimise the impact of the effects if events do occur
3. recognises and understands the importance of risk management as a means by which risks are identified, assessed, planned for, managed and monitored
4. attaches a high priority to effective risk management based on a practical and pro-active top-down meets bottom-up methodology
5. establishes a means of measuring, agreeing and keeping under review the Council's 'appetite' for risk
6. commits to embedding risk management into all its activities, partnerships, processes and culture at all levels
7. is open and inclusive by involving all those associated with planning and delivering services, including partners
8. bases risk management on robust systems and practical processes and measures for identifying, assessing, planning for, managing and monitoring all significant strategic and operational risks which might have a serious or critical impact on the delivery of its business objectives or on the safety of its residents, service users and staff
9. clearly assigns responsibilities for the ownership of risk management and for related actions, including identifying, assessing, planning for, managing and monitoring risks within and throughout the authority
10. establishes mechanisms to ensure that the risk management process is monitored for continuing compliance to ensure that changes in circumstances are accommodated and that it remains up to date
11. establishes mechanisms for monitoring and reviewing effectiveness against agreed standards and targets and the operation of management actions and controls in practice

12. demonstrates accountability to stakeholders, in accordance with the principles of corporate governance, by making public statements annually on the effectiveness of the authority's Risk Management Policy, Strategy & Framework and methodology.

3. STRATEGY

The Council's risk management strategy is to:

- ❖ develop risk management, and to raise its profile across the Council and within its partnerships
- ❖ integrate risk management into the culture of the organisation and its partnerships
- ❖ manage risk in accordance with best practice
- ❖ embed better risk-taking and management within decision making
- ❖ ensure consistency of methodology in all stages of the risk management cycle (identification, assessment, planning, management and monitoring of risk)
- ❖ ensure that risk management and control processes are recorded, monitored and reviewed consistently for compliance and for effectiveness
- ❖ ensure that the Council's risk management arrangements are adequate and effective in practice.

4. WHAT IS RISK AND WHAT IS RISK MANAGEMENT?

The definition of risk used within the Council is:

"Risk is the likelihood that something could happen leading to effects which may impact adversely on our ability to achieve our objectives or carry out our functions".

This definition emphasises the downside risks, as the upside risks (or intended outcomes) are already captured by the Council.

Risk management is defined as:

"The management of integrated or holistic business risk in a manner consistent with the virtues of economy, efficiency and effectiveness. In essence it is about making the most of opportunities (making the right decisions) and about achieving objectives once those decisions are made. The latter is achieved through terminating, transferring, treating and tolerating risks".

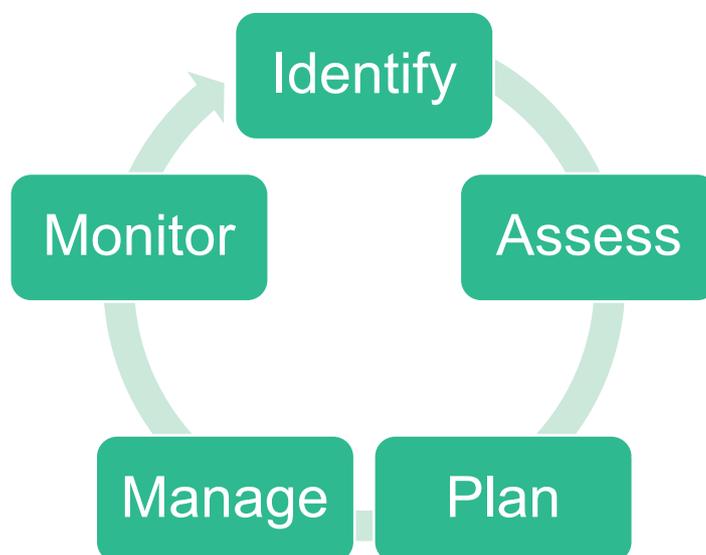
In essence, risk management is the logical and systematic analysis of those things that might hamper the Council from fulfilling its objectives, and then making an informed decision about how risks are going to be managed.

5. METHODOLOGY

The Council's risk management methodology is set out in its Risk Management Toolkit.

It is expected that the methodology set out within the Toolkit is followed in all Council activities and partnerships.

The risk management methodology follows a cyclical process:



- **Identify** – i.e. identify and write down the risks and the action/controls already operating to reduce them
- **Assess** – i.e. assess the identified risks, after taking account of the action/controls already being taken, to show the current risk exposure and provide a clear priority order for addressing the risks
- **Plan** – i.e. determine a proactive work programme to address the risks that require further management action/control (whether this be action to terminate, transfer, treat or tolerate risks)
- **Manage** – i.e. take the action set out in the action plan
- **Monitor** – i.e. monitor the implementation and effectiveness of the action taken.

As illustrated above, the risk management process is dynamic, methodological, and cyclical, with each element of the process leading directly into the next element. It should be observed that risk management is therefore an evolving and revolving process. Each section of the process identified above is explained in detail in the [Risk Management Toolkit](#), with practical examples and templates.

The risk management process should be firmly embedded within the normal processes of the Council, for example through directorate, service and team planning exercises and normal management meetings.

Risk management is not to be seen as a quick fix or a one size fits all endeavour, but rather a sustained effort that will lead to eventual improvements. It may well take time to get things right,

and to effect changes, but it would not be beneficial to micro-manage risk, as this is both time consuming and counterproductive.

When used effectively, risk management can provide a number of benefits, both tangible and intangible. These benefits will vary in their nature and their extent, but will include:

- ✓ a more systematic way to address legislative, regulatory or competitive demands including delivering best value
- ✓ increased likelihood of successful innovation and management of change
- ✓ improved health and safety and the enhanced condition of property and equipment
- ✓ minimal service disruption, fewer complaints and a positive external image
- ✓ improved operational management and increased quality of service
- ✓ better informed financial decisions and reduction of costs associated with service interruption or failure.

6. FRAMEWORK

The Council recognises that all members and staff need to have regard for risk in carrying out their duties. Staff have a particular duty to identify and to manage the risks that they encounter on a day-to-day basis, and for reporting these to their managers as appropriate.

The Council's Leadership & Management Framework recognises that risk awareness and risk management are key parts of a consistent organisation and leadership culture that motivates people and teams to achieve the best possible outcomes for residents. Risk awareness and risk management thread through many elements of leading people, delivering services and personal effectiveness.

Ultimately, risks are borne by the Council on behalf of residents, service users and staff. In this sense, risk management needs to operate within a framework of delegation just like other matters. No-one individual or group is empowered to carry high risk without explicitly having the authority to do so.

ROLES AND RESPONSIBILITIES

The following describes the role and responsibilities within the Council for risk management:

Role	Responsibility
All Members	<ul style="list-style-type: none"> • Understand, in general terms, the Council's Policy, Strategy & Framework for Risk Management, and its methodology • Understand, in general terms, the Council's key corporate risks and how these are being managed • Be alert to significant risks facing the Council that may not have been recognised and raise them with

	appropriate officers, Executive members, or the Audit Committee
Leader of the Council	<ul style="list-style-type: none"> • Acts as the Council's member lead for risk management to promote the Policy, Strategy & Framework and methodology internally and externally
The Executive	<ul style="list-style-type: none"> • Endorses (soon to be approves) the Policy, Strategy & Framework and methodology • Promotes the Policy, Strategy & Framework and methodology internally and externally • Ensures that risks are fully considered in all strategic decision making processes
Audit Committee Members	<ul style="list-style-type: none"> • Approves the Policy, Strategy & Framework and methodology (soon to be the responsibility of the Executive) • Seeks assurance on the adequacy and effectiveness of the authority's risk management arrangements from its officers and internal and external audit • Satisfies itself that the Council's Annual Corporate Governance Statement properly reflects the risk environment and any actions required to improve it • Reports to Executive on the adequacy and effectiveness of the authority's risk management arrangements, receiving reports and reviewing the Annual Report to the Executive • As part of seeking assurance on risk management arrangements and activity, undertakes twice yearly reviews of intolerable risks on the Corporate Risk Register, calling officers and Lead Members to account as appropriate
All staff	<ul style="list-style-type: none"> • Comply with the Council's Policy, Strategy & Framework for Risk Management, and its methodology • Act as Risk Owner and/or Risk Sponsor (see Annexes A and B) where assigned • Be alert to significant risks facing the Council that may not have been recognised and raise them with appropriate officers or, by exception, with Risk Management or Internal Audit
Strategic Leadership Team	<ul style="list-style-type: none"> • Approves the Council's Policy, Strategy & Framework for Risk Management, and its methodology • Seeks assurance on the adequacy and effectiveness of the authority's risk management arrangements from its officers and internal and external audit • Satisfies itself that the Council's Annual Corporate Governance Statement and underpinning assurance processes properly reflect the risk environment and any actions required to improve it • Manages and monitors the Corporate Risk Register • Ensures that risks are fully considered in all strategic decision making processes
Directorate	<ul style="list-style-type: none"> • Seek assurance on the adequacy and effectiveness

Management Teams	<p>of the directorate's risk management arrangements from its officers and internal audit</p> <ul style="list-style-type: none"> • Satisfy themselves that the Council's Annual Corporate Governance Statement assurance processes properly reflect the risk environment facing the Directorate's activities and partnerships and any actions required to improve it • Manages and monitors the Directorate Risk Register in accordance with the Risk Management Policy, Strategy & Framework, and methodology – particularly risk escalation procedures • Ensures that risks are fully considered in all Directorate decision making processes
Service Management Teams	<ul style="list-style-type: none"> • Seek assurance on the adequacy and effectiveness of the services' risk management arrangements from its officers • Satisfy themselves that the Council's Annual Corporate Governance Statement assurance processes properly reflect the risk environment facing the services' activities and any actions required to improve it • Manages and monitors the Service Risk Register in accordance with the Risk Management Policy, Strategy & Framework, and methodology – particularly risk escalation procedures • Ensures that risks are fully considered in all service decision making processes
Programme/Project Teams	<ul style="list-style-type: none"> • Seek assurance on the adequacy and effectiveness of the programme's/project's risk management arrangements from its officers • Satisfy themselves that the Council's Annual Corporate Governance Statement assurance processes properly reflect the risk environment facing the programme's/project's activities and any actions required to improve it • Manages and monitors the Programme/Project Risk Register in accordance with the Risk Management Policy, Strategy & Framework, and methodology – particularly risk escalation procedures • Ensures that risks are fully considered in all the programme/project decision making processes
All Chief Officers	<ul style="list-style-type: none"> • Promote, and comply with, the Policy, Strategy & Framework and methodology internally and externally
Chief Executive	<ul style="list-style-type: none"> • Acts as the Council's Head of Paid Service to promote a strong risk aware and risk managed culture • Acts as officer lead for risk management to promote the Policy, Strategy & Framework and methodology internally and externally
Director of Finance	<ul style="list-style-type: none"> • Acts as the Council's sponsor for risk management to ensure the Policy, Strategy & Framework and methodology are adequate and effective

	<ul style="list-style-type: none"> • Ensures the financial aspects of risk management are adequate and effective
Service Directors	<ul style="list-style-type: none"> • Leads, and is accountable for, the Directorate's activities on risk management and its compliance with the Policy, Strategy & Framework and methodology
Heads of Service	<ul style="list-style-type: none"> • Leads, and is accountable for, the Service's activities on risk management and its compliance with the Policy, Strategy & Framework and methodology
Programme and Project Managers	<ul style="list-style-type: none"> • Leads, and is accountable for, the Programme's/Project's activities on risk management and its compliance with the Policy, Strategy & Framework and methodology
Partnership Leads	<ul style="list-style-type: none"> • Leads, and is accountable for, the Partnership's activities on risk management and its compliance with the Policy, Strategy & Framework and methodology – so far as the risks relate to the Council
All Managers	<ul style="list-style-type: none"> • Promote, and comply with, the Policy, Strategy & Framework and methodology internally and externally
Internal Audit	<ul style="list-style-type: none"> • Provides an objective opinion on risk management arrangements and their effectiveness in practice • Undertakes checks on risk management and control activity as part of its audits • Ensures unidentified risks and control and other weaknesses revealed through its audits are addressed
Corporate Risk Management Group (see Annex C)	<ul style="list-style-type: none"> • Promotes effective risk management throughout the Council and its partnerships • Undertakes the strategic risk management review and escalation process on behalf of SLT through three monthly reviews of the Corporate Risk Register and service risk registers • Supports management teams and ensures that risk management continues to be an integral part of the business, service and financial planning processes • Reviews the Risk Management Policy, Strategy & Framework, and methodology, annually
Insurance Manager and Corporate Risk Manager	<ul style="list-style-type: none"> • Co-ordinate, develop and communicate the Council's Risk Management Policy, Strategy & Framework, and methodology • Provide risk management training advice and support • Maintain and support the Council's risk management software • Assess insurance risk areas and liaise with members and officers on recommended solutions and actions required • Identify emerging risk management strategies and develop best practice identified from the insurance function
Contractors and partners	<ul style="list-style-type: none"> • Declare risk management policies and methodologies (e.g. at pre-qualification stage) • Maintain strong risk management principles and

	<p>measures</p> <ul style="list-style-type: none"> ● Provide required evidence of application of principles and procedures ● Provide appropriate access to premises, records and personnel to Council staff and auditors ● Cover the Council's losses from agreed risks
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RISK MAPS AND RISK REGISTERS

Risk maps (the completed risk matrix at any one time) and risk registers are the framework for documenting all aspects of the Council's risk management cycle.

As well as an up-to-date risk map, risk registers must contain, or link to, for each risk:

- unique risk identification number
- date of origin of risk
- risk scenario (Root Cause, Could Happen and Possible Effects)
- current/planned action on the risk
- risk likelihood score
- risk impact score
- combined risk score
- risk action plan (RAP) on intolerable risks
- risk owner (and risk sponsor where appropriate)
- risk status (whether open or closed and, if open, status against key dates/milestones, critical success factors, targets and performance indicators included in RAPs)
- review and escalation processes
- a management trail for movements on and changes to the risk.

Risk maps and risk registers must be kept:

- at the corporate level, by SLT
- at directorate level, by DMTs
- at service level, by Heads of Service
- at programme and project level, by programme and project teams
- at partnership level, by partnership leads.

Risk management software is available to facilitate this process although it is currently being developed to better meet the Council's needs and methodology. If the software is not being used during this development period, other mechanisms to provide the above information must be used.

RISK APPETITE

A risk appetite is set to determine the amount of risk that an organisation is willing to tolerate, or accept, at any one time

In practice it means that no-one is empowered to tolerate risks that the Council deems intolerable and must take prompt action to make them tolerable.

The Council's risk appetite results from a periodic decision made on the amount of risk that the Council is willing to tolerate, or accept, at any one time.

The current risk appetite is set out in the Risk Management Toolkit and determines which of three bands each risk falls into – red (high), amber (medium), or green (low):

- **Red Risks** – are not tolerable, and will need immediate management action.
- **Amber Risks** – are also not tolerable although management action is less time critical than red risks.
- **Green Risks** – are currently tolerable (often as a result of existing action on them) and do not require specific extra action (although attention may be given to them to ensure they are not being over-managed thereby tying up resources that could be better employed).

In essence, this means that ‘red’ and ‘amber’ risks fall outside the Council’s risk appetite and so are intolerable, requiring specific management action and attention.

RISK OWNERS AND RISK SPONSORS

Each risk should be assigned a Risk Owner. This should ideally happen prior to risk assessment but must be assigned for risk planning on intolerable (red and amber) risks. A Risk Owner is responsible for determining and taking action to manage each risk.

If the Risk Owner is not a member of the team maintaining the risk register and/or cannot commit resources to manage the risk, a Risk Sponsor should be assigned.

Risk Owner

The concept of ‘Risk Owner’ is designed to build accountability for risk management and relates to the person who is charged with determining appropriate action to manage the risk to tolerable levels (generally to green status), within an acceptable timeframe, and who will be held to account for both taking that action and its effectiveness in managing the risk.

A role and responsibilities statement for a Risk Owner is attached at Annex A.

The Risk Management Toolkit provides guidance and proformas to help risk owners to carry out their roles.

Risk Sponsor

The concept of ‘Risk Sponsor’ is also designed to build accountability for risk management and is introduced where the ‘Risk Owner’ is not a member of the team maintaining the risk register and/or cannot commit resources to manage the risk. The Risk Sponsor will not actually take the action to address the risk – as that will be assigned to another individual or team. He or she is, however, the one who is held to account formally for managing the risk and reporting on the status of action.

The Risk Sponsor provides the interface between risk ownership and delivery. The Risk Sponsor acts as a single focal point of contact with the Risk Owner for the day-to-day management of the risk in the interests of the organisation. The Risk Sponsor is responsible for ongoing management of the Risk Owner to ensure that the desired risk management objectives are delivered. The person in this role must have adequate knowledge and information about the organisation and the risk to be able to make informed decisions.

A role and responsibilities statement for a Risk Sponsor is attached at Annex B.

It is envisaged that the Risk Sponsor will present to the appropriate management team and/or the Strategic Leadership Team (and any other body as appropriate, e.g. the Executive or the Audit Committee), with the Risk Owner as appropriate, on:

- the proposed action plan (including timelines, critical success factors and performance indicators for managing the risk)
- progress against the agreed action plan at predetermined milestone points.

REGULAR MONITORING AND REVIEW

Management teams will need to ensure that risk management is on their agenda regularly. It needs to be a standing item and, if this is not at every meeting, then there needs to be a facility for reporting by exception.

Clearly there need to be review processes for red and amber risks to agree action plans and monitor progress in their implementation. As a general rule, red risks ought to be considered about every three months and amber risks about every six months although review frequencies should be determined by the nature of the team and the risks (for example programmes and projects may need to consider risks more frequently than service and directorate management teams or the Strategic Leadership Team).

ENSURING RISK REGISTERS ARE DYNAMIC

Risk management is a dynamic process, and risk registers should be viewed as living documents.

There are six key ways to keep registers dynamic:

- **Management of intolerable risks** – whereby risks naturally get demoted down the risk map as part of regular monitoring as actions on red and amber risks take effect in reducing risk
- **New risks** – whereby obvious new risks are identified as part of regular monitoring
- **Risk escalation** – whereby high risks from lower levels in the organisation are escalated to higher levels for ranking and corporate attention, where warranted
- **Risk relegation** – whereby risks fall off the radar after a period of time (but not necessarily off the radar of lower level management teams)
- **Risk re-assessment** – whereby existing risks are re-assessed to ensure they are elevated or relegated as appropriate as the situation changes
- **Zero Based Review** – whereby a new exercise is undertaken periodically to challenge assumptions.

Intolerable Risks

As the point of planning to manage, and managing, intolerable (red and amber) risks is to reduce risk, and regular monitoring processes will be identifying success in so doing, risks will naturally move down the risk map.

It is essential that there is tangible evidence of success in managing the risk before it is demoted in status.

New Risks

Obvious new risks will be identified as part of regular monitoring as team members will identify circumstances leading to risk (e.g. if policy and strategy direction change markedly or if there are significant internal or external changes such as environmental or social changes, new technology, new business processes, significant staff changes, or changes to or within partners, contractors and suppliers).

Risk Escalation

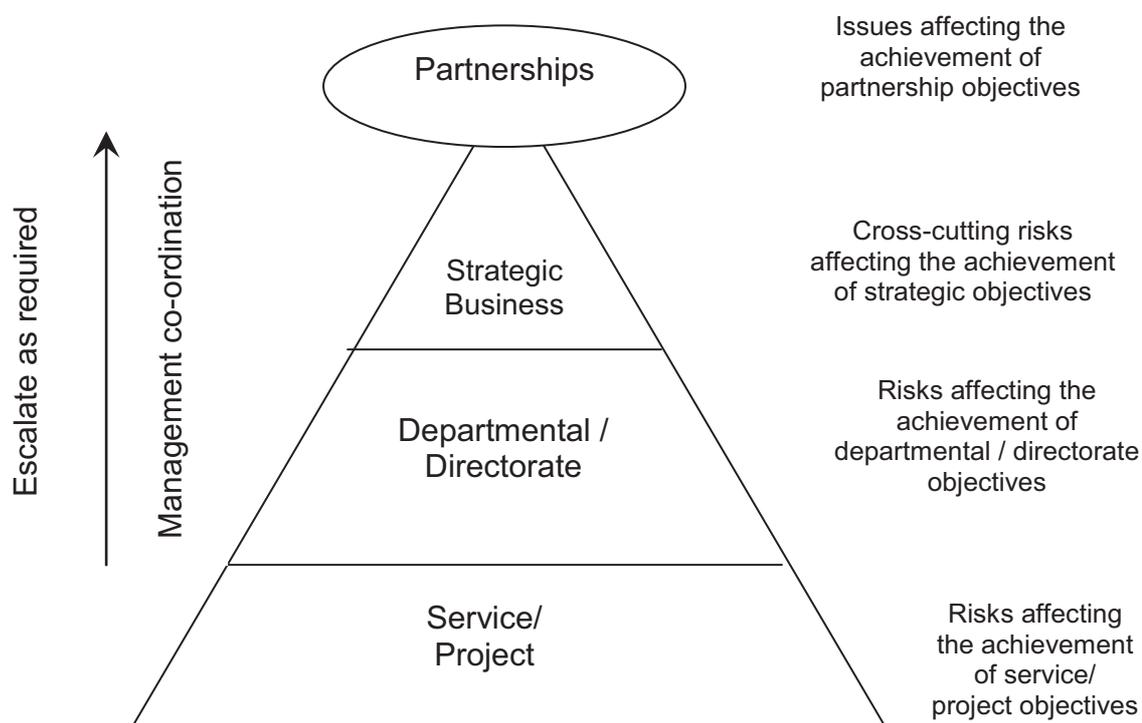
The risk appetite also means that intolerable risks at one level should be escalated to those higher up in the organisation.

In practice, only **red risks need to be escalated**.

However, managers will be held to account for their judgements on risk and, if in doubt, should seek advice and peer review of their assessments.

Risks can fall under two categories, strategic and operational. Strategic risks are those associated with threat or damage to the achievement of the Council's objectives. Operational risks are risks associated with day-to-day working, and will be managed at a business unit level. The potential impact of operational risks will be lower, but the cumulative effects could lead to high impact risks that have the potential to require strategic and corporate attention.

Risks will be identified from both a top down and bottom up perspective to ensure full coverage of the Council's activities and partnerships. The graphic below illustrates risk management in organisations, and highlights its hierarchical nature:



With partnership risks, although the Council may not be able to impose its risk management policies and methodology on the partnership, the Council's representatives need to ensure that risk is identified, assessed and managed in accordance with the Council's methodology, from the perspective of the Council rather than the partnership. Red risks should be escalated to the relevant management team as appropriate.

It should be obvious what the escalation route is. If it is not, seek the advice of the Corporate Risk Manager.

Risk Relegation

If risks remain on the risk register indefinitely, the risk map will become cluttered which will detract from its usefulness as a management tool.

It is therefore recommended that risks 'fall-off' the register if they remain green for one year or at the annual re-assessment (see below) whichever is greater.

However, it is expected that each risk 'falling off' a higher level register will be relegated to a risk register lower down the hierarchy unless the risk is clearly no longer relevant.

Risk Re-assessment

Risks on the risk register will need to be re-assessed to ensure they are elevated up the risk profile, or relegated as appropriate, as the situation changes. Whilst this should happen automatically for red and amber risks as the management team calls them in for progress reports on management action, it will not happen for green risks. The likelihood and impact of these risks may alter in response to internal and external stimuli.

Accordingly, it is proposed that an annual re-ranking exercise is undertaken for green risks unless escalation processes suggest a need for more immediate re-ranking.

Questions that may be helpful during the review process on green risks include:

- ❖ does the risk still exist and, if so, is it still as written or have there been changes that affect the risk?
- ❖ are the existing actions still being applied and are they effective?
- ❖ has anything happened to alter either the likelihood or the impact of the risk?

Zero Based Review

Over time, there is a danger that the risk register becomes detached from reality as it responds to the risks already on it and those escalated or relegated to it from others. Therefore it is recommended that a new exercise is undertaken periodically to ensure that the risk register remains up-to-date. It is recommended that such an exercise is undertaken say once every three years unless circumstances dictate that it should be earlier (e.g. if policy and strategy direction change markedly or if there are significant internal or external changes such as environmental or social changes, new technology, new business processes, significant staff changes, or changes to or within partners, contractors and suppliers).

RISK CHALLENGE AND REVIEW

As this Framework makes clear, risks are taken on behalf of, and in the name of, the Council. Processes and judgements therefore need to be evidenced and subject to appropriate challenge and scrutiny. The Risk Management Toolkit sets out a series of questions that risk challengers may ask on particular risks.

The Corporate Risk Manager, the Corporate Risk Management Group, auditors and the Audit Committee all have a role to play in ensuring the adequacy and effectiveness of risk management. Transparency and consistency are key to gaining assurance on risk management arrangements as a whole. Compliance with this Policy, Strategy & Framework, and the methodology set out in Risk Management Toolkit, should ensure effectiveness.

ANNEX A : ROLE AND RESPONSIBILITIES OF RISK OWNERS

ROLE

A Risk Owner is the individual responsible for managing the risk. The Risk Owner is charged with determining appropriate action to manage the risk to tolerable levels (generally to green status), within an acceptable timeframe, and who will be held to account for both taking that action and for its effectiveness in managing the risk.

Where a Risk Sponsor is appointed (where the Risk Owner is not a member of the management team responsible for the risk register on which the risk to be managed lies and/or the Risk Owner cannot commit resources to manage the risk), the Risk Owner reports to the Risk Sponsor for management of the risk. Where no Risk Sponsor is appointed, the Risk Owner reports to the management team responsible for the risk register on which the risk to be managed lies.

The Risk Owner is responsible for the day to day management of the risk on behalf of the organisation (via the Risk Sponsor where one is appointed) to ensure that the desired risk management objectives are delivered. The person in this role must have adequate knowledge and information about the organisation and the risk to be able to make informed decisions and take appropriate action.

RESPONSIBILITIES

A Risk Owner is responsible for:

- developing an appropriate risk management action plan, following required formats and procedures, for agreement by the appropriate management team (via the Risk Sponsor where one is appointed)
- defining criteria for management and monitoring of the risk (timelines, critical success factors, performance indicators, milestones)
- managing the production of the required outcomes, including developing contingency plans for residual risks where relevant
- identifying and obtaining resources and expertise as required, for example, managing professional advisers to help manage the risk
- liaising with and reporting to the Risk Sponsor where one is appointed, or the relevant management team where one is not, including over the resolution of problems
- co-ordinating and fostering teamwork to the management of the risk, as appropriate
- liaising with those managing related risks to ensure that work is neither overlooked nor duplicated
- establishing a mechanism to ensure regular dialogue to promote problem solving, team working and risk-sharing
- monitoring progress in managing the risk
- reporting through agreed reporting arrangements on progress in managing the risk.

SKILLS AND ATTRIBUTES

A Risk Owner should be able to:

- apply standard risk, project and quality management methodologies to the specific requirements of the risk
- apply risk assessment and management principles and processes
- direct, manage and motivate others involved in managing the risk
- plan and manage the deployment of resources to meet milestones

- build and sustain effective communications with other roles involved in management of the risk, and related risks, as required.

Where the Risk Owner is also the Risk Sponsor, the roles and responsibilities of the Risk Sponsor are also applicable.

ANNEX B : ROLE AND RESPONSIBILITIES OF RISK SPONSORS

ROLE

A Risk Sponsor is appointed where the Risk Owner is not a member of the management team responsible for the risk register on which the risk to be managed lies and/or the Risk Owner cannot commit resources to manage the risk. The Risk Sponsor will not actually take the action to address the risk – as that will be assigned to another individual or team. He or she is, however, the one who is held to account formally for managing the risk and reporting on the status of action.

The Risk Sponsor provides the interface between risk ownership and delivery. The Risk Sponsor acts as a single focal point of contact with the Risk Owner for the day-to-day management of the risk in the interests of the organisation. The Risk Sponsor is responsible for ongoing management of the Risk Owner to ensure that the desired risk management objectives are delivered. The person in this role must have adequate knowledge and information about the organisation and the risk to be able to make informed decisions.

RESPONSIBILITIES

A Risk Sponsor is responsible for:

- ensuring an appropriate and agreed risk management action plan is in place, following required formats and procedures
- ensuring there are clear criteria for management and monitoring of the risk (timelines, critical success factors, performance indicators, milestones)
- acting as the key point of contact with the Risk Owner
- managing the Risk Owner's performance of delegated responsibility in managing the risk to the required outcomes, including the development of appropriate contingency plans for residual risks where relevant
- securing resources and expertise as required, for example, appointing professional advisers to help manage the risk
- co-ordinating and fostering teamwork to the management of the risk, as appropriate
- establishing a mechanism to ensure regular dialogue to promote problem solving, team working and risk-sharing
- assisting the Risk Owner in the resolution of problems
- receiving and reviewing reports on management of the risk from the Risk Owner
- ensuring the Risk Owner receives decisions on time
- establishing and following formal reporting arrangements on progress in managing the risk.

SKILLS AND ATTRIBUTES

A Risk Sponsor should be able to:

- apply quality management principles and processes
- apply risk assessment and management principles and processes
- network effectively, negotiate well and influence people, broker relationships with stakeholders relevant to the risk
- be aware of the broader perspective and how it affects the organisation.

ANNEX C: TERMS OF REFERENCE OF CORPORATE RISK MANAGEMENT GROUP

- 1 The Corporate Risk Management Group (CRMG) is responsible for on-going development of risk management, improving co-ordination, and achieving objectives as agreed with the Strategic Leadership Team. It will report periodically to SLT through the Strategic Director of Finance, the sponsor of the Corporate Risk Management Group.
- 2 Membership of the Group will include senior representatives from each Directorate Management Team (a chief officer who will have lead responsibility for their Directorate Risk Register), the Contingency Planning Officer, a representative of Internal Audit, a representative from the Risk and Insurance section, a representative from Occupational Health and representatives from co-opted partnerships and others as required. The Corporate Risk Manager will co-ordinate quarterly meetings and provide administrative support to CRMG.
- 3 The objectives of the CRMG as directed by SLT will be :
 - a. To ensure a consistent approach to risk management across the Council and in its projects and partnerships and to promote and share best risk management practice.
 - b. To receive quarterly directorate and major project risk register compliance reports from the corporate risk management officer and report at least quarterly to SLT.
 - c. To review progress against risk management action plans as directed by SLT.
 - d. To ensure the risk escalation process set out in the corporate risk management strategy is followed.
 - e. To review the corporate risk management strategy annually.