



Your Homes
Newcastle

Financial Regulations

Financial Regulations
(version: October 2008)

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INTRODUCTION TO FINANCIAL REGULATIONS

Financial Regulations provide the framework for the financial administration of Your Homes Newcastle (YHN) with a view to ensuring that YHN's financial affairs are conducted in a sound and proper manner, constitute value for money and minimise the risk of legal challenge to YHN. Financial Regulations are not intended to constitute a set of detailed rules to respond to every contingency.

YHN is constrained by Newcastle City Council Financial Regulations and Standing Orders as part of the agreements made in setting up the company. These financial regulations have been written with a view to encapsulating the relationships specific to YHN. Should there be any conflict between NCC and YHN financial regulations the NCC financial regulations take precedence.

Financial Regulation 1 defines responsibility for financial control.

Financial Regulations 2,3, and 4 lay down the tasks required of YHN, the Board, Committees or officer, for the fundamental financial processes of:

- forward planning and budgetary strategy;
- incurring and controlling revenue spending and income;
- incurring and controlling the Investment Programme.

Financial Regulation 5 covers the requirements for Risk Management.

Financial Regulations 6 and 7 cover the standards required for:

- accounting;
- audit.

Financial Regulation 8 governs procedures for obtaining goods, materials, works and services.

Financial Regulation 9 defines the responsibilities governing partnership arrangements.

Financial Regulation 10 regulates the 'day to day' financial systems. It requires the Chief Executive to ensure that prescribed controls are present.

All financial decisions and decisions with financial implications must have regard to proper financial control. Any doubt as to the appropriateness of a financial proposal or correctness of a financial action must be clarified in advance of the decision or action.

Financial instructions and Financial Procedure Notes will be issued from time to time where assistance is needed with the interpretation of Financial Regulations.

Failure by officers to observe Financial Regulations and the codes and guidance issued under them may result in action under YHN's disciplinary procedures.

Failure by Board members to observe Financial Regulations may amount to a breach of the Code of Conduct for Board Members.

Amendments to Financial Regulations require the approval of the Board following a report from the Director of Finance and Resources . The Director of Finance and Resources will amend as necessary the supporting advice and guidance to Financial Regulations, including financial procedure notes issued under FR 10.

FINANCIAL REGULATION ONE - RESPONSIBILITIES

1.1 Responsibilities to the Company

All Board Members and employees of YHN are responsible for ensuring that they use the resources and assets entrusted to them in a responsible and lawful manner. They should strive to achieve value for money and avoid legal challenge to YHN. These responsibilities apply equally to Board Members and employees when representing YHN on outside bodies. Board Members must also comply with the Code of Conduct for Board Members.

1.2 Personal Responsibilities

1.2.1 Any person charged with the use or care of YHN's resources and assets should inform him or herself of the requirements under Financial Regulations. If anyone is in any doubt as to their obligations, then they should seek advice. Unresolved questions of interpretation should be referred to Finance and Resources.

1.2.2 All employees must report to their manager or supervisor any illegality, impropriety, breach of procedure or serious deficiency in the provision of service. Employees shall be able to do this without fear of recrimination providing they act in good faith and in such circumstances managers must record and investigate such reports and take action where appropriate (Code of Conduct for Employees). Compliance with the policy statement on fraud and corruption and the Code of Conduct for Employees is mandatory.

Note: YHN's Policy for confidential reporting of concerns ("whistleblowing") exists to:

- make employees feel confident to raise concerns and to question and act upon concerns about practice;
- give employees avenues to raise concerns and receive feedback on any action taken, in the case of concerns about the manager of the individual, upwards or lateral avenues should be available;
- guarantee that an employee will receive a response to his or her concerns raised and that he or she is aware of the process to follow if not satisfied;
- reassure an employee that he or she will be protected from possible reprisals or victimisation.

1.3 Your Homes Newcastle

1.3.1 The Board is responsible for;

- the adoption and revision of these Financial Regulations;
- the determination of the policy framework and annual revenue budget;
- providing the Chief Executive with sufficient staff, accommodation and other resources to carry out his/her duties.
- controlling the Company's financial resources, proposing the revenue budget and discharging the executive functions in accordance with the policy framework and revenue budget.

- managing Newcastle City Council's Housing Revenue Account (HRA) financial resources, proposing the HRA Revenue Budget and Investment Programme.
- Review and approve virement in excess of £100,000 between budget heads.

1.4 Finance Committee

- 1.4.1 The Finance Committee is responsible for receiving and reviewing Housing Revenue Account Income and Expenditure monitoring reports.
- 1.4.2 Receiving and reviewing YHN Income and Expenditure monitoring reports.
- 1.4.3 Receiving and reviewing YHN Investment Programme summary expenditure and funding monitoring reports.
- 1.4.4 Review and approve changes to YHN's management fee.

1.5 Audit Committee

- 1.5.1 The Audit Committee is responsible for recommendations to the Board in relation to the appointment, remuneration and terms of engagement of the external auditor.
- 1.5.2 To monitor and review the external auditor's independence, objectivity and effectiveness, taking into consideration relevant UK professional and regulatory requirements.
- 1.5.3 To monitor and review the effectiveness of YHN's internal audit function.
- 1.5.4 To review YHN's internal financial control system.
- 1.5.5 To review YHN's risk management systems.

1.6 Governance and Personnel Committee

- 1.6.1 Governance and Personnel Committee is responsible for deciding the process for the appraisal and remuneration of the Chief Executive.

1.7 The Director of Finance and Resources

- 1.7.1 The Chief Executive shall appoint an officer who shall be responsible for ensuring the proper administration of YHN's financial affairs.
- 1.7.2 The Director of Finance and Resources shall issue, and keep under continuous review, such instructions, give such advice or establish such procedures relating to financial matters as he or she considers necessary to secure the proper administration of the Company's financial affairs.
- 1.7.3 The Director of Finance and Resources is responsible for reporting, where appropriate, breaches of Financial Regulations to the Board.
- 1.7.4 The Director of Finance and Resources has the duty to report to the Board, and external auditor where it appears that YHN or an officer has made or is about to make a decision that would involve unlawful expenditure, unlawful action likely to cause a loss or deficiency or an unlawful item of account, or if proposed expenditure is in excess of available resources. Where appropriate

Newcastle City Council will be informed.

1.7.5 The Director of Finance and Resources has responsibility for ensuring compliance with the requirements of the latest relevant Accounts and Audit Regulations relating to accounting records, control systems and audit.

1.8 Chief Executive and Directors

1.8.1 The Chief Executive and Directors are responsible for ensuring that all staff under their control are aware of the existence of YHN's Financial Regulations and other regulatory documents and that they are observed throughout all areas under their control and shall;

- provide the Director of Finance and Resources with such information and explanations as the Director of Finance and Resources feels is necessary to meet his or her obligations under Financial Regulations;
- ensure that the Director of Finance and Resources has sufficient opportunity to comment on all proposals with unbudgeted financial implications, before any commitments are incurred;
- ensure that Board Members are advised of the financial implications of all significant proposals and that the financial implications have been agreed by the Director of Finance and Resources ;
- inform immediately the Director of Finance and Resources of failures of financial control resulting in additional expenditure or liability, or loss of income or assets;
- inform the Director of Finance and Resources where amendment to Financial Regulations is considered necessary;
- be responsible for ensuring the legality of all actions.

For these Regulations except FR 1.11 the terms Director or Directors or Heads of Service is to be taken to include the Chief Executive and their authorised staff.

1.9 Exceptions to Financial Regulations

1.9.1 Exceptions to these Financial Regulations shall be made only:

- in cases of urgency or where it is in the interests of YHN to do so; and
- with the prior written approval of the Director of Finance and Resources and the Chair/Vice Chair of YHN Board.

1.9.2 The Director of Finance and Resources shall keep a record of all such exceptions and submit them to the next board meeting.

1.10 Arrangements for the discharge of responsibility

1.10.1 The Chief Executive and Directors of Service are required to carry out their tasks in accordance with these Financial Regulations. These officers may arrange for their staff to carry out tasks for which they have responsibility as set down by these Financial Regulations provided that the terms of the

arrangement are clearly defined and documented. A record of all such arrangements will be prepared by each Director and submitted to the **Director of Finance and Resources** on an annual basis.

1.10.2 Notwithstanding such arrangements, the person making the arrangements remains responsible for compliance with these Financial Regulations

FINANCIAL REGULATION TWO - FORWARD PLANNING AND BUDGET STRATEGY

The Board decides on the annual YHN and HRA budgets and level of Management Fee (in consultation with Newcastle City Council) on the recommendation of the Finance Committee.

- 2.1 Directors shall provide information to the Director of Finance and Resources to enable him/her to produce and submit to the Board annually a medium term financial forecast.
- 2.2 The Chief Executive and Director of Finance and Resources jointly shall annually after consultation with the Management Team advise the Board on:
 - financial planning and budget strategy matters;
 - procedures, timetables and estimated resources for planning revenue and capital spending;
 - the annual revenue budget, investment programme and level of Management Fee.
- 2.3 Each Director in consultation with the Director of Finance and Resources shall prepare revenue estimates, and trading account forecasts, in accordance with such guidelines as set out by the Finance Committee. In doing so, Directors shall ensure that :
 - the estimated expenditure and income, or the cost of any proposal submitted by them are as accurate as possible and provide provision for all costs involved;
 - the revenue estimates are consistent with YHN policy;
 - the revenue implications of the investment programme are fully included in revenue estimates.
- 2.4 The Finance Committee shall review the estimates and submit them to the Board together with such summaries, statements and reports as are considered desirable and shall recommend the Management Fee required to be levied in the ensuing year.

FINANCIAL REGULATION THREE - INCURRING AND CONTROLLING REVENUE SPENDING AND INCOME

The Finance Committee monitors financial performance during the financial year. The Board considers any significant developments affecting the financial position of the Company.

3.1 The Chief Executive and Director of Finance and Resources jointly shall after consultation with the Management Team advise the Board, on a quarterly basis, on:

- progress against the budget;
- significant developments affecting the financial position of YHN.

3.2 The Director of Finance and Resources shall:

- provide guidance on and co-ordinate the budget monitoring process;
- prescribe the form, basis, supporting information and timetable for the preparation of final accounts;
- within delegated limits authorise variations to budget heads.

3.3 Each Director shall:

3.3.1 authorise revenue spending and collect income within the estimates, targets and/or limits approved by the Board provided that:

- the expenditure is lawful;
- Financial Regulations have been complied with;
- expenditure is within approved revenue budget;
- expenditure is in respect of Company policy.

3.3.2 monitor progress on revenue spending and the collection of income and promptly provide the Director of Finance and Resources with such information as requested.

3.3.3 Review fees and charges annually and implement changes in accordance with the Protocol on the Exercise of Officer Delegations.

3.3.4 Seek, in consultation with the Director of Finance and Resources, the approval of the Board to budgetary changes that would have a significant impact on the nature or level of service provided.

3.3.5 Directors must ensure that transfers between budgets (virement) fulfil the following requirements:

- transfers apply only to the transfer of funds within the delegated budget of the Director;
- the proposal must be consistent with Company policy;
- any virement over £100,000 is a significant decision and must be approved by Board.

- 3.4 Directors shall, in an emergency (being a situation which demands action of a nature that could not have been anticipated and for which there is no budget), with the prior written approval of the Director of Finance and Resources and the Chair/Vice Chair of YHN Board, have authority to incur unbudgeted expenditure.

FINANCIAL REGULATION FOUR - INCURRING AND CONTROLLING INVESTMENT PROGRAMME SPENDING AND INCOME

The Board oversees the Investment programme and approves the award of contracts in accordance with the Procedure for the Commitment of Investment Expenditure.

4.1 The Chief Executive shall, after consultation with the Management Team, advise the Board quarterly on:

- progress on implementation of the investment programmes;
- additions and amendments to the investment programme;
- the procedure for the commitment of investment programme expenditure.

4.2 the Director of Finance and Resources shall:

- provide guidance and co-ordinate investment programme monitoring procedures;
- certify proposals as required by in the Procedure for the commitment of investment programme expenditure.

4.3 Each Director shall:

- authorise investment programme spending in accordance with the Procedure for the Commitment of Investment Programme Expenditure;
- monitor progress on implementation of the investment programme and provide the Director of Finance and Resources with such information as requested;
- only commit to match funding arrangements for which investment programme approval has been obtained;
- undertake the disposal of land and buildings in accordance with the Protocol on the exercise of officer delegations.

4.4 Investment Programme expenditure – Definition

For the purposes of this regulation, investment programme expenditure is deemed to include the procurement, improvement or enhancement for HRA purposes of land, buildings, vehicles and equipment and the provision of grants to external organisations to enable the purchase of land, buildings, vehicles and equipment, regardless of how financed. Expenditure below the de minimis sum determined by the Director of Finance and Resources is not investment programme expenditure. If there is doubt whether expenditure forms part of the investment programme, the decision of the Director of Finance and Resources is final.

PROCEDURE FOR THE COMMITMENT OF CAPITAL EXPENDITURE (FINANCIAL REGULATION 4)

1. Authority to commit capital expenditure is based on the Capital and Leasing Programme (the Programme). The Programme is approved by executive and is updated regularly to reflect changes in the cost and phasing of schemes and the addition of new schemes.
2. Schemes are included in the Programme after consideration of investment proposals by Property Committee on the recommendations to be made to Board.
3. Inclusion of a scheme in the Programme gives authority to begin procurement and contract procedures subject to the limitations below.
4. For schemes included in the Programme for commencement in the first financial year (i.e. current financial year), Directors have the authority to progress a scheme to contract signature subject to:
 - the Procurement Strategy;
 - full compliance with the provisions of Financial Regulation 8 on tenders and quotations;
 - tender costs not exceeding programme provision by more than 5% or £50,000, whichever is the lower, provided the source of funding for the additional cost has been identified;
 - completion of a tender summary report in the form prescribed by the Director of Finance and Resources; currently the intranet delegated decision form (not required for contracts with a total estimated cost of under £10,000 or sub-contracts);
 - certification by the Director of Finance and Resources of the tender summary report.

**Schemes not meeting these conditions, or where:
it is proposed to accept other than the lowest tender (where price is the determining criteria), or the Board or NCC has directed its approval is required**

must be reported to Board or NCC for authority to proceed.

5. Financial Regulation 8 covers contract signature requirements.
6. For schemes included in the programme for commencement in any subsequent financial year, Directors have authority to prepare plans and

carry out other preliminary work during the first financial year up to a maximum of £50,000.

7. Proposals to incur preliminary expenditure or commitments above £50,000 must be considered by the Management Team. The approval by Management Team must be recorded by the Director of Finance and Resources as a delegated decision.

(Note: This authority for preliminary expenditure only applies to schemes in the programme. Confirmation of scheme approval must be sought at the earliest opportunity if significant changes, either in objective, estimated cost or phasing, are proposed.)

8. Once commenced, Directors have approval to incur:

- additional expenditure arising from the operation of a 'fluctuation of price' clause;
- increased costs not exceeding 5% of the contract value or £50,000 whichever is the lower.

subject to the increased amount being reported for inclusion in the Investment Programme Monitoring Progress Reports to Board (where deemed significant by the Director of Finance and Resources) and inclusion in the Investment Programme at the earliest opportunity.

FINANCIAL REGULATION FIVE – RISK MANAGEMENT

The importance of risk management to the wellbeing of the Company is outlined in its Risk Management Policy and Strategy Framework.

The Chief Executive is responsible for ensuring that risk management is an integral part of the management processes and activities in all parts of the organisation.

5.1 The Chief Executive will assign clear roles and responsibilities for managing risk.

5.2 The Chief Executive is responsible for ensuring that a register of significant risks is maintained, reported and monitored.

5.3 The Chief Executive will:

- Produce a strategy for the management of risk in the service;
- ensure that risk considerations are embedded into planning and decision making processes;
- identify those activities which have or may give rise to significant loss producing events;
- measure the impact of potential loss;
- take reasonable physical or financial steps to avoid or reduce the impact of potential losses;
- allocate risk management resources to areas of identified priority;
- maximise risk management opportunities that can impact positively on the Company's reputation, aims and objectives;
- ensure managers and employees are equipped with the necessary skills to manage risk effectively;
- ensure that strategic partners and service providers are aware of the importance of risk management;
- ensure that the Director of Finance and Resources is promptly provided with any information he requires on risk management issues;
- report the risk implications of recommended strategies, policies, and service delivery options to Board Members and senior officers of the Company.

FINANCIAL REGULATION SIX – ACCOUNTING

6.1 The Director of Finance and Resources shall:

- determine accounting systems and procedures and the form of financial records and statements;
- provide guidance and advice on all accounting matters;
- monitor accounting performance to ensure an adequate standard for all services;
- certify financial returns, grant claims and other periodic financial reports required of the Company-

6.2 Each Director shall:

- implement accounting procedures and adopt the form of financial records and statements as determined by the Director of Finance and Resources ;
- obtain the prior written approval of the Director of Finance and Resources before introducing or changing significantly the form or method of existing accounting systems and procedures, financial records or statement (see below),
- complete and pass to the Director of Finance and Resources financial returns and other financial reports requiring certification;
- keep a proper and effective separation of duties for staff with financial responsibilities.

NOTE: Approval procedure for changes to financial systems

Prior approval is to be requested from the Director of Finance and Resources in writing. The request must give details of the proposed change and the anticipated benefit from the change, an estimate of the costs involved and the proposed implementation date. Internal Audit advice should be sought for all proposed changes at as early a stage as possible.

Approval is not required where the Director certifies in writing that a change has no corporate implications and does not weaken departmental financial controls.

FINANCIAL REGULATION SEVEN – AUDIT

The Board has responsibility for all matters of financial significance. The Audit Committee reviews matters arising from audit, both internal and external. The Audit Committee is responsible for overseeing issues relating to financial probity. Reference should also be made to the Company's Policy statement on fraud and corruption.

7.1 The Director of Finance and Resources shall:

- maintain an adequate and effective system of internal audit of the accounting records and control systems of the Council;
- report annually to Audit Committee on progress on the strategic (long-term) audit plan;
- advise the Board of material issues of financial control and report to Audit Committee on the adequacy of the systems of internal control;
- where evidence of fraud, misappropriation or theft is discovered, decide after consultation with the relevant Head(s) of Service, whether to refer the matter to the Police.

7.3 The Director of Finance and Resources or his or her representatives are authorised to:

- visit any establishment of the Company;
- have immediate access to all records and documents;
- require the immediate production of cash, stores or any other property owned or held by the Company;
- require and receive promptly full and accurate explanations to any points requested.

7.4 Each Director shall:

- ensure that all reasonable assistance and co-operation is given to auditors;
- respond fully without undue delay to any enquiries or recommendations made by the Director of Finance and Resources;
- inform the Director of Finance and Resources, as soon as possible, of failures of financial control, including matters that involve, or may involve, financial irregularity.

7.5 The Director of Finance and Resources and each Director jointly shall investigate failures of financial control, including matters that involve, or may involve, financial irregularity.

FINANCIAL REGULATION EIGHT - PROCUREMENT AND CONTRACTS

- 8.1 The Procurement Procedure Rules which are appended to these Financial Regulations (as Appendix 1) shall apply and be followed whenever the Council wishes to arrange for:
- (a) the purchase of goods, materials and related services (that is, services which are integral to the provision of those goods or materials, such as installation, servicing, maintenance etc);
 - (b) the execution of works; or
 - (c) the provision of other services (including consultancy).
- 8.2 The Procurement Procedure Rules are part of this Financial Regulation 8 and failure to comply with them shall amount to a breach of financial regulations.
- 8.3 Subject to the specific provisions of the Procurement Procedure Rules, Company officers shall in undertaking any procurement of goods, materials, works or services always have regard to and seek to implement the following general principles:
- (a) the need to ensure the Company and its citizens obtain good value for money and are properly protected as consumers of the goods, works or services;
 - (b) the need to ensure and demonstrate true and fair competition, without unlawful discrimination;
 - (c) the need to ensure the procurement process is transparent and accountable and susceptible to full audit;
 - (d) the need to ensure the elimination of any opportunities for fraud or corruption .

FINANCIAL REGULATION NINE – PARTNERSHIP ARRANGEMENTS

- 9.1 The Board is responsible for approving Partnership arrangements with other local public, private, voluntary and community sector organisations.
- 9.2 The Chief Executive will ensure the due diligence and legality for all partnership arrangements.
- 9.3 The Director of Finance and Resources must ensure that accounting and auditing arrangements adopted relating to partnerships and joint ventures are satisfactory and that the overall corporate governance arrangements are satisfactory when contracts are arranged with external bodies.
- 9.4 The Directors must ensure that the risks have been fully appraised before agreements are entered into with external bodies and that appropriate approvals are obtained before any negotiations are concluded in relation to work with external bodies.
- 9.5 Partnerships are expected to adopt these Financial Regulations, where appropriate, or an equivalent version approved by the Director of Finance and Resources .
- 9.6 NCC approval is required prior to delegation of any function or responsibility to a third party.

FINANCIAL REGULATION TEN - FINANCIAL CONTROLS

10.1 As required by Financial Regulation 1.11, the Chief Executive and Directors are, for the areas under their control, responsible for ensuring that the arrangements, guidelines and procedures for the proper administration of financial affairs are operated in accordance with Financial Regulations.

10.2 Directors are required to ensure that the controls as listed in Financial Procedure Notes are present.

10.3 The Financial Procedure Notes issued under this regulation are:

FPN1 Orders for work, goods and services

FPN2 Income

FPN3 Payment for works, goods and services

FPN4 Payment of grants and benefits

FPN5 Security and control of assets

FPN6 Insurance

FPN7 Staffing and payroll

FPN8 Reimbursement of expenses and payment of allowances

FPN9 Banking arrangements and cheques

FPN10 Investment and Borrowing

FPN11 Information Technology and Data Protection

10.4 Further Financial Procedure Notes or amendments may be made from time to time by the Director of Finance and Resources.

10.5 Further advice on all areas of financial control is available from the Director of Finance and Resources. The Director of Finance and Resources will issue detailed guidance notes on specific controls as necessary. These will be referred to as Financial Best Practice Notes.

10.6 The Board may amend all other Procedures, Policies, Codes and Checklists referred to in these Financial Regulations.

FPN1 – ORDERS FOR WORK, GOODS AND SERVICES

(a) Objective

To ensure that work, goods and services are only ordered for the purposes of YHN business and that the resulting expenditure is within budget.

(b) Application

This Financial Procedure is mandatory for all officers.

(c) Control Checklist

To achieve the above objective, systems should be present to ensure that:-

- there is adequate budget provision before committing expenditure;
- any necessary approvals have been obtained.
Purchases are in accordance with the Purchasing Policy;
- where the purchase order system is not used that order documentation meets the requirements of the Checklist for Official Orders and Contract Clauses.

Note: Official orders must:

- for YHN orders be headed 'Your Homes Newcastle';
- for NCC orders be headed 'Newcastle City Council';
- state 'Official Order';
- be numbered;
- include the name and address of the ordering department, and delivery address if different;
- show the cost code to be charged;
- be signed by, and state post of an authorised officer, and
- include the information required in the Checklist.

The order must be signed only by staff who have been given authorisation to do so.

(d) Comments

Staff authorised to order work, goods and services must ensure that they are aware of any necessary committee authorisations required and of the Purchasing Policy.

The Purchase Order System (POPS) must be used whenever possible as it facilitates compliance with the above requirements and collects data to support development of the Purchasing Policy.

Ordering systems must be reviewed at least annually to consider the feasibility of using POPS.

FPN2 – INCOME

(a) Objective

To ensure that all income due to YHN is promptly collected, banked and properly accounted for.

(b) Application

This Financial Procedure is mandatory for all officers.

(c) Control Checklist

To achieve the above objective, systems should be present to ensure that:-

- budgeted income is fully and promptly collected;
- the Director of Finance and Resources is promptly informed of all new sources of income, the sums anticipated and collection arrangements;
- the advice of the Director of Finance and Resources is sought prior to the signing of agreements which provide for variable income. the basis and level of fees and charges are regularly reviewed;
- income is collected in advance of service, or where not possible, by official invoice;
- all cheques received are made to “Newcastle City Council”. Uncrossed cheques received are crossed payable “Newcastle City Council” ;
- money received is acknowledged by the issue of an official receipt, ticket or voucher. (See (d) below.);
- the transfer of official money between staff is evidenced;
- income collected is banked promptly and held securely prior to banking;
- money held awaiting banking is insured against theft;
- money banked is credited to the correct financial account and compared to budget estimate;
- arrangements for payment by instalment are authorised in advance by the Director of Finance and Resources ;
- prior authorisation is obtained to the write-off of uncollectable income by the Director of Finance and Resources ;
- grant claims requiring certification in the name of the Director of Finance and Resources are approved by the Director of Finance and Resources .

(d) Special requirements

Personal cheques must not be cashed out of money held on behalf of YHN.

FPN3 - PAYMENT FOR WORKS, GOODS AND SERVICES

a) Objective

To ensure that payments are made only for works, goods or services received by YHN and have been certified as such.

b) Application

This Financial Procedure is mandatory for all officers.

(c) Control Checklist

1. To achieve the above objective systems should be present to ensure that:-

Pre-payment checks are undertaken to ensure that;

- the goods have been received and examined, meet the required specification and work has been done or services rendered have been satisfactorily carried out;
- the invoice is in accordance with the contract or order, is arithmetically correct, and has discounts due deducted;
- the payment has not previously been made;
- the payment is authorised (this will be done via the POPS system).

2. For payments made outside the POPS system the POPS/payroll number and POP authorisation group of the officer authorising the payment must be clearly recorded in a form that facilitates checking against the approved list of authorised officers

3. The method of payment is appropriate;

- by use of the corporate creditors system for payment by BACS or cheque (note BACS is the preferred method and must be used wherever possible);
- by imprest account or petty cash for minor sums;
- by some other means as agreed with the Director of Finance and Resources .

4. Payment is timely;

- to meet supplier/contractor terms of trade and legislative requirements;
- justification is provided if urgent payment or dispatch of cheque by department required.

5. Transactions are properly accounted for, including;

- proper use of financial codes;
- compliance with HM Revenue and Customs regulations;
- the maintenance of a Register of Contracts by the Director of Finance

and Resources .

(d) Special requirements - Advance payments

No commitments shall be entered into for goods, work or services for which the supplier or contractor requires payment in advance until the Director has confirmed the financial standing of the payee with the Director of Finance and Resources .

FPN4 - PAYMENTS OF GRANTS AND BENEFITS

a) Objective

To ensure that only properly authorised grant and benefit payments are made, and where discretionary, to ensure that the purpose of the payment is achieved.

b) Application

This Financial Procedure is mandatory for all officers.

(c) Control Checklist

To achieve the above objective systems should be present to ensure that:-

- application forms are required and checked;
- awards are made in accordance with the relevant payment conditions;
- authority to approve payment is restricted to authorised officers;
- conditions of grant are made known to applicants and applied to approved grants;
- discretionary payments are phased and payments are subject to grant monitoring;
- externally funded payments satisfy the requirements of the funding body;
- YHN's financial interest is safeguarded e.g. use of legal charge (the Director of Finance and Resources should be consulted on this matter)
- the submission of bids and grant claims for European funds conform to the financial procedure note issued under FR 10.4.

(d) Comment

The provision of services to organisations in which YHN has an involvement as a partner and/or as a funder or provider of resources for a project is subject to Company policy on Partnerships and Procurement.

FPN5 - SECURITY AND CONTROL OF ASSETS

a) Objective

To ensure the proper use and safeguarding of assets owned by YHN or for which YHN has responsibility.

b) Application

This Financial Procedure is mandatory for all officers

(c) Control Checklist

To achieve the above objective systems should be present to ensure that:-

- proper security is maintained at all times;
- assets are recorded and accounted for;
- the use of assets is restricted to authorised YHN business;
- surplus assets, except land and buildings, are disposed of in accordance with agreed procedures.

(d) Comment

This financial procedure note applies to all assets, including stocks, stores equipment and vehicles (with either an individual value of £500 or more or a collective value of £2,000 or more) and all cash, land and buildings, that are owned by, or are in the possession of YHN and for which YHN is responsible. The form and content of the record is for local decision following consultation with the Director of Finance and Resources but must be sufficient to allow verification and to support Balance Sheet entries.

FPN6 - INSURANCE

(a) Objective

To ensure that YHN manages all potential insurable risks and liabilities and to limit the authority for arranging insurance cover to the Director of Finance and Resources .

(b) Application

This Financial Procedure is mandatory for all officers.

(c) Control Checklist

To achieve the above objective, systems should be present to ensure that:-

- new risks and any alterations to existing risks are reported to the Director of Finance and Resources immediately;
- Departmental risks are reviewed annually in accordance with the timetable issued by the Director of Finance and Resources ;
- claims are reported in accordance with the guidelines issued by the City's Insurance Section and supporting information is provided within required timescales;
- policy requirements and warranties, notified by the Insurance Section, are complied with at all times;
- insurers' loss control requirements are responded to within the relevant timescales.

(d) Comment

Each Director is responsible for identifying, assessing and reporting risks to the Director of Finance and Resources .

The Director of Finance and Resources is responsible for arranging all insurance cover and for ensuring the annual review of insurance cover.

FPN7 - STAFFING AND PAYROLL

(a) Objective

To ensure that staff are appointed in accordance with the Code of Practice on Recruitment and Selection, are paid in accordance with their Contract of Employment and to ensure leavers are removed from the payroll.

(b) Application

This Financial Procedure is mandatory for all officers.

(c) Control Checklist

To achieve the above objective, systems should be present to ensure that;

- the Code of Practice on Recruitment and Selection is observed in the appointment of staff;
- amendments to the payroll - appointments, resignations and changes to Contracts of Employment are notified to Head of City Service in accordance with payroll deadlines and in the form specified;
- details of salary and wage amounts to be paid are provided in a form and to a timetable determined by the Director of Finance and Resources ;
- uncollected payments are promptly returned to the Cashier;
- an annual check of staff paid and charged to the financial accounts is undertaken.

FPN8 - REIMBURSEMENT OF EXPENSES AND PAYMENT OF ALLOWANCES

(a) Objective

To ensure that the reimbursement of allowances and expenses to staff and board members is in accordance with the appropriate agreements and legislation.

(b) Application

This Financial Procedure is mandatory for all Board Members and officers.

(c) Control Checklist

To achieve the above objective systems should be present to ensure that:

STAFF

- claims are submitted within one calendar month of the expense being incurred and include sufficient information to allow verification;
- allowances and expenses are as approved for payment to YHN staff;
- payment is made in accordance with procedures determined by the Director of Finance and Resources .

BOARD MEMBERS

- claims are submitted within one calendar month of the expense being incurred and include sufficient information to allow verification;
- allowances and expenses are as approved for payment to Board members;
- payment is made in accordance with procedures determined by the Director of Finance and Resources .

(d) Comment

Particular care must be taken to ensure that all payments to individuals, including additional payments to employees, meet the requirements of the HM Revenue and Customs.

Expenses claims should be supported by receipts whenever possible.

FPN9 – BANKING ARRANGEMENTS AND CHEQUES

(a) Objective

To ensure sound banking and payments arrangements by limiting responsibility for same to the Director of Finance and Resources .

(b) Application

This Financial Procedure is mandatory for all officers.

(c) Control Checklist

To achieve the above objective systems should be present to ensure that:

- No bank account, or similar, is to be opened except with the authority of the Director of Finance and Resources .
- The maintenance of YHN bank accounts is in accordance with arrangements determined by the Director of Finance and Resources .
- Cheques shall be ordered on the authority of the Director of Finance and Resources and controlled securely prior to use.
- The approval of the Director of Finance and Resources is obtained to any proposal to enter a credit agreement.

FPN10 - INVESTMENTS AND BORROWING

(a) Objective

To limit the authority for managing Your Homes Newcastle's Investments and Borrowing to the Director of Finance and Resources and to ensure that activities in this area are properly regulated.

(b) Application

This Financial Procedure is mandatory for all officers.

Control Checklist

To achieve the above objective systems should be present to ensure that:-

- no investment or borrowing transaction is undertaken except with the prior written authority of the Director of Finance and Resources Chief Financial Officer;
- YHN-bank accounts do not become overdrawn.

(d) The Director of Finance and Resources shall ensure that:-

- all investments and borrowing are made by the Director of Finance and Resources and are in the name of YHN;
- all securities are held by the Director of Finance and Resources ;
- the Director of Finance and Resources is the Council's Registrar of Stocks, Bonds and Mortgages;
- investments held should be reported to Finance Committee each month and at the end of each financial year are reported to the Board by the Director of Finance and Resources as soon as possible after 31 March;
- all Treasury Management activities are conducted in line with the relevant CIPFA Code of Practice for Treasury Management in Local Authorities;
- there is an adequate division of duties between arranging and settling of transactions.

Any exceptions to the above can only be authorised by the Board.

FPN11 - INFORMATION TECHNOLOGY AND DATA PROTECTION

(a) Objective

To ensure the orderly and secure development of information technology and the proper control of information held.

(b) Application

This Financial Procedure is mandatory for all officers.

(c) Control Checklist

To achieve the above objective, systems should be present to ensure that:

1. Investment in IT complies with IT and IS strategies and policies.
2. All IT purchases:
 - comply with corporate standards and guidelines (including the IT procurement guidelines) unless there are sound reasons to do otherwise;
 - are in accordance with the approved Information Systems Strategy (ISS) ;
 - have necessary approvals in place;
 - are notified on completion to the Director of Finance and Resources to maintain the register of IT assets.
3. The use of IT and the control of information held is subject to the IT security policy.

**YOUR HOMES NEWCASTLE
PROCUREMENT PROCEDURE RULES**

Approved by YHN Board 28.10.08 & City Treasurer 27.01.09

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Chapter 1 – Introduction, Scope of Rules and Preliminary Requirements

1A Introduction

- 1.1 The procurement of goods, materials & related services, works and other services must satisfy many different requirements:-
 - 1.1.1 The need to demonstrate true and fair competition without unlawful discrimination.
 - 1.1.2 Best value - competition is seen as tending to promote value for money and to discourage price fixing and monopoly supply.
 - 1.1.3 ‘Consumer protection’ - the Company is the consumer whose interests must be protected often over very many years. The form of the eventual contract is crucial, as is the process of selecting who may tender.
 - 1.1.4 Legislation - a wide variety of UK and European Union statutes, directives and regulations apply in particular circumstances.
 - 1.1.5 The elimination of opportunities for fraud and corruption - so the process must be visible and tightly controlled.
 - 1.1.6 The Company’s *Corporate Procurement Strategy*. This is available from the Intranet. Amongst other things, it explains the circumstances when works and services can be provided by the in-house workforce without any external procurement process – in which case, these *Rules* will not apply. It also explains when works and services must be procured through the external market, in which case these *Rules* must be followed.
 - 1.1.7 Financial Regulations of which these *Rules are* part, including in particular Financial Regulation 4 which deals with the Procedure for the Commitment of Capital Expenditure.
- 1.2 The result is that the Company must procure goods, works and services using a very strict set of rules, contained in these *Rules*, which define what can be done, how and by whom. It will not always be possible for the Company to act in the same way that a private individual or company can because it is subject to specific legal requirements and it is spending public money.
- 1.3 Terms in italics used in these *Rules* are defined at Chapter 11A. Appendix 1 gives guidance by way of a flowchart on undertaking procurement in accordance with these *Rules*. Appendix 2 gives a general overview of relevant procurement routes by reference to financial thresholds, as well as guidance on documentation and audit requirements.

1B Scope of Rules

1.4 These *Rules* apply to **all** proposed *Contracts* for the purchase of:-

1.4.1 **Goods and related services** (that is, services which are integral to the provision of those goods or materials, such as installation, servicing, maintenance etc);

1.4.2 The execution of **works**; and

1.4.3 The provision of other **services** (including consultancy),

EXCEPT ONLY FOR any proposed *Contract* with an estimated value of less than £5,000.

For any proposed *Contract* with an estimated value of less than £5,000, an *Order* can be placed provided only the following conditions are met:

1.4.4 The *Officer* is satisfied that s/he has obtained value for money, which will usually be achieved by obtaining at least three competitive quotations (either oral or written) unless the officer considers it is inappropriate to do so; and

1.4.5 Any oral Quotation which is to be selected must first be confirmed in writing by the person providing it; and

1.4.6 A written record must be kept by the Officer of all Quotations received and (if applicable) any reason why it was considered inappropriate to obtain three quotations; and

1.4.7 Utilising existing contracts or frameworks advised by the *Finance Manager Procurement* or the Procurement Section; and

1.4.8 PPR 2.12 (risk assessment), 6.7 (payment through *POP System*) and PPR 8.5 and 8.6 (official *Order* through *POP System*) are complied with; and

1.4.9 Chapter 1 of these *Rules* is also complied with.

1.5 Any part of these *Rules* can only be waived with the prior written agreement of the Director of Finance and Resources in cases of urgency or where s/he considers it is in the interests of the Company to do so. *Any request to the Director of Finance and Resources to waive these Rules must be accompanied by the written comments on the request of the Finance Manager Procurement.*

1.6 For the avoidance of doubt, these *Rules* also apply, and must be followed:

1.6.1 Where it is proposed that the execution of works or provision of services should be undertaken by an in-house provider (i.e.

employees of the Company rather than an external firm) but only in those cases where the works or services are required to be subject to competition either in accordance with the Procurement Strategy or any other direction of the Board or any legal requirement.

- 1.6.2 Where it is proposed to employ a sub-contractor for the supply of goods, the execution of works or the provision of services which the Company is itself providing as the principal provider.
- 1.7 A full written record (which may include e-mail messages) must be kept of by the officer of all actions taken in respect of procurement and contracts including any consultation required by these *Rules*. *Officers* are directed to PPR 6.1 (the obligation that there must be a proper decision before entering into a *Contract*).

Appointment of *Consultants*

- 1.8 The appointment of *Consultants* is subject to the full requirements of these *Rules* as for any other *Contract* but *Officers* must additionally comply with the requirements set out within Appendix 3.
- 1.9 Any consultant engaged by the Company to award or supervise a *Contract* on its behalf must:-
- 1.9.1 Comply with these *Rules* as if he or she were an employee of the Company.
- 1.9.2 Provide to nominate Company employees all information and records requested in relation to the *Contract*.
- 1.10 A consultant's contract of engagement must include terms binding the consultant in this regard.

1C Reference to POP System and *Finance Manager* (Procurement & Payments)

- 1.11 Before any procurement process is commenced of whatever value, the *Officer* **must** search the *POP system* to determine whether a suitable *Framework Agreement* exists. If so, the *Officer* must use that *Framework Agreement*.
- 1.12 If a suitable *Framework Agreement* does not exist and the estimated value of the *Contract* exceeds £5,000, s/he **must** seek and follow the advice of the *Finance Manager (Procurement & Payments)* as to the most appropriate means of proceeding with the procurement. Consideration will be given by the *Finance Manager (Procurement & Payments)* at this point as to whether any other suitable *Framework Agreement* exists.
- 1.13 If the estimated value of the *Contract* exceeds £5,000, it **must** be undertaken by the *Finance Manager Procurement* or the *Procurement Section*, unless s/he has expressly agreed in writing that s/he will not do so.

- 1.14 The *Officer* must consult the *Pre-Procurement Checklist* and provide such information as will assist the *Finance Manager (Procurement & Payments)* to carry out the procurement. The *Pre-Procurement Checklist* is available from the *Finance Manager (Procurement & Payments)*.

1D Estimating Contract Values

- 1.15 The value of the proposed *Contract* must be estimated before undertaking the procurement as this will determine which rules apply. The value of a *Contract* is the estimated consideration to be paid over its full term and not simply the estimated annual expenditure. This will generally be financial expenditure but may include other elements such as the value of land being disposed of.
- 1.16 For the purposes of these *Rules*, amounts quoted are gross values (i.e. total estimated cost before deduction of grants and contributions), for the full period of a *Contract* and all exclude value added tax.
- 1.17 *Contracts* of a similar nature **must not** be artificially split into different parts to avoid the application of the £5,000 (or any other) minimum threshold of these *Rules* or the applicable *EU Threshold*. At the same time, *Contracts* of a recurring or similar nature must be joined together into one *Contract* and valued accordingly. If there is any doubt as to whether *Contracts* must be aggregated, advice from the *Legal Services Procurement Team* must be sought and followed.
- 1.18 Before undertaking a procurement, the *Officer* must consider whether a subsequent *Contract* (such as, for instance, future phases in a works programme where only the initial phase is the subject of the immediate procurement) may be awarded to the successful firm by negotiation under Chapter 3E of these *Rules*, and without further competition, in the event of the successful firm completing the initial phase satisfactorily. If this is the case, it must be made clear in the public notice or advertisement under PPR 2.1.6 (if one is issued) and the accompanying documentation under PPR 3.15 or 3.19 that any such subsequent *Contracts* may be awarded to the successful firm by negotiation. In any event any award of any such subsequent *Contract* can **only** be made if the conditions and procedures set out in Chapter 3E of these *Rules* are met and followed. An *Officer* cannot award a *Contract* to a firm relying solely on the fact that the firm was previously awarded a similar *Contract* following a competitive process.

1E Grant Funding

- 1.19 Where a *Contract* is to be awarded which is part or wholly funded by either internal or external grant funding, it is possible that further conditions may have been placed on the manner of expenditure of such monies. In this event, *Officers* must ensure that they are aware of all such conditions and comply with them as well as the requirements of these *Rules*.

1F Monitoring

- 1.20 Where any officer of the Company becomes aware of any breach of these *Rules*, s/he must notify as soon as reasonably practicable his or her line manager or supervisor who shall record and investigate that referral and take appropriate action in relation to it and notify the Director of Finance and Resources and the Chief Internal Auditor of the outcome. Where any officer considers that a serious or persistent breach has occurred, this must be reported immediately to the Director of Finance and Resources and the Chief Internal Auditor.
- 1.21 Where any Board Member becomes aware of any breach of these *Rules*, s/he must report this to the Director of Finance and Resources and the Chief Internal Auditor.
- 1.22 The Chief Internal Auditor and the Director of Finance and Resources shall report annually to the Audit Committee upon the operation of these rules generally and, in particular, whether they are being adhered to.
- 1.23 Failure by any officer of the Company to observe these Rules, which are part of the financial regulations, may leave the officer open to action under disciplinary procedures. Any Officer, when planning a procurement must take into account the need to comply with these rules and the timescales which compliance with them involve.

1G Record Keeping

- 1.24 Any written records relating to a procurement, whether kept under these Rules or otherwise, should be retained for a period of at least six years from the expiry of the Contract. Such records may, so far as they relate to unsuccessful quotations or tenders, may be microfilmed or electronically scanned or stored by some other suitable method after 12 months from the award of the contract, provided there is no dispute about the award. Any external funder may impose different requirements in this respect and this should be checked if any such funding is being provided.

1H External Bodies

- 1.25 Any External Body shall be required to comply with these Rules (or alternatively, any other written procurement rules adopted by that body which have been approved by the Director of Finance and Resources) whenever the External Body undertakes a procurement of goods, works or services in any of the following circumstances:
- 1.25.1 Where the External body is undertaking the procurement on behalf of the Company as its agent.

- 1.25.2 Where the procurement is being undertaken by the External Body on its own behalf, or for some third party, but is being funded by financial assistance from the Company and it is a condition of that assistance that this Rule shall apply.

11 Employee Transfers

- 1.26 Where any proposed contract potentially affects any employee of the Company by virtue of a possible transfer of the services provided by that employee, the *Officer* must ensure that the Transfer of Undertaking (Protection of Employment) (TUPE) issues are considered and obtain advice from the Head of Legal services before proceeding with the procurement.

Chapter 2 - Selection of Firms, Risk Assessments and Standing Lists

2A Selection of Firms to Participate in the Procurement Process

2.1 In relation to procurements **below** the applicable *EU Threshold*, i.e. of:-

2.1.1 Goods, material and related services with a total estimated value less than £139,893.

2.1.2 Works with a total estimated value of less than £3,497,313.

2.1.3 Other Services with a total estimated value of less than £139,893.

Firms may be selected to participate in the procurement process using one of the following methods:-

2.1.4 From an appropriate approved Standing List from which firms will be selected by a rotation system or other method agreed by the Director of Finance & Resources.

2.1.5 From a list of firms held by an approved *Central Purchasing Body* under an established *Framework Agreement*.

2.1.6 By public notice or advertisement (for instance, in a relevant trade journal or on the internet site).

2.1.7 By any other means considered by the *Officer* to be in the best interests of the Company, PROVIDED THAT this option shall only be used where it is not reasonably desirable in the interest of efficiency for any of the methods set out from PPR 2.1.4 to 2.1.6 to be used and the *Finance Manager (Procurement & Payments)* agrees in writing that this is the case.

2.2 In any event, a firm should not be selected to participate without the *Officer* first being reasonably satisfied that the firm is interested in doing the work and will submit a *Quotation* or *Tender* if asked for one and that the firm in general terms is capable of supplying the goods, executing the works or providing the services (as the case may be).

2.3 In relation to procurements **above** the applicable *EU Threshold*, i.e. of:-

2.3.1 Goods, materials and related services, with a total estimated value of £139,893 or more.

2.3.2 Works with a total estimated value of £3,497,313 or more.

2.3.3 Other Services with a total estimated value of £139,893 or more.

The *EU Public Procurement Rules* will apply and it will usually be necessary to publish a notice in the Official Journal of the European Union (“*OJEU*”

Notice”). Only firms who express interest in the *OJEU Notice* in the manner stipulated in that *OJEU Notice* may be invited to tender. It is possible, however, to contact firms in order to draw their attention to the fact that the *OJEU Notice* has been published.

- 2.4 Every *OJEU Notice* must be approved by the *Legal Services Procurement Team*, which will arrange for the *OJEU Notice* to be published on behalf of the *Officer*.
- 2.5 The financial thresholds given above all apply from 1 January 2008.

2B Risk Assessments

- 2.6 For all *Contracts* over £5,000, a written risk assessment of the selected firms must be carried out unless:-
 - 2.6.1 They are on an approved *Standing List* **and** the value of the *Contract* is less than £500,000; **or**
 - 2.6.2 The *Contract* is procured through a *Framework Agreement* established by a *Central Purchasing Body*.
 - 2.6.3 The exceptional circumstances set out in PPR 2.9 below apply.
 - 2.6.4 The firm has passed a full written assessment carried out by the *Company* in the previous 12 months.
- 2.7 The risk assessment may be carried out as part of the procurement process, but must be completed prior to entering into a *Contract*.
- 2.8 This risk assessment must ensure that the company's minimum standards in relation to technical competence, health and safety, insurance arrangements, equal opportunities policies, quality assurance and complaints procedures, environmental policies and financial standing are met. If, in any case, one or more of the minimum standards is not met, the firm may still be considered if the *Delegated Officer* is satisfied (and confirms in writing) that this is in the best interests of the *Company* and lawful and that appropriate mitigation measures will be put in place. If a firm is to be excluded on the basis of their risk assessment evaluation, advice from the *Legal Services Procurement Team* must be sought and followed to determine whether it is lawful to do so.

Advice on any recommended policies or corporate criteria against which risk assessments should be carried out can be sought from the *Finance Manager (Procurement & Payments)*.

- 2.9 A *Delegated Officer* may exceptionally agree in writing that it is not reasonably necessary, having regard to the best interests of the *Company*, to carry out a risk assessment in respect of one or more of the standards referred to in PPR 2.8 above, either because of the nature or subject matter of the proposed contract or because of the urgent need to award the

contract or because of any other exceptional circumstances. Any such authorisation must be fully recorded in writing setting out which standards it has been agreed need not be assessed and the reasons why it is considered such assessment is not reasonably required.

- 2.10 Where an *OJEU Notice* has been published in accordance with PPR 2.3 above, the risk assessment will rely upon a completed *Pre-Qualification Questionnaire* (“PQQ”). The form and content of the PQQ will depend upon the procurement route and before issuing a PQQ, advice from the *Legal Services Procurement Team* must be sought and followed as to which procedure and form of PQQ is to be adopted.
- 2.11 Where an *OJEU Notice* has not been published in accordance with PPR 2.1 above, the risk assessment shall instead rely upon a completed *Contractor Evaluation Questionnaire*. *The Finance Manager (Procurement & Payments)* can assist in the preparation of this Questionnaire and provide advice on how to evaluate the responses to it.
- 2.12 For any Contract where a risk assessment would not otherwise be required because it is less than £5,000 in value or it falls within one of the exemptions set out in PPR 2.6, a risk assessment on one or more of the matters referred to in PPR 2.8 should nevertheless be carried out if the *Officer* considers this necessary because of any particular risks associated with the nature or subject matter of the proposed *Contract*.
- 2.13 Every Contract awarded by the Company shall include a term that if the Contractor employs any sub-contractor in the performance of the Contract the Contractor will ensure that the sub-contractor is required under the sub-contract to meet the same obligations and standards in relation to health and safety, equal opportunities and environmental matters as is the Contractor under the Contract.

Chapter 3 - Selection and Description of Procurement Routes

3A Selection of Procurement Route

- 3.1 A procurement may be carried out by:
 - 3.1.1 Inviting *Written Quotations*.
 - 3.1.2 Inviting *Tenders*.
 - 3.1.3 *Inviting Tenders over the EU Thresholds*.
 - 3.1.4 In exceptional circumstances, by way of negotiating a *Contract* with a particular firm (see chapter 3E)
- 3.2 The following rules (PPR 3.3 to 3.8) determine which of these routes should be used.
- 3.3 Where the estimated value of a *Contract* is less than £5,000, it is not subject to these *Rules* except only for Chapter 1, PPR 2.12, 6.8, 8.5 and 8.6 and therefore can be let by a *Delegated Officer* placing an *Order* provided s/he is satisfied that this represents good value for money. *Contracts* must not be broken down to take advantage of this lower threshold.
- 3.4 Where the total estimated value of the *Contract* is between £5,000 and £139,893, for Goods, materials and related services or works at the value of £3,497,313 either the Written Quotation Procurement Route or the Tender Procurement Route may be used at the discretion of the *Finance Manager (Procurement & Payments)*.
- 3.5 The *Tender* Procurement Route must be used for all *Contracts* where the total estimated value exceeds the EU Thresholds (£139,893 for Goods, materials and related services. Other services or works valued in excess of £3,497,313).
- 3.6 In exceptional circumstances, it is possible to negotiate with one particular firm only so long as the rules set out from PPR 3.21 to 3.24 are followed.
- 3.7 Where the *EU Public Procurement Rules* apply (because the *Contract* value is above the *EU Threshold*), advice from the *Legal Services Procurement Team* must be sought and followed as to which type of *Tender* process must be used.
- 3.8 Appendix 2 of these *Rules* gives summary guidance on selecting a procurement route but the decision will be made by the *Finance Manager Procurement* as to which route to take.

3B Written Quotation Procurement Route (£5,000 to £139,893 or £3,497,313)

3.9 A minimum of three Written Quotations must be sought.

3.10 *Written Quotations* must be sought in writing and must be returned in writing in a sealed envelope and not opened until the relevant deadline. The requirement can only be dispensed with by the prior written agreement of the *Finance Manager (Procurement & Payments)*.

3.11 Requests for *Written Quotations* must include:-

3.11.1 The *Contractor Evaluation Questionnaire* **unless** any of the three situations set out in PPR 2.6 applies. (PPR 2.11 above gives further details about this Questionnaire);

3.11.2 A copy of the Company's standard *Terms and Conditions* (a copy of which can be obtained from the *Legal Services Procurement Team*) or, if it is felt by the *Officer* that such terms and conditions may be inappropriate in the circumstances, such other contractual documentation as the *Legal Services Procurement Team* may recommend or agree.

3.11.3 A statement that the Company will expect to contract on its own *Terms and Conditions* and not those of the firm and that any variation to this will require the approval of the *Legal Services Procurement Team*;

3.11.4 A description of the goods, works or services to be procured.

3.11.5 Details of how the goods, works or services to be procured should be priced.

3.11.6 A statement that the *Written Quotation* will only be considered if it is:-

3.11.6.1 Made in writing and returned by the deadline given.

3.11.6.2 Signed by an appropriate officer of the firm (preferably on headed paper).

3.11.6.3 Returned in a plain sealed envelope marked displaying only a label containing the reference number of the Quotation, the return address of the *Finance Manager (Procurement & Payments)* and the closing date and time for return of the *Written Quotation*. (A postage stamp or customs declaration (or similar) shall not be regarded as being in contravention of this requirement).

3.11.7 A reasonable deadline for the receipt of the *Written Quotation* and the address (which shall be that of the *Finance Manager*

(Procurement & Payments), to which to return the *Written Quotation*.

- 3.11.8 Details of any other specific conditions which will apply to the procurement.
- 3.12 If the Quotation is not awarded on Price, then a record of the methodology used to award, needs to be kept by the Procurement Section.

3C Tender Procurement Route (£5,000 to £139,893 or 3,497,313)

- 3.13 **A minimum of four Tenders must be sought.**
- 3.14 *Tenders* must be sought in writing and must be returned in writing in a sealed envelope and not opened until the relevant deadline. The requirement can only be dispensed with by the prior written agreement of the *Finance Manager (Procurement & Payments)*.
- 3.15 Requests for Tenders must include:-
- 3.15.1 The *Contractor Evaluation Questionnaire* **unless** any of the three situations set out in PPR 2.6 applies. (PPR 2.11 above gives further details about this Questionnaire).
- 3.15.2 A copy of the Company's standard Terms and Conditions (a copy of which can be obtained from the *Legal Services Procurement Team*) or, if it is felt by the *Officer* that such terms and conditions may be inappropriate in the circumstances, such other contractual documentation as the *Legal Services Procurement Team* may recommend or agree.
- 3.15.3 A statement that the Company will expect to contract on its own *Terms and Conditions* and not those of the firm and that any variation to this will require the approval of the *Legal Services Procurement Team*.
- 3.15.4 A description of the goods works or services to be procured.
- 3.15.5 Details of how the goods, works or services to be procured should be priced.
- 3.15.6 a statement as to whether the *Tender* will be evaluated on price alone or on other criteria and, if the latter applies, a statement as to what those criteria are;
- 3.15.7 A statement that the *Tender* will only be considered if it is:-
- 3.15.7.1 Made in writing and returned by the deadline given.
- 3.15.7.2 Signed by an appropriate officer of the firm (preferably on headed paper).

- 3.15.7.3 Returned in a plain sealed envelope displaying only a label containing the reference number of the Tender, the return address of the *Finance Manager (Procurement & Payments)* and the closing date and time for the return of the *Tender*. (A postage stamp or customs declaration (or similar) shall not be regarded as being in contravention of this requirement)
- 3.15.8 A reasonable deadline for the receipt of the *Tender* and the address (which shall be that of the *Finance Manager (Procurement & Payments)*), to which to return the *Tender*.
- 3.15.9 Details of any other specific conditions that will apply to the procurement.
- 3.16 A record must be kept of the evaluation criteria and the scores each firm receives in relation to such criteria. A detailed written record of the methodology used to award, needs to be kept by the *Finance Manager (Procurement & Payments)*.

3D Tender Procurement Route over the EU Thresholds (£139,893 or 3,497,313 or more)

- 3.17 **A minimum of five Tenders must be sought.** In some circumstances where the *EU Public Procurement Rules* apply, it may be a requirement that a minimum of five Tenders is sought. It is necessary therefore to seek and follow advice from the Legal Services Procurement Team where the *EU Public Procurement Rules* apply (i.e. where the Contract value is above the *EU Threshold*).
- 3.18 *Tenders* must be invited by way of a written *Invitation to Tender ("ITT")*. This is a detailed procurement-specific document. Advice on this document can be sought by the *Legal Services Procurement Team* in any case but must be sought if the *EU Public Procurement Rules* apply. In those cases where the *Finance Manager (Procurement & Payments)* has not undertaken the procurement on behalf of the *Officer*, the *Officer* must pass the documentation required under PPR 3.19 to the *Finance Manager (Procurement & Payments)* to be checked and dispatched by her to the short-listed firms. This requirement can only be dispensed with by the prior written agreement of the *Finance Manager (Procurement & Payments)*.
- 3.19 As a minimum, an Invitation to Tender must include:-
- 3.19.1 The *Contractor Evaluation Questionnaire* or a Pre-Qualification Questionnaire (PPR 2.10 to 2.11 above gives further details about this Questionnaire is appropriate), unless any of the four situations set out in PPR 2.6 apply.

- 3.19.2 Full details of the *Tender* process, including the deadline for receipt of *Tenders* and the address for *Tenders* to be returned. (All *Tenders* must be addressed to the *Finance Manager (Procurement & Payments)*).
- 3.19.3 A specification for the goods, works or services to be procured for the firm to bid against.
- 3.19.4 Details regarding the information which must be provided by the firm in their *Tender*, including details on pricing and any other information which is needed to evaluate the *Tender* in accordance with the *Tender* evaluation criteria (for example, if evaluation is to be based on the firm's experience of delivering services of a particular type, it is important to specify that the firm gives detailed information about their experience in that area).
- 3.19.5 A record must be kept of the evaluation criteria and the scores each firm receives in relation to such criteria. A detailed written record of the methodology used to award, needs to be kept by the *Finance Manager (Procurement & Payments)*.
- 3.19.6 *Contractual* terms and conditions prepared or approved by the *Legal Services Procurement Team*.
- 3.19.7 A statement that the *Tender* will only be considered if it is:-
 - 3.19.7.1 Made in writing and returned by the deadline given.
 - 3.19.7.2 Signed by an appropriate officer of the firm (preferably on headed paper).
 - 3.19.7.3 Returned in a plain sealed envelope displaying only a label containing the reference number of the *Tender*, the return address of the *Finance Manager (Procurement & Payments)*, and the closing date and time for return of the *Tender*. (A postage stamp or customs declaration (or similar) shall not be regarded as being in contravention of this requirement).
- 3.19.8 A reasonable deadline for the receipt of the *Tender* and the address (which shall be that of the *Finance Manager (Procurement & Payments)* to which to return the *Tender*.
- 3.19.9 Details of any other specific conditions that will apply to the procurement.
- 3.19.10 A requirement by the tenderer to truthfully declare that the no part of the *Tender* content has been declared to any other party (except where such a disclosure is made in confidence for a purpose necessary to prepare the *Tender*

3.19.11 Notification that Tenders are submitted to the Company on the basis they are compiled at the tender's expense.

3.20 Officers must carry out a scoring exercise which assesses the firms' Tender against the evaluation criteria. Officers must also keep a detailed written record of the reasons for selecting the successful firm. This documentary evidence sent to the *Finance Manager (Procurement & Payments)*.

3E Negotiation Procurement Route

3.21 A procurement may be carried out by way of negotiating a *Contract* with a particular firm only in the exceptional circumstances set out below.

3.22 A *Contract* may be negotiated without seeking either *Written Quotations* or *Tenders* only where:-

3.22.1 The requisitioning *Delegated Officer* authorises in writing that such negotiation is in the best interest of the Company. For this purpose, the standard *Authorisation to Negotiate Form* must be used and is attached at Appendix 4. In cases of urgency, and only where it is impractical to give prior authorisation, *the Delegated Officer* may authorise the negotiation retrospectively giving full details of the circumstances involved; **AND**

3.22.2 Such negotiation is permitted under the *EU Public Procurement Rules* (which will apply if the estimated *Contract* value is above the *EU Threshold*).

3.23 For all *Contracts* with a total estimated value of £100,000 or more, the written approval of the Director of Finance and Resources must be obtained for YHN procurements and the Chief Finance Officer for HRA procurements, before negotiations may commence.

3.24 If a *Contract* has been negotiated using this route, the *Delegated Officer* shall only award the *Contract* if satisfied that the negotiated price and such other terms and conditions which may have been negotiated represent best value for money and will be in the best interests of the Company. A full written record must be kept of the negotiation process including details of any meetings or other discussions with the firm and their outcome is to be kept by the *Finance Manager (Procurement & Payments)*.

3.25 The *Finance Manager (Procurement & Payments)* must receive a copy of the form once it has been signed by the applying Officer and the *Delegated Officer*. Any further approval will be obtained by the *Finance Manager (Procurement & Payments)*.

Given these requirements, there is no need to record the authorisation to negotiate on the Delegated Decision system although and subsequent

decision to award the contract as a result of the negotiation will still need to be recorded in the usual way.

- 3.26 The Director of Finance and Resources will report to Procurement Committee every six months detailing each *Contract* with a total estimated value greater than £5,000 that has been let without formal competition. Every such report shall highlight any case where a retrospective authorisation has been given under PPR 3.22.1.
- 3.27 For the avoidance of doubt, the requirement to carry out a risk assessment in PPR 2.6 to 2.12 still applies under this procurement route.

Chapter 4 - Receipt and Opening of Written Quotations and Tenders

4A Receipt and Opening of Written Quotations and Tenders

- 4.1 *Written Quotations and Tenders* received must be:-
- 4.1.1 Date and time stamped or otherwise marked on the envelope on receipt.
 - 4.1.2 Retained in a secure place until opened.
 - 4.1.3 Opened within a reasonable period after the closing date and time for return of the *Written Quotations and Tenders*.
 - 4.1.4 Recorded at the time of opening on a "Summary of Quotations / Tenders Received Form" which is attached at Appendix 5.
- 4.2 *Tenders* with an estimated value of £139,893 or more must be opened only by one officer nominated by the *Finance Manager (Procurement & Payments)* and one officer nominated by the Council's *Chief Legal Officer* who must both sign each *Tender* and supporting documents and the "Summary of Quotations / Tenders Received Form" (Appendix 5).
- 4.3 *Written Quotations or Tenders* with an estimated value above £5,000 and below £139,893 must be opened **only** by two officers appointed by the *Finance Manager (Procurement & Payments)* who must both sign each *Written Quotation* and supporting documents and complete the "Summary of Quotations / Tenders Received Form" (Appendix 5) or any other form agreed by the *Legal Services Procurement Team*. This Rule applies even if the *Written Quotations or Tenders* have not been returned to the *Finance Manager (Procurement & Payments)* because of a dispensation under PPR 3.15.8 or 3.19.8.

4B Late Written Quotations and Tenders

- 4.4 *Written Quotations or Tenders* received after the deadline for their return may only be considered in exceptional circumstances and with the prior written consent of the *Legal Services Procurement Team*. The circumstances involved must be documented on the "Summary of Quotations / Tenders Received Form" (Appendix 5).
- 4.5 Late *Written Quotations or Tenders* which are not considered may be opened but only to ascertain the name of the firm submitting the *Written Quotation or Tender*. They must be returned promptly to the firm in question with a written explanation of why they have not been considered. No details of the *Written Quotation or Tender* are to be disclosed by any officer to anyone within or outside of the Company.

4C Errors in Written Quotations and Tenders

- 4.6 Where examination of *Written Quotations* or *Tenders* received reveals errors or discrepancies which would affect the *Written Quotation* or *Tender* figure(s) in an otherwise successful *Written Quotation* or *Tender*, the firm is to be given details of such errors (in writing) and afforded the opportunity of confirming the *Written Quotation* or *Tender* as it stands or withdrawing it .

Chapter 5 - Evaluation of Written Quotations and Tenders

5A Evaluation

Price Only

- 5.1 If the procurement process stipulated the *Contract was to be* awarded using the criterion of price only, a *Contract* must be offered to the firm who submitted the *Written Quotation* or *Tender* stipulating the lowest price, **except** where that firm has failed to meet the Company's minimum standards in the written risk assessment carried out in accordance with PPR 2.6 to 2.13 above **or** where the *Delegated Officer* is not satisfied that the price represents best value for money.

Other Criteria

- 5.2 If the procurement process stipulated the *Contract* was to be awarded on criteria other than just price, a formal recorded evaluation process must be carried out by a properly constituted evaluation team following the receipt of *Written Tenders*. This team will undertake a process of weighting each of the evaluation criteria stipulated in the documentation prior to inviting *Written Tenders*. Where the *EU Public Procurement Rules* apply, the weightings for the criteria must be specified in the *Invitation to Tender*.
- 5.3 If the procurement proceeds to *Contract* award, the *Contract* must be awarded to the firm which achieves the best result in the evaluation process (if it is to be awarded at all).
- 5.4 If on evaluating a *Written Tenders*, it becomes clear that the firm submitting a *Written Tender* has specified that their own terms and conditions are to apply to the provision of goods, works or services, the matter must be referred to the *Legal Services Procurement Team* before accepting the *Written Tender* or continuing further with the procurement.
- 5.5 Advice and guidance on how to undertake an evaluation of *Tenders* is available from the *Finance Manager (Procurement & Payments)*.

5B Post-Written Quotation/Tender Negotiations

- 5.6 Following receipt and opening of *Written Quotations* or *Tenders*, any subsequent negotiation of minor terms other than on price must be authorised by a *Delegated Officer* in writing and any subsequent negotiation of significant terms other than on price may only be negotiated in exceptional circumstances and with the agreement of the *Legal Services Procurement Team*. If there is any doubt as to whether a term is minor or significant, *Officers* must seek and follow the advice of the *Legal Services Procurement Team*.
- 5.7 Any post-*Written Quotation/Tender* negotiation on price may only be authorised by a *Delegated Officer* where:

- 5.7.1 The lowest *Written Quotation/Tender* received exceeds the estimated value of the *Contract* and the available budgeted resources.
 - 5.7.2 If the *EU Public Procurement Rules* apply, that they permit any negotiation. The *Legal Services Procurement Team* will advise on this.
- 5.8 If there is post-*Written Quotation/Tender* negotiation on price:
- 5.8.1 All firms submitting a price within 5% of the lowest *Written Quotation/Tender* should be invited to take part.
 - 5.8.2 Invitations to take part must be in writing and require written acceptance.
 - 5.8.3 A detailed written record must be kept of all negotiations and the negotiated sum.
- 5.9 Officers are reminded of the requirements of PPR 3.12, 3.16 and 3.20.

5C Post-Written Quotation/Tender Clarification

- 5.10 Providing clarification of a request for a *Written Quotation* or an *Invitation to Tender*, or seeking clarification of a *Written Quotation* or *Tender*, either in writing or by way of a meeting, is permitted. However, discussions with firms after submission of *Written Quotations* or *Tenders* before the award of a *Contract* with a view to obtaining adjustments in price, delivery or content (i.e. post-tender negotiations) must be the exception rather than the rule as provided for in Chapter 5B above. The *EU Public Procurement Rules* impose particular restrictions upon post-tender negotiations and it is therefore important to obtain legal advice where these apply.

Chapter 6 - Acceptance of Quotations and Tenders

6A Acceptance of Quotations and Tenders

- 6.1 Before a *Contract* is entered into, there must be a proper decision (which includes a *Delegated Officer* decision) by a *Delegated Officer* or a Committee authorising the Company to enter into the *Contract*. The *Officer* must determine whether that decision should be formally recorded on the delegated decision.
- 6.2 *Delegated Officers* may accept *Tenders*, subject to compliance with the Procedure for the Commitment of Capital Expenditure (see Financial Regulation 4). *Tenders* not complying with that Procedure must be reported to the Director of Finance and Resources for approval.
- 6.3 *Contracts* under £139,893 in value for goods and services must be awarded either by placing an *Order* in accordance with PPR 8.5 to 8.6 below or by signing a *Formal Contract* as under PPR 8.7 below. An *Order* must be signed as set out at PPR 9.2.
- 6.4 All *Contracts* (if not under seal) must be awarded by the signing of the appropriate *Contract* in accordance with PPR 8.7 and 9.3, unless it is sealed.
- 6.5 Any correspondence sent to the successful firm prior to *Contract* completion must be headed 'Subject to Contract'.
- 6.6 If the *EU Public Procurement Rules* apply (i.e. if the *Contract* value is above the *EU Threshold*), there are special requirements before a *Contract* can be entered into. Generally, these involve issuing a notice of award to all firms advising which *Tender* the Company proposes to accept and then allowing at least ten working days before entering into that *Contract* to allow any aggrieved firm to challenge the process. If an unsuccessful firm requests a written debrief, this must be provided. The *Legal Services Procurement Team* should be consulted about these requirements.
- 6.7 Every payment under a *Contract* must be made through the POP System unless the *Finance Manager (Procurement & Payments)* has granted a written exemption from the payment being made in that way and s/he is satisfied that this is justified because of the exceptional circumstances in any particular case. This power will not be used to grant general exemptions from this requirement.
- 6.8 *Officers* will ensure that adequate post-*Contract* monitoring is undertaken.

Chapter 7 – Exceptional Procedures

7A Exceptional Circumstances relating to the Purchase of Goods, Works or Services

7.1 In cases where there is an opportunity to purchase goods, materials or related services at an exceptionally favorable price or delivery terms, and the Company is likely to lose the advantage of cost or delivery if purchase is delayed by complying with these requirements, the *Finance Manager (Procurement & Payments)* may proceed with the purchase without complying with the requirements of these *Rules*, subject to the prior written consent of the Director of Finance and Resources and compliance with the *EU Public Procurement Rules*.

7B Contracts where Payment is made in Advance

7.2 No *Contract* or commitment shall be entered into for goods, materials, works or services for which the firm requires payment in advance until all of the following have been undertaken:

7.2.1 The *Delegated Officer* has undertaken a documented appraisal of the risks and is satisfied that such payment is reasonable and is in the best interest of the Company.

7.2.2 The *Chief Legal Officer* has put in place the appropriate contractual arrangements to ensure that the risk to the Company is minimized in the event of the firm failing to deliver the required products under the *Contract* for whatever reason, and has confirmed in writing to the requisitioning *Delegated Officer* that this has been done.

7.3 PPR 7.2 does not apply where there is a statutory requirement to make payments in advance.

7C Letters of Intent

7.4 *Letters of Intent* shall only be used in the **most exceptional** circumstances. A '*Letter of Intent*' is a letter or other similar documentation which permits a firm to commence performance of a *Contract* in lieu of any other binding and *Formal Contract* documentation being in place.

7.5 If the value of any *Contract* does not exceed £100,000, any *Letter of Intent* must be agreed in advance of issue by the *Legal Services Procurement Team*.

7.6 Any *Letter of Intent* in relation to a proposed *Contract* with a value exceeding £100,000 must:

7.6.1 Be signed by the relevant *Delegated Officer*.

- 7.6.2 Be agreed in advance of issue by the Director of Finance and Resources and the Head of Legal Services, after consultation with the Chair or Vice-chair of Board or Chair of Finance Committee.

Note: A *Letter of Intent* shall not in any event be issued without a proper decision having first been made to award the *Contract* under PPR 6.1. In the case of a *Contract* appointing a *Consultant* such a decision must also be made in accordance with Appendix 3 of these *Rules*.

7D Private Finance Initiative (PFI) Schemes

- 7.7 Where a *Contract* is designated as a *PFI Scheme* by the *Chief Finance Officer*, the award of a *Contract* shall be made according to the procedures laid down by Central Government and the *EU Public Procurement Rules*.
- 7.8 In the event that these *Rules* conflict with those procedures listed in PPR 7.7, the latter shall take precedence.
- 7.9 On all occasions when awarding a *Contract* designated as a *PFI Scheme*, *Officers* must seek and follow advice from the *Legal Services Procurement Team* and the Director of Finance and Resources.

7E Bonds and Parent Company Guarantees

- 7.10 Consideration should always be given to the possible need for a Bond or a Parent Company Guarantee where the circumstances of the case suggest this may be appropriate to better protect the Company's interests. The advice of the Director of Finance and Resources should be sought about this in appropriate cases. A Bond may for instance be appropriate for very high value Contracts for works, or where advance payments are proposed under PPR 7.2 and there is any concern about the financial stability of the successful firm. A Parent Company Guarantee may be appropriate where the successful firm is a subsidiary of a parent company and the risk assessment has included an evaluation of that parent company, or where it is a high value Contract and there is any doubt about the financial stability of the subsidiary.

Chapter 8 - Contractual Requirements

8A Minimum Contractual Requirements

- 8.1 Every *Contract* or agreement (whether for the purchase of goods, materials & related services, the execution of works, or the provision of other services) shall be in writing as specified in PPR 8.2. Verbal agreements are not permitted.
- 8.2 Every contract or agreement shall be in the form of either:-
- 8.2.1 An Official *Order* attaching a set of the Company's standard Terms and Conditions.
- 8.2.2 Such other *Formal Contract* as may be drafted or approved by the *Legal Services Division*.
- 8.3 When the *Contract* value is less than £139,893 *Officers* may use an Official *Order* attaching standard *Terms and Conditions* but if an *Officer* has any doubt about the use of an Official *Order* adequately protecting the Company's interests having regard to the nature or subject matter of the contract, s/he must seek the advice of the *Legal Services Procurement Team*. Where the *Contract* value is £139,893 or more, *Officers* must seek and follow advice from the *Legal Services Procurement Team* as to whether a *Formal Contract* (instead of an Official *Order*) must be used and, if so, which form of *Formal Contract*. For the avoidance of doubt, an Official *Order* with *Terms and Conditions* may only be used for a contract in excess of £139,893 with the express approval of the *Legal Services Procurement Team*.
- 8.4 Before the successful firm commences work or other performance of the *Contract*, *Officers* must ensure that either an Official *Order* with *Terms and Conditions* attached is issued or a specifically-drafted *Formal Contract* is signed by both parties.

8B Official Orders

- 8.5 Wherever possible, an *Order* must be placed through the *POP System* to maximise efficiency. If it is proposed not to place an *Order* through that system because of any general exemption from doing so issued by the *Finance Manager (Procurement & Payments)* or for any other reason, the *Officer* must consult with the *Finance Manager (Procurement & Payments)* to ascertain the most appropriate method of placing the *Order*.
- 8.6 An Official *Order* must be in a type of form, containing the types of information and other details, as has been approved by the *Finance Manager (Procurement & Payments)*.

8C Form of *Formal Contract*

8.7 Any *Formal Contract* must be in a form which has been agreed by the *Legal Services Division*.

Chapter 9 - Execution of Contracts and Contract Variations / Extensions

9A Sealing

- 9.1 The Seal shall be affixed to the following:
- 9.1.1 *Contracts* made without consideration, e.g. a gift.
 - 9.1.2 Any other *Contract* which by law must be under seal, e.g. a conveyance of land or interest in land.
 - 9.1.3 Any other *Contract* which in the view of the *Chief Legal Officer* ought to be sealed, e.g. where he or she considers it would be prudent to have a statutory limitation period of 12 years for suing for breach of *Contract* rather than 6 years for *Contracts* not under seal.

9B Signing

- 9.2 Subject to PPR 9.1 above and provided that the necessary approvals have been obtained all **Orders** shall be signed personally by a *Delegated Officer* or an officer authorised by him/her.
- 9.3 All YHN **Contracts** (not under seal) shall be signed personally by the Chair of YHN Board and witnessed by a member of the YHN Management Team in the first instance, or the specified deputies documented below under category A in their absence

All HRA **Contracts** (not under seal) shall be signed personally by the Chair of YHN Board, witnessed by a member of the YHN Management Team, NCC Director of Finance and Resources and NCC Head of Corporate/Commercial Law in the first instance, or the specified deputies documented above under categories B in their absence.

CATEGORY A	CATEGORY B
All YHN Contracts	All HRA Contracts
Chair of YHN Board / Board Member (Director)	Chair of YHN Board / Board Member (Director)
YHN Management Team Member (Witness)	YHN Management Team Member (Witness)
	NCC Director of Finance and Resources
	NCC Head of Corporate/Commercial Law

9C Contract Variations

- 9.5 Once entered into, a *Contract* may only be varied under the written authorisation of a *Delegated Officer* where s/he considers it is in the best interests of the Company.

9D Contract Extensions

- 9.6 A *Contract* may be extended in accordance with its express terms under the written authorisation of a *Delegated Officer*.
- 9.7 Where a *Contract* does not contain any express provision for extension, *Contract Extensions* will not be permitted except in exceptional circumstances which meet the criteria set out in the *EU Public Procurement Rules*. The *Legal Services Procurement Team* will advise on these requirements. Any such exceptional extension must be agreed in writing by a *Delegated Officer* and the *Director of Finance & Resources* and be justified as achieving best value for money.

Chapter 10 - E-Tendering

10A E-Tendering

- 10.1 *Written Quotations* and *Tenders* may be sought and received by electronic means. In those circumstances where the *Delegated Officer* elects to carry out *E-Tendering*, only the *Finance Manager (Procurement & Payments)* shall do this.
- 10.2 It is essential that evidence be recorded that the transmission was successful or unsuccessful. Electronic submissions are to be kept in a separate secure electronic folder until the deadline and must be opened in accordance with PPR 4.1 to 4.3
- 10.3 All processes used in e-tendering must conform to the Company's current IT security guidance and protocols.
- 10.4 Where E-Tendering is used in accordance with this Chapter, any requirements elsewhere in these *Rules* that *Written Quotations* or *Tenders* be sought or returned in writing shall not apply.

Chapter 11 - Definitions

11A Definitions

The following words which are italicised shall have the meaning as defined below:-

'Authorisation to Negotiate Form' means the form (attached at Appendix 4) to be used for recording when a Delegated Officer has decided that the use of the negotiation procedure under PPR 3.21 to 3.27 is in the best interest of the Company;

"Bond" means an insurance policy under which if a contractor fails to perform the contract the *Company* can claim the sum of money specified in the *Bond*, often 10% of the Contract value;

'Central Purchasing Body' means a public authority which may have already procured a Framework Agreement of which the Company is able to take advantage and award a Contract in accordance with the Framework Agreement;

'Chief Finance Officer' means the Newcastle City Council Director of Finance and Resources or any other officer nominated in writing to act on his behalf;

'Chief Legal Officer' means the Newcastle City Council Heads of Corporate/Commercial Law or any other officer nominated in writing to act on their behalf;

'Consultant' means any individual or organisation engaged for all of the following purposes – (a) to provide expert analysis and advice which **facilitates decision making** and (b) to perform a specific one-off task or set of tasks and (c) to perform a task involving skills or perspectives which would not normally be expected to reside within the Company.

'Contract' means any contract for the supply of goods, execution of works or provision of services;

'Contract Extension' means the extension of the term of a Contract;

'Contractor Evaluation Questionnaire' means a questionnaire (available from the *Legal Services Procurement Team*) to be used where the *EU Public Procurement Rules* do not apply and which will be used to assess whether firms have satisfied the Company's risk assessment criteria as set out at PPR 2.8;

'Corporate Procurement Strategy' means the Company's procurement strategy which details the Company's strategic objectives which must be adhered to when undertaking a procurement and which can be found on the Intranet site;

'Delegated Officer' means any officer who has delegated decision-making powers, that is Directors;

'Director of Finance & Resources' means the Director of Finance & Resources or any other officer nominated in writing to act on his behalf;

'E-Tendering' means the procurement of a Contract by electronic means either by seeking Written Quotations or Tenders;

'EU Public Procurement Rules' means The Public Contracts Regulations 2006 which are also the statutory rules which implement the relevant European Directive for the procurement of public contracts with which the Company must comply;

'EU Threshold' means the financial threshold as dictated by the European Commission which, when breached, will invoke application of the EU Public Procurement Rules. The threshold levels for the period from 1 January 2008 are as follows:

Contracts for Supplies -	£139,893
Contracts for Services -	£139,893
Contracts for Works -	£3,497,313

'Formal Contract' means the formal documentation (other than *an Order*) which is signed by the parties to a contract and which acts as evidence of that contract;

'Framework Agreement' means an agreement which is not in itself a Contract but which establishes the terms (in particular as to price and, where appropriate, quantity) under which the firm will enter into one or more Contracts with the Company during the period in which the Framework Agreement applies;

'Invitation to Tender' or 'ITT' means a procurement-specific document drafted in order to give instructions to firms wishing to tender for the award of a Contract (an example of which is available from the Legal Services Procurement Team);

'Legal Services Division' means any solicitor employed within the Legal Services Division.

'Legal Services Procurement Team' means any solicitor currently employed within the Legal Services Procurement Team.

'Letter of Intent' means a letter or other similar documentation which permits a firm to commence performance of a Contract in lieu of any other binding and *Formal Contract* being in place;

'Officer' means any officer of the Company authorised by a Delegated Officer to undertake a procurement on behalf of the Company;

'OJEU Notice' means an advertisement posted in the Official Journal of the European Union (which is the advertising medium for all notices subject to the EU Public Procurement Rules);

'Order' means an official order form complying with PPR 8.5 and 8.6 which details the goods, works or services to be provided to the Company and authorises the successful firm to provide these;

'PFI Scheme' means a project which receives Private Finance Initiative (PFI) funding from HM Treasury;

'Parent Company Guarantee' means a contract which binds the parent of a subsidiary company to perform the contract if the subsidiary fails to do so;

'Post-Contract Variation' means variation to a Contract which is to be made after a Contract has been legally entered into;

'Pre-Procurement Checklist' means a guide (available from the *Finance Manager* (Procurement & Payments)) suggesting considerations for an upcoming procurement and how best to plan the procurement;

'Pre-Qualification Questionnaire' means a questionnaire (available from the Legal Services Procurement Team) to be used where the EU Public Procurement Rules apply which when completed will be used to assess whether a firm has satisfied the Company's risk assessment criteria as set out at PPR 2.8 and may shortlist firms to be invited to submit a tender;

'POP System' means the Purchase Order Processing System held by the *Finance Manager* (Procurement & Payments) which permits Officers to order supplies and services where an existing Framework Agreement exists or otherwise;

'Finance Manager (Procurement & Payments)' means the officer tasked with facilitating procurements within the Company;

'Quotation' means a *Written Quotation*;

'Rules' means these *Procurement Procedure Rules*,

'Standing List' means a list of contractors or firms who have all satisfied the risk assessment criteria listed at PPR 2.8 and who may thereby be eligible for selection to participate in a procurement process under PPR 2.1.4;

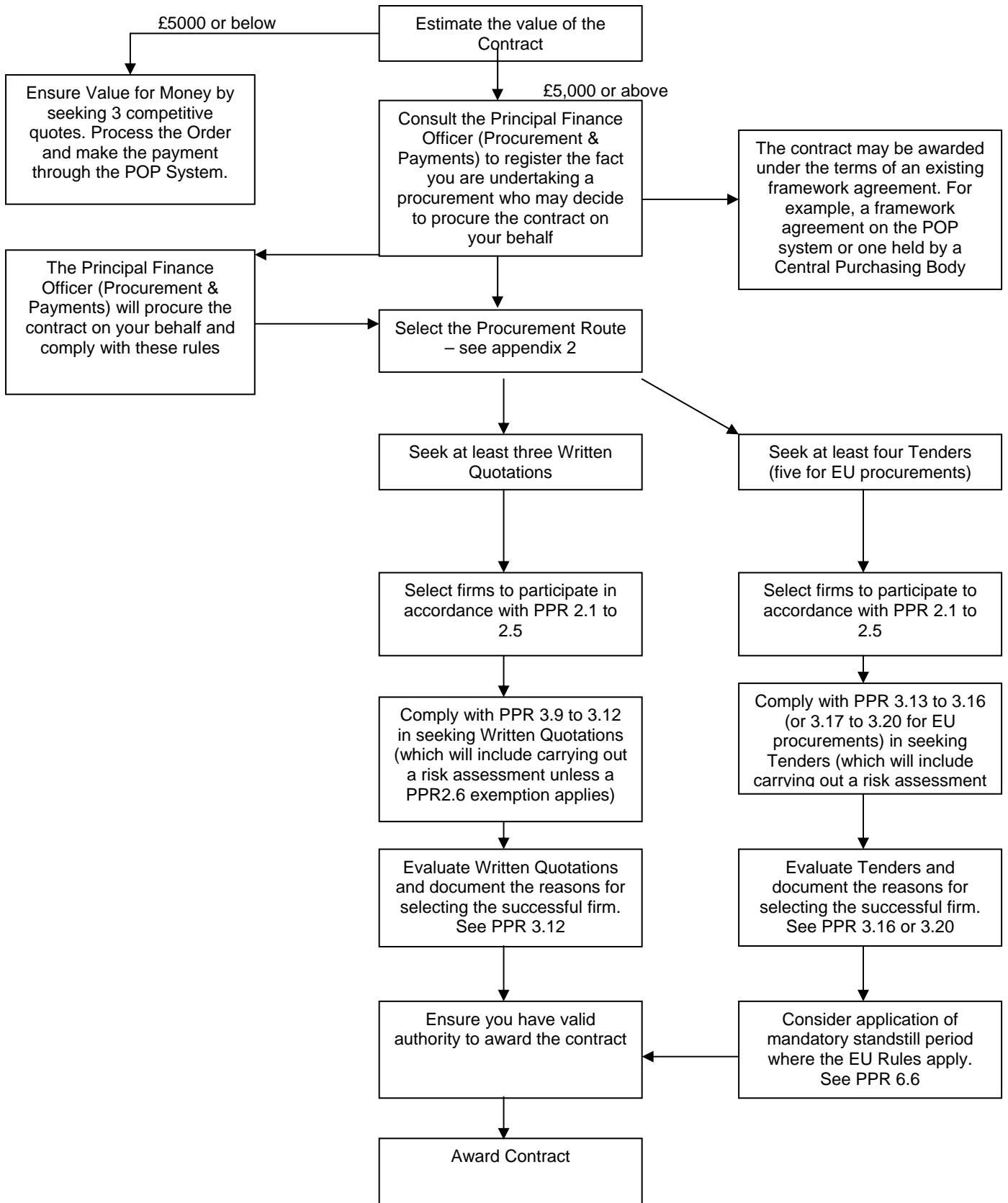
'Summary of Quotations/Tenders Received Form' means a pro forma document at Appendix 5 and also available from the Legal Services Procurement Team which must be completed when receiving Quotations or Tenders;

'Tender' means the written proposal submitted by a firm in response to the Invitation to Tender;

'Terms and Conditions' means a set of non-negotiable terms specific to a contract (albeit they may be of a general nature) which are designed to protect the legal position of the Company; and

'Written Quotation' means a written submission (which can be evaluated on price alone or on other criteria) from a firm for carrying out a contract for supplies, works or services.

APPENDIX 1 – FLOWCHART FOR PROCURING CONTRACTS



NB. This is guidance only and officers must follow the *Rules*. If in doubt, officers should seek advice from the *Legal Services Procurement Team*.

APPENDIX 2 – GUIDANCE ON FINANCIAL THRESHOLDS AND DOCUMENTATION / AUDIT REQUIREMENTS

Total Value	Procurement Route	Documentation Requirements	Evidence for Audit Purposes
Up to £5,000	<p align="center">A Delegated Officer must be satisfied good value for money is obtained - see PPR 1.4</p>	<p align="center">Three competitive quotes suggested(written or oral). If oral must be confirmed in writing. All payments must be made and all Orders processed via the POP system.</p>	<p align="center">Officers must keep a written record of all quotations received and (if applicable) any reason why it was considered inappropriate to obtain three quotations</p>
£5,000 to £139,893 or £3,497,313	<p align="center">SEEK AT LEAST THREE WRITTEN QUOTATIONS – follow PPR 3.9 to 3.12. Quotations must be sought by written means and submitted by a certain date. Quotations must be invited by, and returned to, Procurement Team, unless agreed otherwise by <i>Finance Manager (Procurement & Payments)</i></p>	<p align="center">The complete list of documentation required to undertake the procurement is stated at PPR 3.11 which must be checked and dispatched by the <i>Finance Manager (Procurement & Payments)</i> unless he agrees otherwise. The successful firm must pass the risk assessment requirements unless exempt under PPR 2.6.. An Order (attaching the standard Terms and Conditions) may be placed with the successful firm, otherwise a <i>Formal Contract</i> is needed, before the firm commences work. All Orders must be processed and payments made through the POP system.</p>	<p align="center">Officers must:- 1. keep a written record of the evaluation criteria (unless awarded on price only) and the scores each firm received in relation to such criteria as well as keep a detailed written record of the reasons for selecting the successful firm; 2. retain a copy of the <i>Formal Contract</i> or evidence of placing the Order and a copy of the Terms and Conditions; and 3. retain a completed Summary of Quotations/Tenders Received Form</p>

Total Value	Procurement Route	Documentation Requirements	Evidence for Audit Purposes
£5,000 to £139,893 or £3,497,313	<p>SEEK A MINIMUM OF FOUR TENDERS</p> <p>- follow PPR 3.13 to 3.16.</p> <p>Tenders must be sought by means of issuing an Invitation to Tender. Tenders must be invited by, and returned to, the <i>Finance Manager (Procurement & Payments)</i>, unless agreed otherwise by <i>Finance Manager (Procurement & Payments)</i></p>	<p>The complete list of documentation required to undertake the procurement is stated at PPR 3.15 which must be checked and dispatched by the <i>Finance Manager (Procurement & Payments)</i> unless he agrees otherwise.</p> <p>Officers must seek approval from the Legal Services Procurement Team if the EU Rules apply.</p> <p>The successful firm must pass the risk assessment requirements unless exempt under PPR 2.6.</p> <p>There must be a <i>Formal Contract</i> in place before the firm commences work.</p> <p>All Orders must be processed and payments made through the POP system.</p>	<p>Officers must:-</p> <ol style="list-style-type: none"> 1. carry out and evidence a scoring exercise which assesses the firms' Tenders against the evaluation criteria (unless awarded on price alone) and keep a detailed written record of the reasons for selecting the successful firm for at least three months; 2. retain a copy of the Contract; and 3. retain a completed Summary of Quotations/Tenders Received Form;
£139,893 or £3,497,313 and above	<p>SEEK A MINIMUM OF FIVE EU TENDERS</p> <p>- follow PPR 3.17 to 3.20.</p> <p>Tenders must be sought by means of issuing an Invitation to Tender. Tenders must be invited by, and returned to, the <i>Finance Manager (Procurement & Payments)</i>, unless agreed otherwise by <i>Finance Manager (Procurement & Payments)</i></p>	<p>The complete list of documentation required to undertake the procurement is stated at PPR 3.19 which must be checked and dispatched by the <i>Finance Manager (Procurement & Payments)</i> unless he agrees otherwise.</p> <p>Officers must seek approval from the Legal Services Procurement Team if the EU Rules apply.</p> <p>The successful firm must pass the risk assessment requirements unless exempt under PPR 2.6.</p> <p>There must be a <i>Formal Contract</i> in place before the firm commences work.</p> <p>All Orders must be processed and payments made through the POP system.</p>	<p>Officers must:-</p> <ol style="list-style-type: none"> 1. carry out and evidence a scoring exercise which assesses the firms' Tenders against the evaluation criteria (unless awarded on price alone) and keep a detailed written record of the reasons for selecting the successful firm for at least three months; 2. retain a copy of the Contract; and 3. retain a completed Summary of Quotations/Tenders Received Form;
Any Value over £5,000	<p>NEGOTIATION WITH ONE FIRM</p> <p>– follow PPR 3.21 to 3.27.</p>	<p>The firm must pass the risk assessment and there must be contractual terms in place before the firm commences work.</p> <p>Officers must first ensure that any negotiation with one firm complies with EU Rules (and seek legal advice to this end) and obtain an Authorisation to Negotiate.</p> <p>All payments must be made and all Orders processed via the POP system.</p>	<p>Officers must:-</p> <ol style="list-style-type: none"> 1. retain a copy of a completed Authorisation to Negotiate Form which has been signed by a Delegated Officer and evidence of all procedures complied with in accordance with PPR 3.21 to 3.27; and 2. retain a copy of the Contract.

NB. This is guidance only and officers must follow the *Rules*. If in doubt, officers should seek advice from the *Legal Services Procurement Team*.

APPENDIX 3 – PROCEDURE FOR APPOINTING CONSULTANTS

Appointment of *Consultants* – Additional Requirements

(PPR 1.8 to 1.10)

The following additional requirements must be met when appointing a *Consultant*.

For these purposes, a *Consultant* is defined as “any individual or organisation engaged for all of the following purposes – (a) to provide expert analysis and advice which **facilitates decision making** and (b) to perform a specific one-off task or set of tasks and (c) to perform a task involving skills or perspectives which would not normally be expected to reside within the Company.”

The requirements are:

1. A decision to appoint a *Consultant* shall only be made:
 - (a) by a *Delegated Officer* only after consultation with the Director of Finance & Resources.
2. Every appointment of a *Consultant* shall be registered with the *Finance Manager (Procurement & Payments)* before procurement takes place. On award of contract the consultancy proforma should be completed to include the following information and sent to the *Finance Manager (Procurement & Payments)*
 - identity of consultant
 - brief description of commission
 - authorising or responsible officer
 - anticipated outputs
 - procurement process
 - total value
 - contract term
 - cost centre code
3. Copies of the “Appointment of Consultants” form are available on the intranet under the Forms, Procurements and Payments section.

APPENDIX 4 - AUTHORISATION TO NEGOTIATE FORM

YOUR HOMES NEWCASTLE

CERTIFICATE OF DELEGATED OFFICER'S AUTHORISATION TO NEGOTIATE A CONTRACT

(Pursuant to PPR 3.22)

Please refer to Procurement Procedure Rules 3.21 to 3.27 before completing this Certificate. It explains the limited circumstances where a contract can be negotiated without competition and how this should be done. The Procurement Procedure Rules can be found on YHN's Intranet or by contacting the Finance Manager – Procurement & Payments.

PURPOSE

This certificate evidences the fact that the Delegated Officer named below has authorized under Procurement Procedure Rule 3.22 that the Contract described below may be negotiated with the Contractor (defined below) without obtaining quotations or formal tenders because s/he is satisfied that such negotiation is in the best interest of YHN.

Contract: *[insert name or brief description of proposed contract]*

Estimated contract value: *[insert estimated value of contract]*

Contractor: *[insert name of contractor with whom negotiation is proposed]*

Applying officer: *[insert name and position of officer applying for this authorization]*

Delegated Officer: *[insert name and Title of Director]*

REASONS FOR PROPOSED NEGOTIATION

[The Applying Officer should provide here full and detailed reasons as to why it is considered in the best interests of Your Homes Newcastle to seek to negotiate terms of the Contract with the Contractor instead of seeking at least three competitive quotations, four tenders or five EU tenders].

ENDORSEMENT OF APPLYING OFFICER

I confirm that the information set out above is accurate.

I also confirm, that the *Finance Manager (Procurement & Payments)* has consulted [Chris Turner] of the Legal Services Procurement Team who has advised that such negotiation is permitted under the EU Public Procurement Rules and it is therefore open to the Delegated Officer given the reasons set out above if s/he so chooses to conclude that it is in the best interests of Your Homes Newcastle to negotiate the terms of the contract as proposed.

.....
Signature of Applying Officer *Date*

AUTHORISATION OF DELEGATED OFFICER

I am satisfied that for the reasons set out above it is in the best interests of Your Homes Newcastle to seek to negotiate the terms of the Contract with the Contractor instead of obtaining competitive quotations or tenders. I accordingly authorize such negotiations to proceed pursuant to *Procurement Procedure Rule 3.22*. My further and separate written approval will be required to any contract terms which are negotiated with the contractor.

.....
Signature of Delegated Officer *Date*

AUTHORISATION OF THE DIRECTOR OF FINANCE & RESOURCES

[Note: Where the estimated value of the contract is over £100,000, the written approval of the Director of Finance & Resources is also required].

I approve the proposed negotiation of terms for the reasons given above.

.....
Signature of the Director of Finance & Resources *Date*

THE *FINANCE MANAGER (PROCUREMENT & PAYMENTS)* MUST SEND A COPY OF THIS SIGNED AUTHORISATION TO THE ASSISTANT GENERAL MANAGER PROCUREMENT WHETHER THE CONTRACT EXCEEDS £100,000 OR NOT

APPENDIX 4 - AUTHORISATION TO NEGOTIATE FORM

HOUSING REVENUE ACCOUNT

CERTIFICATE OF DELEGATED OFFICER'S AUTHORISATION TO NEGOTIATE A CONTRACT

(Pursuant to PPR 3.22)

Please refer to Procurement Procedure Rules 3.21 to 3.27 before completing this Certificate. It explains the limited circumstances where a contract can be negotiated without competition and how this should be done. The Procurement Procedure Rules can be found on the YHN's Intranet or by contacting the Finance Manager – Procurement & Payments

PURPOSE

This certificate evidences the fact that the *Delegated Officer* named below has authorized under *Procurement Procedure Rule 3.22* that the Contract described below may be negotiated with the Contractor (defined below) without obtaining quotations or formal tenders because s/he is satisfied that such negotiation is in the best interest of the Council.

Contract: *[insert name or brief description of proposed contract]*

Estimated contract value: *[insert estimated value of contract]*

Contractor: *[insert name of contractor with whom negotiation is proposed]*

Applying officer: *[insert name and position of officer applying for this authorization]*

Delegated Officer: *[insert name and title of Director]*

REASONS FOR PROPOSED NEGOTIATION

[The Applying Officer should provide here full and detailed reasons as to why it is considered in the best interests of the Council to seek to negotiate terms of the Contract with the Contractor instead of seeking at least three competitive quotations or five tenders].

ENDORSEMENT OF APPLYING OFFICER

I confirm that the information set out above is accurate.

I also confirm, that the *Finance Manager (Procurement & Payments)* has consulted [*Chris Turner*] of the Legal Services Procurement Team who has advised that such negotiation is permitted under the EU Public Procurement Rules and it is therefore open to the Delegated Officer given the reasons set out above if s/he so chooses to conclude that it is in the best interests of the Council to negotiate the terms of the contract as proposed.

.....

.....

Signature of Applying Officer

Date

AUTHORISATION OF DELEGATED OFFICER

I am satisfied that for the reasons set out above it is in the best interests of the Council to seek to negotiate the terms of the Contract with the Contractor instead of obtaining competitive quotations or tenders. I accordingly authorize such negotiations to proceed pursuant to *Procurement Procedure Rule 3.22*. My further and separate written approval will be required to any contract terms which are negotiated with the contractor.

.....

.....

Signature of Delegated Officer

Date

AUTHORISATION OF THE CHIEF FINANCE OFFICER

[Note: Where the estimated value of the contract is over £100,000, the written approval of the City Treasurer is also required].

I approve the proposed negotiation of terms for the reasons given above.

.....

.....

Signature of the City Treasurer

Date

THE *FINANCE MANAGER (PROCUREMENT & PAYMENTS)* MUST SEND A COPY OF THIS SIGNED AUTHORISATION TO THE ASSISTANT GENERAL MANAGER PROCUREMENT WHETHER THE CONTRACT EXCEEDS £100,000 OR NOT

**APPENDIX 5 -
YOUR HOMES NEWCASTLE
PROCUREMENT SECTION**

SUMMARY OF QUOTATIONS RECEIVED (Goods & Services) - £5,000 - £139,893

SECTION: _____ REF NO: _____

OFFICER: _____ EXTENSION NO: _____

ADDRESS: _____

QUOTATION
DESCRIPTION: _____

ESTIMATED COST: _____

CLOSING DATE: _____

NUMBER OF QUOTATIONS RECEIVED: _____

LIST OF CONTRACTORS/ COMPANIES INVITED TO QUOTE		
NAME	ADDRESS	£ AMOUNT
<u>LATE QUOTATIONS</u>		

OPENED BY:

PROCUREMENT & PAYMENTS TEAM

WITNESSED BY:

PROCUREMENT & PAYMENTS TEAM

FINAL AUTHORISATION BY

FINANCE MANAGER

DATE:

TIME:

**APPENDIX 5 -
YOUR HOMES NEWCASTLE
PROCUREMENT SECTION**

SUMMARY OF QUOTATIONS RECEIVED (Works) - £5,000 - £3,497,313

SECTION:

REF NO:

OFFICER:

EXTENSION NO:

ADDRESS:

QUOTATION
DESCRIPTION:

ESTIMATED COST:

CLOSING DATE:

NUMBER OF QUOTATIONS RECEIVED:

LIST OF CONTRACTORS/ COMPANIES INVITED TO QUOTE		
NAME	ADDRESS	£ AMOUNT
<u>LATE QUOTATIONS</u>		

OPENED BY:

PROCUREMENT & PAYMENTS TEAM

WITNESSED BY:

PROCUREMENT & PAYMENTS TEAM

FINAL AUTHORISATION BY

FINANCE MANAGER

DATE:

TIME:

**APPENDIX 5 -
YOUR HOMES NEWCASTLE
PROCUREMENT SECTION**

SUMMARY OF TENDERS RECEIVED (Goods & Services) £5,000-£139,893

SECTION:

REF NO:

OFFICER:

EXTENSION NO:

ADDRESS:

TENDER
DESCRIPTION:

ESTIMATED
COST:

CLOSING DATE:

NUMBER OF TENDERS RECEIVED:

LIST OF CONTRACTORS/ COMPANIES INVITED TO TENDER		
NAME	ADDRESS	£ AMOUNT
<u>LATE TENDERS</u>		

OPENED BY:

PROCUREMENT & PAYMENTS TEAM

WITNESSED BY:

PROCUREMENT & PAYMENTS TEAM

FINAL AUTHORISATION BY:

FINANCE MANAGER

DATE:

TIME:

**APPENDIX 5 -
YOUR HOMES NEWCASTLE
PROCUREMENT SECTION
SUMMARY OF TENDERS RECEIVED (Works) £5,000-£3,497,313**

SECTION:

REF NO:

OFFICER:

EXTENSION NO:

ADDRESS:

TENDER
DESCRIPTION:

ESTIMATED COST:

CLOSING DATE:

NUMBER OF TENDERS RECEIVED:

LIST OF CONTRACTORS/ COMPANIES INVITED TO TENDER		
NAME	ADDRESS	£ AMOUNT
<u>LATE TENDERS</u>		

OPENED BY:

PROCUREMENT & PAYMENTS TEAM

WITNESSED BY:

PROCUREMENT & PAYMENTS TEAM

FINAL AUTHORISATION BY:

FINANCE MANAGER

DATE:

TIME: