

## Document Control

Commercial Board Terms of Reference	
Document Owner	Jonathan Fitzgerald-Guy, Assistant Director for Transformation and Commercial
Version	1.1
Date	28 September 2022

## Amendment History

Version Number	Date	Reason for Amendment
1	20/9/22	First Draft for consideration
2	28/09/22	Amended First Draft

### 1. Purpose of the Commercial Board

The Commercial Board provides senior management oversight and direction on the Council's procurement, contract management and commercial activities.

The Board will consider and/or approve:

- Request to undertake procurement above threshold, including the proposed commercial approach to sourcing
- Request to extend or terminate contracts above threshold
- Contract performance and status reports for those contracts classified as Gold (or where requested), as well as supplier risk reports
- Procurement Strategies
- Negotiation strategies for Gold contracts where requested
- Variations to Contract Standing Orders and Procurement Code and Thresholds
- Procurement Pipeline and Forward Plan
- Exemptions and non-compliances
- Audit findings
- Commercial opportunities for income generation
- Legislative changes to procurement law
- Market reports (where deemed appropriate / requested)

### 2. Board Responsibilities

The Board will not be formally constituted; however, the board will be vested with the authority of the individual members, existing procurement policy and constitutional requirements. The board will consequently have authority to:

- Approval or reject requests to procure goods, works or services above threshold, noting that for any contract above £500,000, further approvals may also be required from Cabinet/Full Council.
- Approve, vary or reject the sourcing strategy/approach to securing the goods/works/services
- Approvals or reject requests to extend contracts (save always that extensions are provided for within the agreement)

- Approve Procurement Strategies

In addition to the approval’s governance, the board will:

- Provide advice and direction on sourcing and contracting activities
- Provide advice and guidance on negotiations or contractual disputes
- Provide advice and guidance on procurement legislation
- Provide advice and guidance on prevailing market conditions and their implications by category
- Provide advice and guidance on any policy changes, processes and system changes that pertain to the full life cycle of the Source to Pay, Supplier Risk, Performance and Relationship Management

### 3. Board Objectives

The objectives of the Board are to:

- Ensure best value is delivered from the Council’s spend with external organisations throughout the whole life cycle, giving due consideration to total cost and value of ownership / delivery
- Ensure that there is a consistent approach to procurement, contract management and commercial activity across the Council
- To ensure those responsible for third party spend are equipped to do so, with the provision of the right support and training to enable them to achieve the best commercial outcomes
- To ensure strategic contracts are well managed and that performance is scrutinised appropriately
- To provide transparency of procurement and commercial activity, and effective governance of the key commercial decisions

### 4. Membership

The Board will be chaired by the Chief Executive Officer and supported by the Strategic Director for Commercial and Change, the Assistant Director of Transformation and Commercial, and the Chief Financial Officer. There will be representation from the Council Directorates and corporate support services as per the below. The Board Representative for the respective directorates will be nominated by the Strategic Director for that Directorate.

The membership of the Board will commit to:

- Attending all Board meetings
- Being the representative of their respective Directorate or corporate support service
- Facilitating requests from the Board for information and Officer attendance from their Directorate or service team on specific agenda items
- In the event of an absence, a substitute should attend on a Board member’s behalf. This should only be done by exception

<b>Role</b>	<b>Key Responsibilities</b>
Chief Executive Officer	Chair of the Board (confirmed)
Strategic Director for Commercial and Change	Deputy Chair of the Board (confirmed)

Assistant Director for Transformation and Commercial	Representative for COACH directorate. Representative for Commercial. Responsible for producing the agenda and the forward plan for the Board. Advising the Board on commercial matters (confirmed)
Chief Financial Officer	Providing financial scrutiny and advice to the Board. Approving budgets. (to be confirmed)
Head of Commercial	Presenting non-category specific agenda items to the Board Advising the Board on commercial matters Performing the role of Board secretariate (confirmed)
Assistant Director for... TBC	Representing the E&I Directorate
Assistant Director for... TBC	Representing the People Directorate
Assistant Director for... TBC	Representing WCF
Head of commercial law	Representing Legal Team and providing advice on commercial agreements – (to be confirmed)
Strategic Category Lead – Corporate	Presenting commercial proposals. Providing category expertise – (Confirmed)
Strategic Category Lead – Place	Presenting commercial proposals. Providing category expertise – (Confirmed)
Strategic Category Lead – People, PH and WCF	Presenting commercial proposals. Providing category expertise (Confirmed)

In addition, the service area will nominate an operational lead to attend the board where a commercial proposal is forthcoming from their area. These will be delivered jointly with the respective category leads.

## 5. Meetings

The Board will meet monthly, and it is expected meetings will be two hours.

Where approved by either the Head of Commercial, or Assistant Director of Transformation and Commercial, papers may be considered outside of meetings by exception. These will require approval of the Chief Executive, Strategic Director for Commercial and Change and the Chief Financial Officer, with updates being made at the next board meeting.

## 6. Agenda Items

Agendas for meetings will be developed by the Head of Commercial using an ongoing forward plan. Standard agenda items are outlined below; however, it is anticipated a number will not require consideration on a monthly basis. A majority of the time is anticipated 6-8 items will be on the agenda.

1. Apologies
2. Declarations of interest
3. Approval of the minutes of the previous meeting
4. Overview of agenda and procurement approval requested.
5. Urgent Issues and matters for discussion
6. Procurement approvals consisting of:
  - Strategy approvals (Proc 1)
  - Approval to Procure (Proc 2)
  - Approval to Extend (Proc 3)
  - Approval to Award (Proc 4)
7. Contract Performance and Management Reports (Proc 5)
8. Exemptions and Non-Compliances
9. Operational updates including:
  - Legislative updates
  - Process and policy change requests
  - Market reports
10. Forward plan
11. Action Log
12. AOB

## **7. Governance**

Agendas and minutes/key actions will be produced for each meeting and the progress of those actions considered at subsequent meetings. The Head of Commercial will act as the Board Secretariate, ensuring actions and decisions are recorded effectively.

## **8. Supporting Documentation**

Standard document templates will be required to be completed for consideration by the Board as per the below:

- **Proc 1 – Commercial Category Strategy**
  - When: On initial draft and every 12 months
  - By whom: Strategic Category Lead
- **Proc 2 – Approval to Procure** (outlining procurement approach and timeframes)
  - When: Sufficiently in advance to allow relevant procurement activities to be considered, approved, and undertaken
  - By whom: Service Lead with support and approval of the Strategic Category Lead
- **Proc 3 – Approval to Extend**
  - When: Sufficiently in advance to allow relevant procurement activities to be considered, approved, and undertaken, including full re-procurement if extension proposals are rejected.
  - By whom: Service Lead with support and approval of the Strategic Category Lead
- **Proc 4 – Approval to Award (required by exception)**
  - When: By exception where requested by the board, or where the outcome deviates materially from the Proc 2 approval

- By whom: Service Lead with support and approval of the Strategic Category Lead
- **Proc 5 – Contract Performance and Management report**
  - When: Annual for Gold Contracts, or where requested by the Board.
  - By whom: Service Lead with support and approval of the Strategic Category Lead

## 9. Amendment

This Terms of Reference may be amended, varied or modified in writing after consultation and agreement by the Board.